

WOMEN'S SHARIAH COURT **MUSLIM WOMEN'S QUEST FOR JUSTICE**

**AN ALTERNATIVE DISPUTE RESOLUTION FORUM
FOR AND BY MUSLIM WOMEN**



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DEDICATED TO

My parents

Safia Niaz Ahmed Peerzada

Niaz Ahmed Peerzada

My husband

Shriharsh Kaushik

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FOREWORD

Justice for all citizens is the responsibility of the state. We have progressive laws for upholding justice and equality of women even as ground realities remain patriarchal and violent. Attaining legal equality for women remains a challenge in India notwithstanding tremendous legal reforms. The legal justice system remains cumbersome, expensive, time-consuming and intimidating for most ordinary citizens. Alternative Dispute Resolution mechanisms have been thought of as a means to enable women to get justice which gets denied in the formal legal justice system. *Lokadalats*, family courts, *nyay panchayats* are all part of a plural, localized and affordable legal justice system that comes to the aid of the poor and particularly women amongst them. In the decades since independence women themselves have taken the initiative to obtain legal justice. The various *Mahila Mandals*, *Mahila Adalats*, *Nari Adalats*, *Mahila Samitis* and *Niswan* groups are part of these efforts by women which have proved to be very useful to women in distress.

The Muslim personal law as practiced in India today is extremely discriminatory towards women. The absence of a codified personal law on important matters such as age of marriage, divorce, maintenance, custody of children, polygamy etc has left Muslim women legally unequal in spite of Quranic injunctions on rights of women. The political climate since 1947 has never allowed this issue to be taken up. On the one hand there is the politics of a uniform civil code and opposition to any mention of need for reform on the other. The *Darul Qazas* and other shariat courts remain patriarchal and inaccessible to women. The Muslim women continue to suffer from triple talaq and other such ills in this scenario. The alternative mechanism of women's shariat courts provides a solution to this situation. Women as *Qazis* [judges] is a revolutionary proposition. The women's shariat courts are a bold step in this direction.

This study traces the journey of women's quest for legal justice, the challenges faced by them and elaborately analyses the solutions through the women's shariat courts. I congratulate Noorjehan for this painstaking work which is an important milestone in the history of subaltern feminist movement in our country.

Zakia Soman
Co-Founder,
Bharatiya Muslim Mahila Andolan

PREFACE

It has been close to 70 years of independence and yet as a country we lag behind in all major human rights indicators. And I believe that legal justice is an important human need which has remained unfulfilled. Needless to say and this study gives ample data to substantiate that our judicial system has let us down, especially let down the poor and the deprived. Women especially of the deprived castes and religious groups are the most vulnerable as they have to fight multiple layers of marginalization to access justice. Eminent jurists and legal academicians have said it time and again that our formal legal system needs to be overhauled to remain relevant.

While the jurists, state and other stakeholders of the legal system find ways to remain relevant, the people, especially women are not waiting. The legal aid seekers as well as women activists have taken the initiative to set up informal systems for delivery of justice. Especially Muslim women, who are the focus of this study, have set up informal platforms to help other Muslim women get legal aid. Muslim women don't have the privilege of a codified law. In addition they are harassed by the shariah courts run by male clergy. Complete domination of Muslim male clergy in the legal aid domain has left Muslim women completely at sea. She has no platform to talk about her side of the story. And she is too poor to access the formal courts.

This study looks at the shariah adalats set up by Muslim women in Mumbai and gives an extensive insight into their working mechanism. These shariah adalats along with other panchayats, jamaats, mahila samitis, adalats are part of the larger alternative dispute resolution forums. This study, under the gaze of Article 39A of the Indian Constitution, justifies the existence of such bodies as they are the only means of providing space for the poor women to reach out for justice.

Of course, provided they adhere to the values of equality, justice, democracy, secularism and rule of law. Most of all these structures must show exceptional commitment to ensuring women's rights.

I have worked closely to the shariah courts of Muslim women under study and I felt that inspite of their limitations they are doing a great service to distressed women who come to them with the hope of justice. The hope and support which these groups provide is something the formal courts can never hope to achieve although they must try to do so.

I hope this study will serve the purpose of highlighting the contribution of alternative justice delivery mechanisms especially those managed by Muslim women so that they can be incorporated in the larger formal legal system as complimentary bodies. I also hope that the state is able to recognize Muslim women's need for a codified law and also Muslim women's demand for monitoring the existing male shariah courts who are doing grave injustice to Muslim women.

The setting up shariah courts by Muslim women is an attempt by Muslim women to reclaim the religious spaces which have been for long occupied by patriarchal clergy-men. They are part of the larger feminist movement in the Islamic world initiated by women activists and scholars who have taken upon themselves the task of presenting to the world a humane, just and peaceful face of Islam which today has been usurped by the conservative and dogmatic religious bodies who do not believe in gender equality and human rights. Muslim women no longer want to be confined as receivers of religious knowledge but also its creator. The need to reread, retranslate, reexplain and reinterpret Quran has resulted in a completely different version of Islamic jurisprudence which is not only pro-women but also pro human rights, liberty, equality and justice for all and reaffirms our faith that a better and a more humane Muslim world is about to emerge and Muslim women have been and will lead this change.

ACKNOWLEDGEMENTS

I would like to thank the Yashwantrao Chavan Maharashtra Open University for giving me the opportunity to study a very important issue that affects the Muslim women. Accessibility to legal aid gets impacted not just by the faults of the system but also by the nature of law itself. This study throws light on the issue of accessibility of legal aid to Muslim women and I am grateful to the University for giving me this opportunity to explore this crucial concern of Muslim women and for awarding the Ph.D degree for this work.

My guide Dr. Vijay Marulkar, has always been a supportive and a willing teacher. He has always been very accessible and accommodative and at the same time ensuring that the study is scientifically sound. He has painstakingly gone through the various drafts of the study and has guided me throughout. I am extremely grateful to him.

Dr. Chandrakant Puri, Director, Centre for Study of Social Exclusion and Inclusive Policy, has been instrumental in guiding me to this University and facilitating my meeting with my guide Dr. Vijay Marulkar. I thank him for his guidance which eased a very tedious process of getting in roads into the University and its formal processes and for guiding and supporting me for this publication.

I thank Deepa Dhanraj, from Yugantar, for going through the very first raw manuscripts and suggesting changes and also for providing the initial push even before the formal registration.

I thank Tata Institute of Social Sciences for allowing me to audit a course in qualitative methodology, a three month course conducted by Dr. Rajshri Mahtani. Her lectures, notes and classroom interactions have helped me give direction and a base to my study. Without the course it would have been very difficult for me to understand the paradigm of my study.

I thank Women's Research and Action Group and Jagruti Kendra for facilitating the data collection process. I acknowledge the staff of Jagruti Kendra, especially Gulshan Khan and Kala Vaghmare for supporting me in conducting the case studies in Jeri Meri. I also thank them for sharing all the information. Both of them are in charge of the Hamraaz Legal Cell since its inception and have been instrumental in giving Muslim women access to legal aid in Jeri Meri and surrounding areas. I would also like to thank Sister Annie who at the time of data collection was in charge of the Jagruti Kendra. She also shared with me her study on women and domestic violence.

I would like to place on record my special gratitude towards those women in Mahila Shakti Mandal and Samjhauta Mahila Mandal with whom I share a very long and fruitful relationship. I thank Salma Gulab, Naseem Babu, Zubeda Maniyar for being with me in this journey and contributing to the process of women's empowerment. My very special thanks to Razia Rehman, Fatima Qureishi for sharing information about their own life stories and about their activities in their respective mandals.

My list would be incomplete if I do not acknowledge the contribution of Khatoon Shaikh. She has been instrumental in setting up many community based women's groups. She is the founder member of Mahila Shakti Mandal and since the last 20 years has been the main force behind all legal interventions. She has been my inspiration and my leader and I thank her for allowing me to be part of her efforts in women's legal empowerment.

My friends and lawyers Pouruchisti Wadia, Shabana Rehman and Sheetal Vaghmare provided insights into the topic from a legal perspective. Their contribution was particularly valuable as they have also been associated with capacity building programme with women from the mahila mandals involved in this study. Advocate S.A Uraizee and Advocate Brigitte from Jagruti Kendra gave their insights into the issue of Alternative Dispute Resolution Systems which is the core area of this study. I thank them for giving me their time and valuable inputs. Maulana Moosa Qazi,

Maulana Mateen and Maulana Kareemullah gave an overview of their experience with the mahila mandals and also gave a theological perspective to the issue of legal aid.

A lot has happened with Muslim women since the time of the submission of the thesis to the University. Muslim women under the leadership of Bharatiya Muslim Mahila Andolan [BMMA] have taken leaps and have emerged as an alternative voice of the community and of Muslim women. I thank BMMA for one allowing me to dovetail the activities of the mahila mandals under study with its Women's Shariat Court initiative and second to allow me to lay the relationship, the challenges and achievements before the larger public through this publication.

And finally and the most important 'thank you' is to all those litigants who have benefitted from the Women's Shariat Court. All 28 women whole heartedly shared their trials and tribulations, triumphs and successes and made this study possible.

This study would not have been possible without the loving and caring support of both maternal and marital family. I thank my parents for giving me all that has made this study possible, their love and blessings and their unflinching faith in my capabilities. I must specially thank my sister-in-law Sunayna Kadle, an alumnus of YCMOU, for giving me valuable tips and suggestions for the study. I acknowledge and appreciate my mother-in-law Pramila Kaushik's support as she managed the nitty gritties of home affairs as I sat behind closed doors to study.

I had fun time with my boys Kabir and Krish when all the three of us sat in the room to study. I thank them for providing much needed breaks from my writing spree.

My friend, my philosopher, my guide, my sounding board and my husband Shriharsh Kaushik has been my source of strength. I can't thank him enough.

Finally I thank Notion Press for publishing this book and guiding me through the process.

Chapter 1

LEGAL SYSTEMS AND THE MUSLIM WOMEN

A COMPREHENSIVE ANALYSIS

The Muslim community in India, as confirmed by the Justice Sachar Report is extremely marginalized on economic, social, educational and legal fronts. The reasons of this backwardness are manifold. The community as well as the state have not played any positive role in ameliorating the conditions in which the Muslims are found today. The communalization of the society and the impact of the violence on the Muslim community has also been unprecedented. The state has been fearful of losing out on its political base with Muslim men and hence not been able to respond to the issues of the Muslim women. The insecurity and alienation, especially after the 2014 Lok Sabha elections which saw the right wing government come to power, has pushed the community inward and that has severely impacted the social status of Muslim women who being a minority within a minority had always had to relegate her issues to the backburner.

The Muslim personal law as practiced in India is extremely discriminatory towards women. Historically, post-independence, no concerted efforts have been made by the Muslim community to bring amendments to the law. Justice to Muslim women is available through formal court structures as well as through social and religious groups which form part of the alternative dispute resolution mechanism. Some of these groups though patriarchal in approach are accessible to Muslim women but access to justice is not guaranteed. This is largely because of the uncodified nature of the Muslim family law in India. It is only in recent times that *Bharatiya Muslim Mahila Andolan*, a national movement of Muslim women has arisen, which has not only drafted an alternative law but has also set up *Aurton ki Shariat Adalat* [Women's Shariah Court] to provide further alternatives to Muslim women to access justice.

As an aftermath of the communal violence in Mumbai post Babri masjid demolition in 1992, there was an upsurge in the emergence of Muslim women's groups in the poor localities. *Mahila mandals* or community based groups of Muslim women were being formed and they were taking lead to resolve the issues arising within their local communities. Some of these community based groups have also started to give legal aid and support to Muslim women as a result Muslim women had one more accessible avenue to resolve her legal disputes. What began as *mahila mandals* within the Muslim community have culminated in the formation of *Aurton ki Shariat Adalat* and it is this journey which will be captured in the coming pages. In this chapter a comprehensive analysis of Indian legal system will be done culminating into Muslim women's initiative to provide legal aid.

INDIAN LEGAL SYSTEM

If we ask a person who is poor, illiterate and marginalized about the meaning of justice she/he would say it means to be able to live in peace, to be happy, it means nobody takes away what rightfully belongs to you, that nobody indulges in violence. To be treated unjustly would mean to be killed, maimed; feelings of not getting ones due, being cheated, goods taken away forcibly, attack on life and limb, robbed off dignity, treated disdainfully, looked down upon, made to feel small, the feeling of something not being right. Although there is a dictionary meaning available, person's experiences of being treated unjustly can be varied in its understanding and interpretation. The fact of being treated unjustly has compelled people to commit crimes just to get a sense of well-being, a sense of being in control, a sense of setting things right. This cannot be truer than in times today when in spite of national and international

forums set up for justice delivery, masses have been discriminated against. The ordinary criminals vie for space with agents responsible for mass killings and creating an environment conducive for acrimony. The vicious cycle set in motion leads to more violence. There is no justice and hence no peace. It is pertinent to understand here the notions of justice felt by women who are poor and marginalized and who lack power within their own community.

What does justice mean to women? Violence and discrimination at home is as unjust as what happens to people in public spaces. The feeling of being treated unjustly and unfairly at home is as real as feelings felt by others who undergo discrimination in public spaces. The need for justice is as urgent for her as it is to the rest in the society. The question is: Is there justice enough for women to feel at peace with herself and with the world around her? The answer is all around for all of us to know that we are far away from that ideal.

If we look back into the past, people owned the processes of giving justice. People lived in tribes, small villages, moving nomadic communities; where there were no trained lawyers and judges to settle the dispute; the communities themselves threw them up. These groups and settlements were also small in number and hence it was possible for them to select people who were capable of ensuring justice. There was no text or codified law to guide the arbitrators.

Societies which organized themselves around religion based their decisions on the religious texts and its various interpretations. The founder of the religion became the fountainhead of justice. They acted as arbitrators and dispensed justice as and when people approached them. In fact some of these religions evolved only because the society then badly needed to acquire the values of freedom, justice and democracy. In the feudal society, justice was dependent on the ruler. The ruler was guided by either traditions, local cultures or by prevalent religion. The decisions were based on their interpretation of the texts and their sense of justice.

As societies grew from nomadic to agricultural to industrialized, justice dispensing systems too changed from simple to complex, from small to big and from informal and personal to formal and impersonal. In the earlier times in the informal justice delivery systems the arbitrators were people whom one knew; they came from the same milieu and culture, spoke the same language, did not charge fees, and did not delay decisions. These groups were not guided by any written law but by the norms, culture and traditions of the village and group. As said earlier some of these traditions had a strong base in the religion of the people. As we moved towards an industrialized society, justice dispensation became the role of the 'other,' someone whom one did not know closely or did not know at all. The meaning of justice was also explained by the 'other' as laws were made to be written down in language which was beyond the scope of the ordinary people.

History of Justice Delivery

For the purpose of understanding the current justice delivery in India there is a need to keep in mind that in different points in time in history all of the above as well as other methods and approaches have been utilized to implement justice. A historical analysis will help understand the genesis of our current system and help us appreciate and appropriate those which can be of use to us now.

In ancient times when India did not exist as a nation state, the princely states ruled their small and not so small kingdoms. Laws were determined by long held customs and traditions which in turn got their legitimacy from the divine scriptures. The *Shastras*, *Vedas* and the *Upanishads* were the sources of law ^[1] and they were sought to determine the way in which masses will lead their lives. The essential characteristic of the scriptural law was dharma or emphasis on justice.^[2] The law as then understood as customs and traditions were enforced by caste *panchayats*. The village *panchayats* too played a crucial role in dispensing justice. The *panchayats* had an elaborate system of delivering justice based on 'evidence based, trial and investigation methods to arrive at the solution'^[3] There were no written laws or complex procedures that could possibly delay the delivery of justice.

Mughal period

In India the Mughal period began with Babar and terminated with the last emperor, Bahadur Shah Zafar. The north especially was governed by the Mughal kings whose base was Delhi. In south and other parts of India too kings

from different lineages ruled large parts of the country. As said earlier, local traditions and religious texts guided the kings in taking decisions. The Mughals laid down a system of justice delivery system which was more elaborate and complex than what was in practice that time. They established the offices of *qazis* and *muftis* from district and above levels. The village *panchayat* system remained untouched. ^[4] They also established a separate department of justice which was headed by the Emperor in Delhi. In all they tried to instill some system of justice dispensation across the country especially in the north.

British period

During the British period India evolved as a nation state with centralization of all administrative institutions including legal systems. Not just that the laws were codified but also systems and institutions were set up for delivering justice knowing fully well that they are going to rule the country for a long time. The systems were elaborate with hierarchy of courts and hierarchy of people running the courts which began the process of alienating the people. The people's systems were replaced by state systems. Laws were written down for the first time in a language which was not known to the vast majority. Thus the new legal system was elitist and far removed from the people. The structure too was unfamiliar and the manner in which it operated too was very different from what people were used to. The litigant was no longer at the centre. The weak and the marginalized got too intimidated to approach it. Laws, procedures and techniques replaced people and their sense of justice. It got reduced to one more profession, a career where one can make a living.

Initially the British used the services of non-lawyers to look into legal matters. As their rule got entrenched, they appointed trained lawyers to dispense justice. And it was not the case that when they established the courts the traditional *panchayats* got disbanded. In fact both co-existed and in fact the reach of the *panchayat* was and still is much more than the formal courts. There are innumerable districts and villages where the tentacles of the courts have still not reached. Here the traditional *panchayats* still dispense justice based on age old customs and traditions.

Post-independence

Post independence, justice continues to remain a state subject. The state uses its wide and well entrenched network to dispense justice. The entire system of law-giving is well connected and systems are well in place. Along with the executive and legislature, judiciary is the third and a relatively independent arm of governance. It has Supreme Court at its head with each state having a High court. Apart from High Courts there are District Courts, Magistrate's Court and other courts. Written, codified laws guide everyone, although there is room for creative interpretation and the results of this interpretation is dependent on the values and ideologies of the person interpreting it.

The British system continues and the arbitrators' i.e. the judges and lawyers continue to remain alienated from the masses. In the large formal set up the victim continues to be at the periphery and the laws with all their technicalities and jargon occupy the centre stage. The law and dispenser of justice appear to be more important than the victim. Processes become more important than the product. Somewhere in the rigmarole of law, its interpretation, its dispensation, the victim is lost. What happens to her and her idea of justice?

Over the decades since independence the system has failed considerably to provide justice especially to its poor and the marginalized. And this fact is stated by no less than the legal luminaries like Upendra Baxi, Justice Bhagwati, who have in no uncertain terms express their rile against the justice delivery system and have called for measures to ensure that there is hope for the millions who cannot afford to access the law of the land. This fact is also borne by the Registry of Supreme Court of India whose data states that in the year 2006 there have been more than two and a half crore cases pending in the lower courts. There are only 15000 judges and other officers to deal with these numbers of litigants. The Law Commission of India pins the problem to 'under-staffing of the judiciary.' 'India has only 10.5 judges per million populations; the corresponding figure in England was 50.9, Australia 57.7, Canada 75.2 and the U.S.A. 107.' The figures speak for themselves. ^[5]

Nothing much has changed over the last decade. More than three crore cases are pending in courts across the country. According to data available with the apex court, the number of pending cases with the Supreme Court is

64,919 as on December 1, 2014. The data available for the 24 High Courts and lower courts up to the year ending 2013 showed pendency of 44.5 lakhs and whopping 2.6 crores, respectively. Of the over 44 lakh cases pending in the 24 high courts of the country, 34,32,493 were civil and 10,23,739 criminal. The maximum pendency of civil and criminal cases together was in Allahabad High Court with 10,43,398 cases while the minimum was in Sikkim with 120 cases pending at the end of 2013. The Delhi High Court had a total of 64,652 cases pending before it.*

Law making is also a long drawn process involving the Parliament in the democratic set up. The decision making is supposed to flow from down to the top, with elected representatives at the at all levels representing the voices of the people. In reality there is no real representation. The decisions taken in the Assembly or the Parliament do not really reflect the aspirations of the masses. Yet the decisions taken in this law-making body are considered sacrosanct. All laws derive their legitimacy from the Parliament. How representative is the Parliament? Does it really voice the concerns of its people? We are not unfamiliar with situations where people are not even aware of laws which are made for their safety and security. Especially in the case of women, the situation is even worse as their mobility and exposure to the outside world is very minimal. The Parliament prepares law but does not publicize it in a way that it reaches the last of the masses.

The British model was based on the principle of legal liberalism^[6] which means that the legal system is autonomous and functions as an independent body. It also suggests that the system will not just follow the written law but also the procedures. This has been the major disadvantage of the system that we inherited from the colonial rulers. Baxi says it is a 'thoughtless transplant of legislative models, inapposite borrowings of western institutional blueprints and the underlying ideologies, excessive judicial dependence on Anglo-American legal materials....'^[7]

As a result the vast masses of people are not even aware of the laws which govern them. A few educated elite make laws and a few trained lawyers and judges dispense it. It is written in language which very few know, understand and follow. The poor and the illiterate have been left out of this structure. The language of the law and its procedures are so cumbersome that even a fairly educated person will not be able to understand and benefit from it. It is extremely technical, bombastic and complicated. Moreover law and justice have become specializations of a few which betrays 'the class bias and the colonial mindset of the makers of law.'^[8] The formal legal system is plagued by many problems which have been enumerated by many scholars. The system is expensive, inaccessible, incomprehensible, slow and sluggish and dependent on trained professionals. So the citizens do not make laws and do not have the wherewithal to also access it. Given the population of the country there are not enough lawyers and judges. Girish Patel makes a difference between formal equality and real equality and says that our traditional colonial legal system has not been able to make equality real for a large section of the citizens.^[9]

To add to this diversity we have religion based legal systems. Different religious communities in India have their own community based structures which act as alternative dispute resolution system. For e.g. the Muslim community can approach the *shariah* courts or even lower still they can approach their local *jamaats* with their grievances. All religious groups have similar arrangements within their community. Apart from the caste *panchayats* there is also the locally elected village *panchayats* which are Constitutionally mandated and act as deliverers of justice. This legal diversity exists in our country and must be acknowledged for the role it plays. So formal courts are not the only forums which people approach with their problems, there are local indigenous systems existing whom the people still approach. So on one hand there are 'state laws' and on the other hand there are the 'people's laws.'^[10]

In order to counter the innumerable problems associated with the formal courts, many claims have been made in an attempt to remedy the situation. Many vacancies have been filled in. 1734 Fast Tract Courts disposed of close to 7 lakh cases. A number of judges were appointed in various High Courts and the Government hopes to fill all the vacancies by the end of 2005. 1.94 lakh Lok Adalats were organized in which about 15 lakh cases were settled.^[11] From time to time there have been recommendations to make the formal judiciary accessible by setting up additional courts, recruiting more judges and the lawyers.

ALTERNATIVE DISPUTE RESOLUTION [ADR]

To remedy the situation, as seen above, the state itself has initiated efforts by introducing alternative systems which were termed as ADRF [Alternative Dispute Resolution Forums]. This alternative to the formal legal structure is mandated by Article 39A of the Constitution where *'the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities'**.

Keeping in mind the Constitutional mandate ADRFs evolved into a wide variety of methods developed over the years to resolve conflicts without resorting to litigation. The process is characterized by informality where none of the technicalities of formal courts are followed.^[13]

Let us look at some of the alternative methods that have been deployed.

The ADR procedures are divided into adjudicatory and non-adjudicatory processes. There is a difference between the two. The non-adjudicatory mechanisms are negotiation, mediation and conciliation in which the dispute is resolved through agreement between the parties. In adjudicatory procedures like arbitration it is the binding ruling which decides the case. Negotiation is a non-binding procedure in which discussions between the parties are initiated without the intervention of any third party whereas conciliation/mediation is also a non-binding procedure but there is a third party involved which assists the parties to the dispute to arrive at a mutually agreeable solution. In the Med-Arb procedure the dispute is settled through a combination of conciliation/mediation procedure. If the dispute is not settled through conciliation/mediation within a period of time agreed in advance by the parties, then the process of arbitration is initiated. In another procedure called the Medola, if the parties fail to reach an agreement through mediation then the original mediator or another mediator will select the final negotiated offers of the parties and this selection will be binding on both the parties. Another procedure is called the Mini-Trial, which is a non-binding process where the parties are presented with summaries of their cases and then an opportunity to negotiate a settlement with the assistance of a neutral adviser. In a well-known procedure called Arbitration the dispute is submitted to an arbitral board which takes a decision over the dispute. This decision is binding on both the parties. Fast track Arbitration takes place in a short period of time and at lower costs. In a Neutral Listener Agreement the parties discuss their offers to a third party who suggests settlement through negotiation. In an interesting Rent-a-Judge procedure, the parties approach a retired judge informally. He/she gives her decision which is enforceable in the court of law. The parties pay the fees of the rented judge. In a final offer arbitration, each party gives its claims to a panel and this panel takes a decision of accepting one of the claims submits its monetary claim before a panel that renders its decision by awarding one and rejecting the other claim.^[14]

ADR system is used very frequently in other countries. UK, China, Japan, Africa, Israel and other countries have used mediation, conciliation and arbitration to resolve conflicts. In Japan the judges are expected by law to settle the case. It is interesting to note that a judge who decides to switch to mediation takes off his/her robe and acts as a mediator. In America these methods are so successful that nearly 93% of the civil disputes are settled outside the courts. In 1995, France 'expanded the legislative basis for judicial conciliation and mediation.'^[15] Dr. Y.F Jay Kumar in his article on 'Conciliation and Family Dispute Resolution in Indian Legal System'^[16] suggests conciliation and mediation for the resolution of family conflicts. Family counseling centres and other such bodies must play a much larger role in diffusing conflicts arising within the family. Justice R C Lahoti, the former Chief Justice of India states that the existing system in order to be made effective requires strengthening of institutional processes.^[17]

ADR In India

With independence our leadership decided to encourage the formal, modern legal system. But as problems surfaced and the backlog of cases increased the state over the years formalized many institutions, the objective being the availability of localized forms of justice delivery. Between the 1950s and 1980s many efforts were made to make justice delivery accessible and plural. Many institutional efforts like the setting up of the Legal Services Authority,

Family Courts and *Lok Adalats* were done for decentralizing the legal structures. A new law called the Arbitration and Conciliation Act was also passed in 1996 for effective implementation of justice. All the above state initiated bodies were the steps in the direction to increase people's access to justice. These institutions though have a common goal, they have different functioning and structures. They all have distinct meanings and they have to be understood in order to understand the true diversity in the conceptual understanding of ADR.

In India, the formulation of the Legal Services Authority Act [LSAA] in 1987^[18] mandates the speedy disbursal of cases through various state and district bodies. The *Parivarik Mahila Lok Adalat [PMLA]* was also formed for speedy disbursal of family disputes. Other than the *Lok Adalats*, *Nyaya Panchayats* and Family Courts were also formed for speedy disbursal of family and marital disputes.

Salient Features of ADR Institutions in India

Legal Services Authority Act of 1987^[19]

This Act was passed to facilitate legal services authorities to provide free legal aid and support to the weaker sections of the society. The Act was also passed to take care of the fact that no citizen is denied justice because of poverty or economic deprivation. Every person irrespective of caste, class and other factors should be able to avail of facilities of the legal system for settlement of disputes. These services were to be set up at the national, state and district levels. The Act also mandated the setting up of the *Lok Adalats* for providing free legal aid to the weak and the marginalized. To help in better outreach and to assist its operations in the field, District Legal Aid and Advise Board [DLAAB] were set up to help in running LAs in the districts.

Lok Adalats

The *Lok Adalats* [LA] was also a very serious attempt to clear the backlog of cases and speed up the process of justice delivery. The LA was meant to avoid lengthy legal procedures and arrive at conciliation and settlement. Any kind of matter, be it criminal, civil pending in any court could be brought before the LA. The order of LA is deemed to be legally binding on the parties. It was the initiative of Justice Thakker, High Court and Supreme Court judge, who was moved by the plight of many who tapped the door of justice. The first LA was held in Junagadh in Gujarat and it received tremendous response from ordinary people. It appeared that the LA will not just clear backlog of cases but will also provide free, independent and impartial means of justice. Initially it did work very effectively but it eventually failed in its objective by the very people who had to run it effectively. The vested interest within and outside the legal setup used the LA for their benefit. Ironically it took on all the evils of the formal system; corrupt, distant and alienated. Girish Patel, in his article 'Crippling Lok Adalats' has elaborated on the reasons for the failure of LA.^[20] Although its founders meant LA to be genuine people's courts emanating from the grassroots, it actually grew into a mere adjunct of the formal courts. The attitude of the judges and lawyers never changed to genuine care for people. They never took it seriously and some of them used it for furthering their professional career.

Nyaya Panchayats[NP]

Based on the principle of separation of executive and judiciary mandated by the Constitution^[21], the *Nyaya Panchayats* [NP] were set up as separate from *Gram Panchayats* [GP]. The GPs were involved in judicial work and hence were feeling burdened and also because there was a need felt to let the rural citizens have legal aid facility. The villages were also in the grip of traditional and parochial *jati panchayats* [caste specific panchayats] and NP were also envisaged to replace them.^[22] Some states still continue to use the offices of the GP for legal aid, while at many interior villages the *jati panchayats* continue to exert their control. So NPs have not fully replaced any old structures but only added to the diversity existing.

The idea of the NP is rooted in the 'fervour of democratic decentralization'^[23] and thus facilitating the millions to access justice. The GP and NP were envisaged to be the carriers of Constitutional values, while one will be keepers of self governance, the other will protect and promote justice. The members of the NP are elected just

as the members of GP are elected. The elected members of the NP settle the disputes through reconciliation and counseling and do not follow the processes of formal law. The procedure is kept simple and the focus is on early settlement of dispute. These *panchayats* are state initiated and hence have the mandate for speedy disbursal of cases in consonance with Constitutional values.

The NPs are established for functioning in about 7–10 villages and cover the population of 14000 to 15000 villagers.^[24] The member of the NP must not be a member of any state body and they are elected by the members of the GP. The members are expected to read and write the state language. Baxi has explained the reasons of the failure of the NP system inspite of its relevance. While they were being envisaged there was no clarity on whether the NP would be the sub-system of judiciary or will it be the sub-system of local governance. It is thus a half-way institution trying to be both. Its members too face role conflict; neither are they full time lawyers trained in formal law nor are they members of the GP.^[25] Due to these and many other factors the NP failed to achieve its objective. It has been one more attempt at decentralization but needs more clarity in its position, role and structure.

Parivarik Mahila Lok Adalat [PMLA]

An innovative concept of PMLA was evolved by the National Commission for Women for the speedy disposal of cases. It was evolved based on the Legal Service Authority Act of 1987. The PMLA is arranged in collaboration with local NGOs in association with social activists, advocates and members of the District Legal Aid and Advisory Board [DLAAB]. The objective behind the formulation of the PMLA is to support and facilitate mutual agreeable settlement on familial matters so that women have access to justice through a mode with is quick and less intimidation. Since the time it began the PMLA has handled more than 7000 cases through 133 PMLAs held. These courts are flexible in their functioning and strive for an earlier settlement of dispute. These courts are organized by local NGOs in association with District Legal Aid and Advisory Board, activists, advocates and others. The financial support for the court comes from the Commission. Every decision taken by these courts is 'deemed to be a decree of a civil court or order of court or tribunal and is legally binding on both the parties.' The purpose of these courts is to encourage people to settle matters outside the formal court and avoid lengthy procedures.

A minimum of 60 cases are required to hold a PMLA. The NGOs are expected to do counseling of the cases and help the parties arrive at a settlement. On the date on which the PMLA is held these cases can be called and their decision recorded. There is a provision by which help from the DLAAB can be taken to summon the parties. The terms of settlement are then put down on paper and signed by both the parties. This paper is then given to the PMLA for authentication. On the chosen date the cases are thus disposed off. The NGO should take the help of the District judge to appoint a person to preside over the PMLA. These persons could be judges, advocates or social workers. The venue of the PMLA could be any place

suitable to the judges as well as the parties. On the date of the PMLA the NGO should ensure that the parties to the dispute are present. As per the agreement arrived at by the parties, a court decree will be issued which will be legally binding on both the parties.

The National Commission for Women has also laid down a set of procedures to be followed while running the court. The procedure involves constant collaborative interaction between the PMLA and the District judge. The DLAAB or District judge transfers cases to the PMLA for its disposal. The NGO sets up the PMLA for hearing the dispute and working out a solution. The solution thus worked out is made binding on both the parties and it is put down in black and white. This institution of PMLA has given recognition to the efforts of the organizations who have been offering legal aid to women. It recognizes the fact that certain tasks are best done by people who work closely at the grassroots. The interface between the NGO and the formal court is very well institutionalized through the PMLA. The main concern of grassroots organization is that their decisions must be validated by the court of law. The PMLA gives a perfect opportunity to do so.^[25]

WOMENS' MOVEMENT-PERSPECTIVES AND CHALLENGES

After having looked into the state initiated alternative legal systems let us now have a look at the alternative systems developed by the women's movement. In a small but significant study done by Jagruti Kendra, Mumbai to ascertain the attitudes of women towards abuse by husband and the nature of strategies used, it is shown that the more formal the justice delivery system the less chances of women approaching them. In this study 100% of the respondents did not approach the court when faced with domestic violence.^[26] It implies that given the social, cultural and economic vulnerability of women, the justice system is miles away from her so much so that she has no confidence in even approaching it, let alone fighting her case. Given the rigidity that has set into the judicial system she is left wondering whether she is fighting the family to get justice for herself or is she fighting the justice delivery system to get justice.

Women's Movement

Internationally 100 years have passed since the time women initiated the first revolt against injustice. 8th March 2008 saw hundred years of women's struggle.^[27] Many things have changed for the good and much more needs to be achieved before women could become free citizens. The movement began with demands for economic and political freedom to demands for individual freedom and now it is demand for respecting identity.^[28] The challenges are also new which include resistance and non-acceptance of women's demands by fundamentalists, right wing bodies and some state institutions who consider women's cry for freedom as infringing on tradition, culture and religion. Newer challenges like surrogate motherhood, advances in reproductive technologies pose many more questions.^[29] The older challenges have still not been overcome and they are the glass ceiling, increasing violence, lack of property rights, unequal legal rights, and so many others against which the movement is still struggling. In a country like India apart from fighting for individual freedom, women's movement has also been raising issues of conservation of forests, against privatization of land and water, shelter and housing and opportunities for education and livelihood.

The Indian women's movement began with the efforts of the male social reformers in the 19th century. Many heinous practices were sought to be abolished through establishing laws in British India. This impetus from the reformers was enough to push many women into the public arena from which they were so far prohibited. As an impact of this reform movement many community based groups were formed.^[30] Anandi Bai Joshi, Savitribai Phule are names which immediately come to our consciousness when we imagine the women's movement. These women and many more participated in the freedom struggle and spear headed the women' movement post independence.

Post independence the Community Development Programme was announced in 1950s in which the state encouraged the women to organize themselves in to groups so that they could participate in the socio economic development of rural India.^[31] The groups which emerged were thus 'traditional and informal women's groups'^[32] which are formed by women in rural and urban area. They were meant to 'draw rural women into the mainstream of development and to enable them to function as instruments of social change by providing them with programs in which they will have a stake or a sustained interest such as improving their income or productivity and employability or employment.'^[33] These groups were thus independent groups formed either by NGOs, political parties or by social religious groups.^[34] These groups today have goals which they achieve by eliciting participation from its members. They have linkages with local structures and strive to engage in public life.

The second impetus came in 1975 when the following decade was declared as the International Decade for Women. This pushed the Indian government to legislate on many matters related to women. Post-independence especially from the 1970s onwards women have headed environment movements like *Chipko* Movement, anti-arrack movement in AP, *latni morcha* [rolling pin protest] in Mumbai and other such protests against an unjust social order. The turning points were the rape cases of Mathura, Maya and Rameeza that made the personal political^[35]. With these cases all atrocities which women bore in the privacy of their homes were brought in the open for debate and solutions. New laws were passed as a result of advocacy by women's groups which provided legal remedies to women facing oppression within family and society. *Mahila mandals* were formed by the political parties as part of their women's wing. Many non-government organizations were established who were headed by women

and worked exclusively for women's concerns; they also encouraged women's grassroots organization that in turn challenged traditions and practices which were discriminatory. Many social welfare schemes were implemented by these women's groups.

The formation of these groups in smaller towns and villages transformed the lives of women. For the first time in their lives women stepped out of their homes and undertook activities for themselves and for other women. These groups headed by women undertook activities for employment, education of young girls and women, issues of child labour, domestic violence, deforestation, alcohol consumption etc. When women first organized themselves there was resistance from men and other organized groups in the village, but as soon as they realized that the women were not going to yield to pressure they gave up.^[36]

Apart from running community centers, medical centers for women and children, schools and skill building classes these community based groups of women have been doing a lot of political work by supporting women facing violence within and outside the home. They support the women through legal aid, counseling, confronting the village *panchayats* and state run institutions like the police, run child care facilities etc.^[37] and in the process empower themselves and the women concerned. They also implement government programmes related to employment, education. Civic amenities issues are also taken up.^[38]

In remote hilly towns women's groups have resisted large scale deforestation and protection of natural resources.^[39] For eg. *mahila mandals* in the Kullu valley get the support of the Forest Department who support them if they bring to them any complaints of tree felling. Of the 120 mandals around 15–20 are very active in protecting the trees. They are concerned about the tree felling as well as the impact of erosion and deforestation on their life. The famous *chipko* movement [hug the tree] was led by women. Women in the villages have a close relationship with nature as they are the ones who access it for survival of the family. Though the women realize that the forests legally belong to the state, they have a sense of ownership because their lives are intimately connected to it.^[40] Currently the Self Help Groups are being formed with women to help them to avail of micro credit facilities.

So in all the women's movement comprises of varied groups like the NGOs, *mahila mandals*, welfare and charitable institutions, women's wings of political parties. Based on issues spontaneous groups emerge who highlight the issue and fade away. The 73rd amendment and reservation of women in the local governing bodies has added another dimension to the empowerment of women and that would not have been possible without the political will of the state. The pending reservation for women in the Parliament is still to be achieved.^[41]

Challenges faced by Women's Movement

Inspite of so many efforts there still remains a large chunk of women in urban ghettos, in rural and tribal areas, in hilly regions, women of minority communities who are still unorganized, unaware and still bearing the burden of patriarchal domination. Females feticide has further damaged the sex ratio wherein some states are much below than the national average. And these states happen to be the more prosperous ones. It suggests that education, economic prosperity, modernization do not necessarily elevate the status of women. In fact the patriarchal-values driven institutions use the newer technologies to subordinate women.

The state has prohibited NGOs in indulging in political activities as a result the women's movement largely characterized by women's groups supported by NGOs did not encourage women to participate in the political process. This space was usurped by the women members of the political parties who finally have to toe their political agenda set by men. While domestic issues continue to plague the women even today, they are not immune to larger socio, economic and political developments. India has given up its socialist agenda and has embraced unbridled capitalism which has led to depletion of natural resources. People have lost control over their traditional sources of survival. SEZ in Maharashtra is an appropriate example to how fertile agricultural land was transferred for setting up economic zones depriving the traditional farming community and reducing the agricultural output. Women's bodies have also been commercially exploited by multi-national companies for selling their brands. Privatization of education has impacted women's chances of availing educational facilities as poor women cannot afford school

fees which have skyrocketed. Globalization has caused land displacement, dispossession and migration of the rural poor. The country faces 'the challenge of the criminalization of politics, of fundamentalism and communalism, of marginalization of urban poor like rag pickers, mentally ill women, sex workers, pavement dwellers, unorganized women laborers such as domestic labor, women in sweatshops, quarry mining, and other casual work.'^[42]

Another bigger challenge has been the rising communalization of the society. Women have been considered the harbinger of peace and responsible for prevention of violence. But with increasing involvement of women in unleashing violence on other women, seen particularly during the Gujarat genocide in 2002, it is a marker of larger challenge before the women's movement. Women of the Hindu community because of the right wing propaganda led by the state itself have been communalized. Even the women's movement in Gujarat symbolized by the NGOs did precious little to challenge the state on its attacks on the minority community.^[43]

Women's movement has been responsible for creation of laws in favour of women but has not done much to oversee its implementation. And monitoring of implementation requires a lot of vigilance and creation of pockets of women who are involved in the use of law to understand and articulate the difficulties they encounter in availing the law.^[44]

Women's organizations that have been vehicles for the women's movement have got trapped into the project mode which has had its many disadvantages. Adhering to funding agency requirement, adhering to time bound projects have not been conducive conditions for developing a movement. It is important that research papers are written, that journals and books are published, that seminars and conferences are held but what is perhaps more important is facilitation of women to organize herself and demand her rights from the family, from the society and from the state. Unless that is done no movement can succeed or can even be called a movement. It remains a watch dog at best and small project based organization at its worst. It has probably moved into the universities as women's study programme, as a syllabus, as a research paper but it has stopped touching the daily lives of women.

There are instances where the women's movement has not been able to break the caste barriers as seen in the *mandals* formed in Kulu valley. The women in the *mahila mandal* are from the upper caste as this caste is economically stronger in that village. As a result the *mandal* activities do not reflect the issues of the lower caste women. Even in villages where the lower caste is in the majority the *mahila mandal* members comprise of women from the upper caste. Hence it can be said that 'women's response to forest destruction and degradation is not only based in the material reality of a woman's daily activities, but also based upon social and political relations of power.'^[45] But there have been instances where women from the lower castes have also organized themselves and have addressed their double marginalization not just as women but also as one belonging to the poor, dispossessed and marginalized castes.^[46]

The community based women's groups are looked down upon in feminist discourse as they seem to be meeting the 'practical gender needs' of women and not 'strategic gender needs' and by not questioning the strategic needs they are not questioning the gender inequality inherent in the society. These groups should not be thus dismissed as they are an important development in the understanding and implementation of feminist values in real day to day life. Scholars like Kalegoankar, Kondiyoti and Molyneux^[47] do not consider practical and strategic needs as opposed to each other. In fact the feminist debates have been devoid of local understanding and complex realities of women's lives. Community based women's groups on the other hand have facilitated women's access to public space through innocuous skill building classes. From there probably begins a women's journey into public space and an active engagement in public life. These independent and autonomous groups are formed to respond to development needs at the grassroots and provide a platform for women to come together, discuss their problems and evolve strategies.

The movement must engage itself with citizens groups, environmental groups and issue based groups for larger struggle for social justice, democracy and survival. The movement must go back to *galli, mohallas and bastis* to form decentralized women's groups and equip them for their local struggles and also involve them in highlighting state, national and international issues. It must encourage the leadership of the minorities, tribal and the other dispossessed sections of the society. Local leadership must emerge. 'New categories of women also need to be involved in the

movement - mentally ill women, unorganized women on construction sites and mining, women in the IT industry, women in the free trade zones, women in retail sector, women sex workers.^[48] The 'intellectual-activist'^[49] must stay on the sidelines or must help facilitate the above. And they must also encourage women to enter electoral politics by building up mass movement of women and organizations.

Feminist analysis of women's lives has been confined to a particular set of women. The leaders of the women's movement in India too have been from the upper caste and class and because of that composition of the leadership certain kinds of experiences of a certain section of women have been left out. As mentioned earlier, women's initiatives from dalit and Muslim community must be studied to add a new dimension to understand women's experiences of empowerment.

It is important to start where the women are stationed in their social political life. There is a need to analyze where she is and what is she doing for her own empowerment. There is a certain discomfort when theories and notions of women's empowerment are picked up from a different socio-political, cultural context and applied to a different one to see whether a particular set of women or a particular woman fits into that notion of empowerment. This fitting-in of women's experiences with pre-established notions of empowerment belittles their huge efforts in entering the public domain despite their marginalization.

WOMEN-INITIATED COURTS

While the State on one hand has evolved various mechanisms for resolving disputes quickly and cheaply, women themselves have taken the initiative to address these concerns. The formation of *Mahila Mandals*, *Mahila Adalats*, *Nari Adalats*, *Mahila Samitis* and *Niswan Groups* convey that the efforts initiated by state are not enough. The traditional structures being patriarchal and state-initiated efforts not being enough, these groups have either come up spontaneously or through the efforts of women's organizations. These non-state initiatives have proved to be very useful to women in distress. With formation of such groups we are going back to people themselves as final arbitrators of justice. It is no longer the prerogative of a few, educated professionals but of people themselves.

Women are abused within the four walls of her home and hence it is a social malaise entrenched in patriarchal values. While law is necessary it is not enough to change and challenge anti women attitudes. A social evil cannot be remedied by a legal medicine. Accessing law in times when she is extremely vulnerable is a tall order especially when the justice system itself is insensitive to the requirements of the litigants. 'Fight against injustice is overtaken by even more painful fight for justice.'^[50] Many a times women have given up their fight for their rights as they just do not have the time, money, power and patience to manage and negotiate with a system so heavily loaded against her. And law is just one of the many ways to ensure justice. A woman can and should be able to access a 'plurality of socio-legal remedies.'^[51] There are many different strategies apart from legal intervention which need to be undertaken to help the victim and those are building up her self-confidence, educating her about her rights, mobilizing community support for her, and this cannot be done by law alone. Other systems will have to be mobilized for that. There is a need for plurality of support and multiple measures to ensure justice for her. And this important task is done by the local women initiated courts.

Advantages of the Women's Courts

With the International Decade for Women which began in 1975, the emphasis shifted to women's issues and her stake in the social and political developments taking place in the country. The Ministry of Women and Child Development was set up in 1985.^[52] The National Educational Policy was evolved in 1986 which focused on Education for Women's Equality. As a result of this policy *Mahila Samakhya* Programme [MSP]^[53] was started. This programmes started in Karnataka, Gujrat and Uttar Pradesh and it encouraged women to set up women's groups in villages to offer cheap, accessible legal aid to women. The rationale behind it was that women's empowerment cannot come through mere economic development but by the realization that she herself is the creator of her destiny and that she needs to be leading her way for her own socio-political empowerment. Although the MSP was an

initiative of the state, it assumed an autonomous nature as it became a registered society with a strong cadre of *sathis* and *sahyoginis*.

Over the years it evolved into a 3-tier system at the Village, Block and District level. Its cadre of *Sathis*, *Sahyoginis* and Coordinators^[54] reached out to scores of women in desperate need for justice. The experiences and efforts of this strong cadre of women led to the formulation of *Nari Adalats*. Currently many such *Nari Adalats* are functioning not just in Gujarat but also in other states where MSP is running. These women's courts are called different names in different states and settings; they are called *mahila mandals*, *nari manch*, *nari panch*, *mahila samiti*, *mahila sangha* etc.

The *Nari Adalats* initially the component of the *MSP* have now been started by other women's groups. These community based initiatives have facilitated the demystification of law as well as has been an empowering process of all women who come in contact with it, including the woman who is responsible for administering justice. Women in distress feel comfortable to approach these groups as the women belong to their own caste, class and in some cases religion. They are part of the same cultural milieu and speak the same language. A woman can go to these groups on her own. She does not need a relative nor does she need a lawyer. She can represent her own case and express her problems the ways she wants to.

Another innovative programme was initiated in the Surendranagar district of Gujarat by SWATI. The *Mahila Nyaya Sangh* offered an alternative to women for legal support; alternative to the formal court and to the traditional *panchayat*. The traditional *panchayats* are very patriarchal and their decisions are 'adhoc and partisan' favoring the rich, the men and the upper caste. Women have never been made part of this *panchayat* let alone taking any decision.^[55] Women still go to this *panchayats* because the formal courts are just too inaccessible. Moreover going to the court is looked down upon and she is accused of dragging her family and caste honor outside the confines of the village which is considered a matter of shame. So whether she likes it or not she has to approach the *panchayat*. But with the emergence of the women led *nyayasanghas* women feel comfortable as they are not alien to the village and at the same time offers support to women. It combines the formality of the court and the informality of the *panchayat* along with strong moorings in feminist ideology.^[56]

Another innovative addition to this list of women's initiatives is the launch of *Aurton ki Shariah Adalat* [Women's Shariah Court] by *Bharatiya Muslim Mahila Andolan* in July 2013. With two of such courts in Mumbai and Dindigul [Tamil Nadu], a new avenue for Muslim women has opened up in contrast to the men led *shariah adalats* which have not proved useful for Muslim women. More on Muslim women's attempts at justice delivery in the upcoming paragraphs.

The formality of the intervention of these women's groups involves taking application from the victim, registering her case in a book, sending written notice to the accused, documenting the entire process of intervention and writing down the final decisions to be used as formal documents and signed by both the parties. The informality is that it meets on a day suitable to everyone. It does not follow any rigid written down laws or procedures but go by their inherent sense of justice^[57] which is polished by the intensive training on law and gender perspective. The trainings help in making the private public. Injustice does not remain in the domain of the house but is made into a matter of debate and discussion. The discussions are responsible for shaping attitudes which in turn facilitates a woman to live a life of dignity. The community knows that certain attitudes and behaviour are unacceptable and that they will not be tolerated.^[58]

Amongst the oft quoted reasons for its acceptability is the fact that these forums are inexpensive and accessible. Another important reason is that these groups offer 'workable solutions' and not stick to any textual understanding of right or wrong. Additionally there is always a possibility of going back to the *samiti* to renegotiate if the solution arrived at does not work. The women belong to the same milieu and have a sense of community sensibilities. They are also very hands on as they are ready to investigate, do home visits, gather information from the community about the 'case.'^[59]

The formal and the traditional justice delivery systems have largely failed in their objective to provide justice to the society especially to its poor and the marginalized. A third alternative apart from the formal and the traditional

system has emerged which appears to be far more just and accessible to women. The very fact that women are able to come out of the confines of their homes and are able to organize themselves shows that they have reached a threshold of tolerance and with a little help can challenge the age old beliefs which stifle her life. Such women led forums need larger acceptance and support as they have emerged as a response to the failure of other institutions which were meant for imparting social justice. They must be strengthened so that justice is brought further close to women and to the larger section which is still weak and marginalized.

Limitations of the Women's Courts

There are however some limitations to the functioning of these women led community based groups. The women who comprise these groups have no formal education. They are in fact semi-literate or illiterate. As a result there is no formal documentation of the process of intake or the process of helping and providing legal aid. Sometimes these groups receive formal notices from the other party and to which they are not able to reply because of the lack of literacy. The decisions taken by these *Mahila Adalats* are documented in their record books but they are not legally validated in the court of law. The existence and the validity of these courts itself can be challenged as being extra judicial and hence illegal. There must be some provision in law by which these groups can be registered as valid dispute resolution forums and the decisions taken here are legally relevant. It is important to ascertain the mandate of these kinds of groups for them to get legitimacy.

These groups must be constantly updated on knowledge and information since they cannot themselves do it due to their illiteracy. Information about law especially must be given to them. Because knowledge of law and procedures is not given on a regular basis, there is always a possibility of the groups taking a decision which is contrary to the formal codified law.

Since these groups are not financially supported by anyone it is difficult to sustain them and their interest. The women who run them are volunteers who support the *Adalat* with their commitment and time. If they are not compensated for their time then they might lose interest and the *Adalat* may lose out on committed activists. If the system has to be sustainable and work towards building itself into an institution then financial support to its volunteers is essential.

There is also a possibility of the *Adalat* becoming personality centred. Usually the woman who starts and brings name and credibility to the group enjoys an immense clout amongst the women as well as the larger community. In her shadow others do not grow and develop or rather do not get a chance to take on larger responsibility. If the founder happens to leave then the group flounders unless somebody or some organization pitches in to keep the effort going. The leader also has the responsibility to groom second rung leadership under her tutelage for continuous work and output.

Right now these forums are considered to be too informal. They lack an 'authorized institutional mandate.'^[60] They need more standardization in documenting their interventions and more interactions with the formal systems, to understand their procedures and processes. They need to know laws that exist for women and they need to know other paradigms through which women's issues can be perceived.^[61]

There is excessive emphasis on reconciliation; they almost pride themselves when they say that they are not the ones who will break any ones home. *Hum talaak nahi dilwate* [We don't do divorce]. There are two reasons for hesitating to admit the role which they play anyway, that of helping women get divorce. One is the fear of the community where they are situated and the other is the remnants of their patriarchal values which wants them to retain the family intact at any cost or atleast a maximum effort should be made or should be seen to be made to not allow a woman to break away from the family. We have heard of women saying that 'we adjusted within our families for so many years, nowadays girls are not willing to put up with even a little inconvenience.' Like many other institutions in our society these are also steeped in patriarchal values. There is a tendency to preserve the family for which a women victim is sometimes pressurized to 'adjust' and forced for reconciliation. Divorce is still a dirty word. Understanding of gender and feminist values must be sharpened through continuous workshops and activities.

Also the responses to a man who has been wronged by women or have cast false accusations, the responses are very gendered and biased. When the man was in the wrong they were very aggressive and when the man was wronged the members of the *Adalat* became very maternal and protective towards this one man who was probably wrongly accused.^[62]

The *Nari Adalats* are confined only to resolving marital disputes. Other disputes do not come to them. The groups must increase their outreach to other issues too especially issues that affect the weaker sections within the society. They have been able to impact gender relations within the village but issues of exploitation of the dalits, tribals, issues of land and water and forests must also be addressed too as these too impact women. Women should lead not just another women but the entire community. That would indeed bring in a paradigm shift in the way our social relationships are constructed.^[63]

The *Nari Adalat* falls between the traditional set up and the formal system. They have neither totally rejected the traditional patriarchal values nor do they apply the formal laws completely.^[64] It is flexible than both of them and have women's interest only as their agenda. They are cheaper, faster and more accessible than both. There is a need felt to incorporate these *Adalats* in the formal legal system so that their efforts gain recognition. But for that to happen the *Adalats* will have to address their drawbacks and rectify their weaknesses.

Issues

Should the *Nari Adalat* get incorporated in the larger system? If yes then will they not lose their informality which is the hallmark and the reasons for their efficacy? Will they become another *Lok Adalat* which is reduced to an extended arm of the formal system and thus inherited all that was wrong with the parent body? In the process of formalizing the *Nari Adalat* will we make them like *Nyaya Panchayats* which tried in vain to combine the formal and the informal? Should the *Adalats* remain within the informal domain and rectify their shortcomings for better functioning? Otherwise is there not a possibility of it becoming formal and bureaucratic? Should it become formal and at the same time retaining its adhicism? Would it not be a strange combination which is neither here nor there?^[65]

The pertinent question before the *Nari Adalat* is whether it is one of those systems which the society has thrown up just because the formal and tradition system is dysfunctional? Is it only a stop gap arrangement or is it something which can be assessed independently for its efficacy. Iyengar raises a pertinent question, are the *Adalats* a supplementary forum involved in pre-litigation settlements or are they complimentary forums which are as equal and probably more acceptable way of dealing with issues of women?^[66] These and other related issues will be addressed in the coming chapters. In any case the members of the *Adalat* should not give up their strength which is the fact that they provide space to women and this fact should not be sacrificed to overcome the stated limitations. It should not become gender neutral and loose the sight of women's rights within the larger human rights framework. Human rights will have to be seen from the perspective of the women who faces abuses on a daily basis.^[67]

With the formation of such groups we are moving towards forming a full circle. We are going back to people themselves as final arbitrators of justice. It is no longer the prerogative of a few, educated, professional but of people themselves who believe in delivering justice. But in a nation state it is no longer possible to ignore the formal system. We cannot go back to a system where the state machinery has got no role to play. But the authority of the state will have to be shared and distributed amongst the people. Justice will have to move closer to people through people's own agencies. Thus *Nari Adalats* have come to occupy a very significant place in the whole debate around the alternative justice delivery systems.

ALTERNATIVE DISPUTE RESOLUTION AND THE MUSLIM COMMUNITY

In the previous paragraphs we saw the difficulties associated with the Indian legal system and consequently the evolution of alternative forums, both state owned as well as initiated by women's organization. In the subsequent paragraphs the ADR forums in the Muslim community will be analyzed especially those concerned with the resolution of marital disputes. It is important to note that the ADR procedures for marital disputes are followed by

all religious groups in India. This procedure is mandated by the Constitution.^[68] Further down this study will look at the *mahila mandals* or *shariah adalats* run by Muslim women in the ghettos of Mumbai and the impact of their legal intervention strategies.

Legal Aid in Muslim Community

In India for the Muslim community for matrimonial issues, apart from the formal court there exist the *darul qazas* [house of judges] to whom are affiliated *muftis* and *qazis* who arbitrate and take decisions on receiving complaints of marital discord. The *darul qazas* follow a certain process of handling cases. They listen to both the parties, [or they should be listening to both the parties], offer counseling for resolving the dispute. If the matter is not resolved and one of the party needs a divorce than the process is carried out by the Mufti.^[69] It is another matter and a matter of grave concern that these bodies do not give space to women to air their grievances and in fact only support men, especially in facilitating oral, unilateral divorce.

Time and again the conservative elements within the community have demanded that all Muslim matrimonial cases must be tried only in the *shariah* court [courts which dispense justice based on the Islamic law] which would run parallel to the formal courts. A similar suggestion was made in the Bhopal convention of the All Indian Muslim Personal Law Board.^[70] The suggestion was later retracted after an uproar from the Muslim community as well as from the right wing groups. The Board itself is a non –statutory body and any decision taken by it also has no legal standing apart from being just an opinion expressed. The Muslim community continues to go to the court and has been struggling for justice just as the rest of the others are doing. A large number of clerics go to the court themselves^[71]

It would be interesting to look at the issue of *darul qaza* or *shariah* courts from the perspective of ADR mechanism. Just as there are other out-of-court forums for arbitration, the *darul qazas* could also be perceived as a non-formal forum acting as complimentary body to the formal courts. This formal linking of *darul qaza* with the courts could be effective in reducing the burden on courts as well as make the litigant get justice in a far quicker time.

The *shariah* courts in order to qualify for being a genuine alternative system must look at some of its own drawbacks. The *shariah* courts are run by different schools of thought.^[72] A single school of jurisprudence may dominate these bodies. People approaching the court may be from a different school and this may lead to confusion and difficulty in taking a decision. It goes without saying that the *shariah* courts do not have one single woman judge on them.^[73] Just like the traditional *panchayats* here too women have no role to play. They also subscribe to a very patriarchal interpretation of the Quran. This misinterpretation has caused heavy damage to the Muslim women who have to bear the brunt of a patriarchal ruling.

It would be interesting to explore another dimension of this issue as it is unfolding in Canada. In spite of the backlog in Ontario's courts there is a resistance to ADR from within and outside the Muslim community in Canada to the effort by the Islamic Institute of Civil Justice to formalize the ADR. Women and human rights activists did not support the move as it would mean that 'political Islam will gain legal credibility to attack women's rights'^[74] The Canadian Council of Muslim Women (CCMW), wanted the same laws to be applied to them as are applicable to other Canadian women as they are then governed by the Charter of Rights and Freedoms. The supporters of the ADR justify the setting up of such forums on the grounds that such a process will be voluntary and any decision can be appealed in the civil courts. Also the decisions taken in these ADR forums will have to be consistent with the law of the land. By setting up such forums not only will be civil courts be unburdened but will 'revive the rich Islamic tradition of arbitration (*tahkim*), mediation (*wasatah*) and conciliation (*sulh*).^[75]

The Muslim family law in India is part codified and part uncodified. The codified law comprises of laws related to women's right to divorce her husband [1939] and the women's right to maintenance after divorce [1986]. Other aspects of law like the amount of *mehr*, polygamy, restrictions on men's right to oral unilateral divorce, adoption, custody of children are left uncodified. With regards to these aspects the 1937 Shariat Application Act says that the Muslim community will be governed by the *shariah*. But provisions of *shariah* are not stated in the Act. Thus aspects

not codified are left open for interpretations by lawyers, judges, *qazis* and *muftis* who go by previous case laws or by unwritten *shariah* law as the case may be.

Also Muslim community being heterogeneous, each sect has its own understanding of what *shariah* is. This leads to confusion with regards to the content of law which varies from sect to sect within the Muslim community. There is also no formal process by which someone can be authorized to interpret Islamic law.^[76] And it goes without saying that this diversity in interpretations is not always in favour of women as most interpretations are extremely patriarchal shaped by retrograde male clerics.

Apart from the *shariah* courts, there are various *jamaats* which head the sub-sects within each sect and they too arbitrate on family issues. For e.g. the *Cutchi Memon jamaat* of the *Sunni Hanafi* sect is very well organized and undertakes a lot of social and developmental work within the community apart from arbitrating on matrimonial issues. Similarly the *Qureishi jamaat* too is fairly organized to arbitrate. The *Shia* sect is more organized in arbitration procedures. The *Khoja* and *Bohra* communities of the *Shia* sect have arbitration councils to take up family matters. The challenge is to evolve a manner in which these arbitration processes can be legalized and made to come in line with not only the Quranic but also the Constitutional values.

Shariah law which is consistent with Quranic and Constitutional injunctions must be enforced through formal courts with complimentary procedural support from various arbitrating bodies like the *shariah courts*, *nari adalats* etc. The whole process of arbitration carried out by these bodies must be 'legalized and made transparent and accountable.'^[77] The decisions arrived at should be after following proper laid down procedures and rules of conduct. In the process Constitutional values and laws should not be violated.

The first step involves a full codification of the Muslim law taking into account the Constitutional and the Quranic values. The procedure for accessing this law must also be laid threadbare. All non-formal justice delivery systems be they the *shariah* courts, the *jamaats*, the NGOs, the *mahila samitis* etc. should be authorized to intervene in the matrimonial cases. These bodies must be allowed to register themselves within this new codified Act. They should give an undertaking that they will follow the provisions of this law and will not take any decision contrary to it.

The community based groups run by Muslim women can take steps to authenticate their decisions in the court of law. The decisions by the *shariah* courts must also be submitted to the courts for verification. There should be a provision by which all non-formal institutions can validate their processes which they undertake to provide legal aid to women. The process will benefit both the parties and most importantly it will benefit the women who otherwise would never be able to access justice through the regular, formal justice delivery system. Instead of rejecting the ADR within the Muslim community especially the *shariah* courts there should be efforts to integrate them with the formal systems of law to ensure speedy justice to women.

ADR in the *Khoja* community

Mumbai has quite a sizeable number of *Shia* communities especially the *Khoja* and the *Bohra* who though well organized to take care of their members may not be very liberal to the concerns of the women. These communities have arbitration councils which look into family matters. Although the decisions of these bodies are not binding, they are usually followed as the social pressures in these communities are very high.

The *Khoja* community has evolved international structures and systems to make ADR a reality for its community. The *Khojas* or *Ismailis* are part of the *Shia* sect of the Muslims and are spread over 25 countries. Like the other sects they also believe in the Unity of God and the Prophethood of Mohammed.

Hazrat Ali, although Prophet's cousin and son-in-law was the last Caliph, by the *Shias* he is considered the first Imam i.e. the spiritual leader of the Muslim community. The *Imamat* is hereditary and continues to this day. Currently Prince Karim Aga Khan is 49th Imam of the *Ismaili* community. Because of the spiritual allegiance to the *Imam* the community is well bound with each other and is extremely self-reliant. They have set up medical and educational institutions, housing colonies, economic activities for the overall development of the community.^[78]

The present Imam has been instrumental in initiating, establishing and institutionalizing developmental activities within the community at the local, national and international level. The administrative structure of these activities is done by setting up councils at the regional levels. The entire structure and system is guided by a Constitution which laid down rules for community living. It is flexible enough to allow for divergence which the community encountered while living in different parts of the world. What is very important to note is that while this Constitution governs the community's spiritual allegiance to the Imam, the community continues to have allegiance to the State where they reside as citizens.^[79]

The *Ismaili* Constitution allows for setting up of Conciliation and Arbitrations Boards [CAB]. These Boards exist in almost all the countries where the *Ismaili* community resides. There is also a provision for National Conciliation and Arbitration Board [NCAB]. The Board's function is to support reconciliation process on disputes related to civil, matrimonial and commercial matters. The Board acts as a system responsible for arbitration and acts as an adjudicating body. The purpose of the Board's adjudicating function is to facilitate settlement and is always aware and concerned about the laws of the land in which they function.^[80]

The Board is run and managed by volunteers. In 2000, all volunteers associated with the functioning of the Board underwent a training programme to upgrade their skills as mediator and counselors. This capacity building was held at the international level and had inputs from various professionals associated with law, religious studies and counseling. The training had 3 important components, living practices of the community, the religio-ethical framework and the current practices of the ADR. The programmes were evolved by the National Boards keeping in mind the local regional cultural specificity. The NCABs have been very successful in resolving disputes keeping in mind the local culture, ethical Islamic values and principles of dispute resolution. In many countries the civil courts are referring the cases back to the Boards for settlement of a dispute.^[81]

Many indigenous and faith communities have their own systems of dispute resolution. These forums must do two things: one, to continuously upgrade the information and skills of the mediators and secondly to find ways in which they can become complimentary bodies to the existing state-run legal systems. The ADR systems run by the *Ismaili* community has added substantially to the global discourse on ADR and how mediation processes run by community can make justice accessible to a vast majority of the people.^[82]

The *Bohra* community of the Shia Muslim sect has their arbitration procedures for dispute resolution. While other sects of the Muslim community like the *Sunnis* lack any centralized authority, the *Bohras* require the permission from the *Syedna* or his representative for both marriage and divorce. The individual or couple has to put up their request before the local *Amil* and he tries all moral persuasion and counseling before granting the request. The authority of the *Amil* works both ways. If, for example in the case of divorce, the couple are non compliant with Islamic norms than the *Amil* will counsel the party for a divorce.^[83]

In the Christian community divorce is not possible in the church. For divorce the couple or the individual has to approach the civil court under the Indian Divorce Act. The Church will only issue an annulment after a long deliberate process. Without the annulment, marriage in the Church is not validly possible. The diocesan tribunal examines all the cases that come to them. For marriage also strict rules are laid down which also decides the marriage between Roman Catholics and Protestants.^[84]

There are two ways in which a Parsi matrimonial dispute is taken to the court; mutual consent and contested. In case of mutual consent both the parties engage their own lawyers. The lawyers prepare the consent terms. And this consent terms are submitted to the court. The court accepts whatever is mentioned in the term paper and gives an order to accept the mutual consent terms. The jury is part of the court. The court decides on the basis of law and the jury decides on the basis of facts.

Members of the jury are from the community, they are persons of integrity and character. The jury members can change as per the case. The lawyer of one party can take objection to the appointment of a particular jury member. The jury can also be the same for a particular session. There are 2 sessions in a year. It could be more or less depending on the number of cases. When a divorce is filed as per the mutual consent there is no objection from the

court or from the jury. In case the matter is contested, it is like a regular matter in the court with regular filing and examination of the case. Jury is there for contested matters also. In case of other matters like maintenance, custody etc. the court does not wait for the jury session. An interim application can be filed by the parties in the court. And the court can take a decision. The jury later can object to the decision, but the parties need not wait for the session to be held.^[85]

Although all cases of the Hindu community have to necessarily be referred to the court, there are some communities within the Hindu fold who are allowed by law to arbitrate and settle the dispute out of the court.^[86]

Emergence of Muslim women's groups

This study is about Muslim women's initiatives in Mumbai for providing legal aid to poor women. Many community based groups within the Muslim community have emerged in Mumbai especially after the communal violence of 1992–93. Some of them have been supported by NGOs and some others are associated with political parties but a majority of them have been spontaneous formations taking up wide ranging issues like counseling, legal help, education, health, civic amenities etc. Some are also part of the police initiated Mohalla Committee formed to restore peace and communal amity between the communities. Some of these groups also started to give legal aid and support to Muslim women as a result Muslim women have one more accessible avenue to resolve her legal disputes.

Women's community based groups in the Muslim community have emerged as a result of widespread incidences of domestic violence and the inability of state structures to remedy the situation. Also because of the disadvantages of the legal system which has not been able to provide justice, many reach out to other means available for solving their problems. Because of the emergence of alternative forums, legal, Constitutional and religious rights have been made available at her door steps. This delivery of justice is cheap, accessible, non-intimidating, easy, practical and gender-just. The system is also beneficial to the violator as even for him it is less intimidating than the formal courts and he knows that either ways the dispute will get resolved faster than any other formal court.

It is important to note that Muslim women doing legal aid is an extremely political work. By doing so they are firstly, challenging the patriarchal values, secondly they are challenging the formal courts by being more useful to women and providing to them something which the Constitutionally mandated bodies cannot and thirdly and most importantly they are challenging the clergy by usurping for themselves the traditionally male dominant role of interpreting and applying *shariah* laws for women. And they perform these functions in a communally sensitive society where they themselves are a minority within a minority and live an extremely marginalized life in a ghetto.

Aurton Ki Shariat Adalat-ADR Forum by Muslim women

In July 2013 history was made by Muslim women in India when the first women led *Shariat Adalat* was established in Mumbai and Dindigul in Tamil Nadu. The Muslim women have been active in the field of matrimonial dispute resolution especially more so since 1992. This study is precisely about such forums established to provide legal aid to Muslim women. In the course of the last 20 years the Muslim women's forums called themselves *mahila mandals* or *nyaya panchayats* and dispensed justice. In 2007 the Mumbai *mahila mandals* aligned themselves with the national movement of Muslim women called the *Bharatiya Muslim Mahila Andolan*. As the movement grew and the *mahila mandals* got more and more cases of Muslim women, the Andolan realized the need to rechristen its name from *mahila mandals* to Women's *Shariat Courts*. It was a simple but a profoundly political act as it meant entering the domain hitherto held and closely guarded by Muslim men. All along Muslim men established their hegemony over religious matters especially matters related to family law. No discussion or debate around reforms in the legal status of Muslim women was encouraged by the clerics heading sundry religious bodies. Muslim women have entered this territory out of sheer frustration as Muslim women continue to be treated unjustly by *shariah* courts managed by men. In a matter of months the *Aurton ki Shariat Adalat* [ASA] received close to 219 cases from July to December 2013. In 2014 the ASA received 263 cases. In 2015, it received 310 cases.

Providing justice to Muslim women in family matters is the core objective of the ASA.

Three such ADR Forums henceforth to be called the Women's Shariat Court [WSC] managed by Muslim women is the focus of this Study.

To conclude it is important to say that the ADRFs are here to stay and for the Muslim women's concerns of justice, they are playing an important role. The forums in the form of *Aurton ki Shariah Adalat* by BMMA are not only providing much needed legal redresser but also challenging the hegemony of male clerics. It is an act where women are reclaiming religion from the male and establishing themselves as change agents. This new emerging consciousness of women needs to be encouraged and supported by the state and the larger society.

Methodology

The study has been guided by the process of qualitative research which involves articulation of the research concern which in turn has informed the review of literature. This has led to a sharper conceptualization of the research concern. The process has been iterative in which one has moved back and forth from articulation of research concern, review of literature and conceptualization. The research design is also in keeping with the paradigms of qualitative research. The data collection methods employed have allowed the women to share her experiences as far as her legal problems are concerned.

A priori and purposive sampling approach has been adopted where the participants have given special insights into the issue. If differing perspectives were prevailing then those participants were chosen who differed on those aspects. Sample additions and changes happened as the study progressed.

The researcher has followed the given method to arrive at the sample:

STEP 1: Identification of context of the study i.e. situation within which the study occurs.

STEP 2: Selection of the research setting within the context of the study

STEP 3: Identification of stakeholders groups in the research setting

STEP 4: Identification of primary stakeholders

STEP 5: Selection of each researched from the primary stakeholder group and those associated with the researched from other stake holder groups.

In-depth Unstructured Interview [IUI], Group Interview are the methods employed to collect data as these methods helps in finding the perceptions and behavior of the researched in that particular social context.

The researcher has tried to analyze the data by emphasizing on how the data will fit together as a whole bringing together context and meaning. The simple way which the researcher has followed is to use the research questions to group the data and then look for similarities and differences.

The researcher has used the more inductive approach to data analysis which involved:

- ◆ Reading, Re-reading texts, Reviewing notes
- ◆ See emerging themes and attach labels or codes
- ◆ Explore each thematic area by displaying in detail the information relevant to each
- ◆ Reducing this information to its essential points

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Chapter 2

MUSLIM COMMUNITY IN INDIA – STATUS AND PERSPECTIVES

MUSLIM COMMUNITY IN INDIA

History

The 1857 mutiny was officially the end of the Mughal era and thus the end of Muslim rule in India. The process of decline began much before that when the Muslim rulers were losing power to the British and other rulers. During the mutiny Bahadur Shah Zafar as the last Mughal was the only symbol remaining of a vast and crumbling empire. Since British took over from the Mughals, they introduced policies and procedures to consciously marginalize the groups from whom it was inheriting the power. While other communities adapted to the change the Muslims did not, which resulted in their economic and political decline. Some leaders like Sir Syed Ahmed Khan vociferously advocated adaptation to changes which the community eventually did while making all efforts to maintain its group identity which would help in reaping the benefits of a fast changing political situation. Other communities were also encouraged by the British to assert their differences and gain mileage for their community. The economic policies of the British forced the Hindus and Muslims to organize themselves on religious lines, ‘the Muslim interests therefore, were directed at maintaining the exclusiveness, stemming their economic decline and demanding concessions on that basis.’ [1]

Partition of the country led to loss of political power, numerical strength and loss of leadership of women and men. Whatever remained had to be maintained for group solidarity. The migration from Punjab was total, migration from other regions varied from 10% to 0.2 %.^[2] The migrant were the urban youth and the educated intelligentsia. This denuded the traditional urban Muslim centers as Delhi, Bhopal. Migration to Pakistan from rural areas except Punjab and Rajasthan was negligible. The reduction of urban Muslim population was temporary as they were replaced by rural Muslim population in search of employment.^[3]

Development programmes were the main ways through which the resources of the country were going to be distributed. The state has since then been the prime initiator of development. The communal mobilization of the 19th century continued as the group differentiation had to be maintained to reap the benefits of state aided development programmes. This also gave rise to groups based on caste, language, and region. The groups were organized around ‘traditional affiliation’ their objective being economic and political gains. The process still continues and as Shahida Lateef very rightly says, ‘nobody so far has been able to delink the status of women from the present construct of a Muslim identity.’^[4]

Muslims have been the rulers over this sub-continent and due to the processes of the past 100 years have been reduced to a minority on the basis of which it seeks to gain benefits for itself. In continuation of the strategy used by other groups during the British rule, the Muslims continued to use religion as a mark of differentiation to preserve ones identity and through it get the community together to get social, economic and political gains. This process has been occurring in all communities but is most profound in the Muslims due to the history of partition and the subsequent decline in its status. The community wanted changes in the political and economic spheres without affecting community customs and traditions as those are required for group unity irrespective of sect, sub- sects and *jamaats*.

Customs and traditions also included the *shariah* which were not allowed to be discussed and which proved detrimental to the interests of Muslim women. The impact of group differentiation was immense on Muslim women as on her fell the burden of maintaining identity, and any discussion on the markers of identity was disallowed to preserve its sanctity. Her issues have to be raised only if they do not question the markers of this identity or if they do not show any 'internal divisiveness'.^[5]

All communities have used religion, language or regional affiliations to mark their groups' differentiation. It is on the basis of their ascribed identity that groups have been claiming benefits of the developmental process. While the Constitution is secular and does not recognize any state religion, the groups continue to claim economic and political benefits exactly on those very grounds.

Status of the Muslim Community

In the beginning of the 1990s, with the collapse of the bipolar world, India too gave up the socialist agenda and announced its capitalistic intentions by introducing Structural Adjustments which ushered in the era of open economy. Rising simultaneously and perhaps linked were the powers of the conservative forces and the widespread communalization of the Indian society and polity. With the demolition of the Babri Masjid, state aided communal violence in Mumbai in 1993, Gujrat genocide in 2002, Muzaffarnagar violence in 2013 and the lynching of Akhlaque Ahmed in Dadri in 2015 the alienation of the Muslim community was entrenched. And with the rise of terror groups in the name of Islam worldwide, the community further got saddled with a negative stereotype.

Additionally the Muslim community in India, as confirmed by the Justice Sachar Report^[6] is extremely marginalized on economic, social, educational fronts. The reasons of backwardness being manifold, suffice it to say, lies not just with the community but also with the State which has not fulfilled its responsibility. As per the census report of 2011, Muslims constitute 14.23% of the total Indian population. The Justice Rajinder Sachar Committee Report gives a grim picture about the socio-economic conditions of the Muslim community. It shows that 31.1% of Muslims are below the poverty line and less than 4% Muslims are graduates. The Report also highlights an unacknowledged fact that caste hierarchies exist amongst the Muslims. The 2001 census report shows that the Muslim literacy rate is 59.1% and Muslim women's literacy rate is 50%.

Problems Facing the Community

Post Babri masjid demolition riots broke out in almost all major towns and cities in the country. The worst affected was Mumbai as mobs led by Hindu right wing party, Shiv Sena killed and looted the Muslim community. In Mumbai a second bout of rioting began in January 1993 which was an escalated version of December riots and did not even spare the upper middle class Muslims of the city. Believed to be a payback for the riots, a series of 15 deadly bomb blasts ripped through the city killing 257 people. Since these two incidences the Hindu and the Muslim communities have been separated physically and socially and the distances have only grown further.^[7]

Since then there have been a series of bomb blasts by the terror groups. The terror groups belonging to the Hindu community too have resorted to bomb blasts in cities like Ajmer, Hyderabad, Malegoan. The genocidal attack by the state machinery headed by none other than the chief minister in Gujrat has only added to the siege mentality within the Muslim community. After the train blasts in Mumbai on 26th July the shocked residents of Navpada [Mumbai] rushed to scene of the devastation and did everything possible to help the victims. The next week 70 Muslim boys are picked up from the same Navpada community by the police as suspects in the bomb blast case. This has been the complaint of the Muslim community that after every incident of terrorism Muslim men are picked up randomly and locked up on mere suspicion.^[8]

Every decade has seen one major conflagration of communal violence with the tacit support of the state. The Babri masjid demolition followed by the communal violence in 1992 was followed up by the Gujrat genocide in 2002. Exactly a decade later Muzaffarnagar flared in 2013. After the Lok Sabha elections of 2014 the right wing Hindutva government at the centre unleashed a wave of anti-Muslim pogroms across the country. The hitherto

quiet groups like the Rashtriya Swayamsevak Sangh, Vishwa Hindu Parishad, Bajrang Dal found their voices and systematically carried out anti-Muslim and anti-Christian activities further fueling the insecurity within the community. The meat ban in Maharashtra, Haryana and Kashmir has so far been the most open and blatant anti-Muslim legislation aiming to cripple the community financially also.

The Muslim community has been facing discrimination in many different ways. They have been isolated and have been made to suffer economically. Muslim youth are not considered for employment, police harassment has increased, schools are ghettoized and banks have declared Muslim ghettos as negative zones. For instance most poor Muslims are daily wage earners and a situation like the riots or the blasts affect their livelihood. Even a day of non-work means that the family goes hungry. Also for instance non-Muslims do not deal in business with the Muslims because all the inherent biases crop up as a result of such incidence. Mohammed Taj Qureishi, a tailor says 'More than half our customers are non-Muslim. After the blast they stopped entering Muslim neighborhoods. Business after all, is built on trust. Mothers tell their daughters 'There are other tailors,' says Qureishi. In a tense situation Muslim community migrates to their villages and does not come back till it is calm. Thousands of them fled Mumbai during the 1992–93 violence and some of them never returned. The business suffers and government loses out on the revenue.^[9] Fear and insecurity gripped the residents of Dadri and Muzaffarnagar where large scale targeted anti-Muslim violent acts took place.

After the blasts in 26th July and the terror attacks on 26th November 2008 and other incidences at the national and international level the isolation of the community is complete. And that can be seen in the way the Muslims are treated. They are looked upon with suspicion. Since the blasts in London and other places were carried out by urban, educated youth, even the educated modern Muslim man is looked upon with suspicion. Muslim women traveling in train get jeered at. The comments and the glances that they invite isolates them completely. Some societies do not allow Muslims in as tenants. Many families have been destroyed as young men were picked up by the police and put under the dreaded TADA. Subsequently the law has been repealed but all those who have been put behind bars have suffered. The community faces discrimination in government offices, educational institutions, hospitals, employment centres and for housing. There are difficulties in getting important documents like caste certificates and ration cards. The city outwardly has been at peace and the communities have not fought but the hatred and animosity gets manifested daily in trains, buses, place of work. The prejudices are there for all to see and community has to bear the long term impact of this isolation.

Communalism is not new to India. The legacy of Hindu Muslim riots goes back to the British rule. Even in independent India the two communities have fought bitterly and this animosity has been tacitly supported and even fanned by the state institutions. The violence followed by the demolition of Babri masjid in Mumbai then ruled by Congress and the Gujrat genocide when Gujrat was under the BJP rule, during Muzaffar nagar violence and Dadri lynching the UP government was under the Samajwadi party rule - these are pointers to state complicity in encouraging the marauding mobs to attack, kill and loot the Muslims.^[10] The right wing propaganda pre and post the violence has never been challenged by the then opposition or by the larger public. The legacy of unchallenged hate propaganda is evident in those violent times when the victims have no support least of all from the state. The incidences of violence are particularly directed to destroy the economic base of the community. And because the representation of Muslims in the state institutions is low, it ensures that their voices are not heard and the injustices meted out are not remedied.

The NGOs too are engaged in charitable, welfare and at best developmental work and thus do not challenge the state and other right wing groups in increasing the chasm between the communities. The NGOs are too dependent on the state for their survival to question and then face its wrath in the form of cancellation of their registration or in blocking of funds.^[11] There are a few who continue to challenge the state by fighting the cases of victims in the court and others keep a check on the human rights record of the state. As long as people are not political in their approach and their values are not steeped in human rights, justice and rule of law, the relationship between communities will remain vitiated creating fresh grounds for violence. Thus, 'communalism is essentially a political phenomenon.'^[12]

The communities have been kept on boil since the mid-80s when the Ramjanmabhoomi-Babri Masjid controversy was made to erupt in the national scene. They were made to be at logger heads with each other so that while they fight, the forces of neo imperialism can be unleashed quietly which is what happened in the budget of 1991. The events in India collided with the collapse of USSR and thus the collapse of the era of a state controlled and regulated economy. While the communities fought on religious lines over structures of worship the economy was inundated with multinationals selling their products at the expense of local produce. The Babri Masjid controversy was one way to keep the poor of both the communities distracted so that they cannot initiate a joint battle to protect the natural resources, their jobs and their future.

With the new government at the helm since 2014 a new wave of reforms are being pushed on people. While the government is bent on appeasing the corporates, it clearly ignores the plight of the farmers who have been committing suicide. Almost in all sectors be it health, education, livelihood, violence against women, violence and discrimination against dalits and minorities, deteriorating public transport, impact of climate change, poor quality of air and water-there is a downslide. The NDA had assumed power with a lot of promises. None have been fulfilled.

The 1980s also saw the emergence of joint dalit Muslim struggle for their rights which got weakened as dalits were wooed into the Hindu fold and away from their toiling counterparts.^[13] The mill strike of Mumbai did something similar to the workers who lost their solidarity to the rising forces of right wing communalism. In fact the jobless after the mill strike found a new enemy in the Muslims. Locally, nationally and internationally there is a deliberate effort to malign the community and its religion. The cause of this perception can be traced to the Soviet invasion of Afghanistan. The 'godless'^[14] communists had to be taught a lesson for countering the capitalist designs of the western powers. To do that Europe and America created the Taliban in Afghanistan to fight the USSR. The American hegemony had to be established by ending the bi-polar arrangement which was in some way able to counter the capitalist and hence destructive designs of the US. The large numbers of Afghan mujahedin well trained to kill were rendered jobless once the soviet empire collapsed. The same mujahedin who happen to be Muslims are now the new enemies of the world. The western powers continue to support the Muslim terror groups. The ISIS is the creation of western powers to acquire control over the middle-east oil reserves. The futile war on Iraq to destroy weapons of mass destruction led to nothing but death to millions of Iraqis. The western powers continue to support war and destruction as sale of arms is the biggest revenue generator for them.

It must be remembered that the capitalist mode of development will always need newer pastures to fulfill its unbridled greed. The 9/11 terror attacks on American twin towers by the terrorists gave them another opportunity to attack and control and install puppet regimes who will then need the arms and ammunition to keep fighting the terror created by the Americans in the first place. The returns from the sale of huge amounts of arms to terror impacted countries like India, Afghanistan and Pakistan does help the west to buy the oil from the middle east which it desperately needs to run its economy. Thus the new Muslim terrorist is required to keep the economy of the US going strong.

This branding of Muslims and Islam has had a catastrophic impact on the Muslims in India. The terror tentacles have spread and the Indian subcontinent has not been immune to it. While decades of communal riots have ghettoized the community, the branding of Muslims as terrorist has also further added to the alienation of the community. The negative stereotypes have only got strengthened.

The Muslim community is also witness to the rise of the political Islam. The religion has spread across the world. Of the world population of 1.2 billion, Muslims represent between 19.2% and 22% of the world's population^[15]. The religion has spread from the Middle East to the South East Asia, to Far East, to China, of course to Europe and the American soil as well. As the religion has spread it has also acquired local flavors blending itself with local customs and traditions. Sometimes the traditions dominate and some places the religion with its multiple hues and colors dominate. The Islam of the east is very different from the Islam of China which is again different from the Islam of the Saudi Arabia. This diversity is natural as Islam accumulates and assimilates with various cultures to create its new brand and flavor. This diversity is endangered as a wave of homogeneity is being made to spread throughout the Islamic world. The wave of *Wahabi/Salafi* Islam, which is rigid, dogmatic, exclusionist as against

inclusive and extremely patriarchal has emerged to swallow the richness, diversity, inclusiveness of a tolerant, peace loving and a just Islam. The *Wahabi* cult has spread itself wide in different countries and has been pouring in large sums of money to homogenize Islam. The impact can be seen in the communities and *mohallas* where the Muslims stay and its worse sufferers are women. The most visible and potent weapon used by this sect is purdah or extreme seclusion of women. They run special classes for men and women where rigidity, parochialism, superiority of Islam and seclusion of women is emphasized.

Islam in India has not spread through the sword as the sangh parivar would like us to believe. It has spread due to the calming, inclusive and peaceful demeanor of the Sufi saints who amalgamated the bhakti traditions of Hinduism and sought to integrate Islam with the local customs and traditions. It is this brand of Islam that is at stake and is being overridden by the *Wahabi* sect which is using the religion for its political gains.

All these incidences and developments – rise of the conservative sect, the increasingly national and international alienation of the community, the rise of terror groups, the exceptionally marginalized status of the Muslim community and the rising heads of greed in the form of capitalist economies – have had an adverse impact on the Muslim community in India. Just as the challenges are multi-pronged the solutions too will have to be all encompassing beginning with the awareness and consciousness within each Muslim citizen of this country about these challenges and strategies to deal with it.

After the communal violence in Mumbai and Gujrat the community has realized that it is not beneficial to only talk of religious rights but also socio, economic, educational and legal rights of the entire community with specific focus on the most marginalized within the community. The community has realized that it will have to take efforts and lots of it to ameliorate its condition and also the realization that nobody else is going to do it. The community is out of its slumber but not enough is happening. There is a need to move out of charitable, welfare mode and work for getting the rights of the community. As part of the follow up on the Sachar committee recommendations, the Muslim community is now asking for an increase in the budgetary allocation, simplification of the procedure for getting government schemes and loans, appointment of Urdu teachers and a host of other programmes from the state for their educational and economic development.^[16]

To end the marginalization of the community there is a need to create space for dialogue with the majority community. Not all are communal and may be targeting the Muslims only because of lack of real information and the hate propaganda of the Hindutva forces. The community needs to reach out to the fence sitters before they get engulfed in flames of hate against the Muslims.

While inter religious dialogue has its place as an important strategy to counter communal division, perhaps more important would be counter it politically. One must not forget that the objective of communalism is to prevent the marginalized the dispossessed to come together on a common platform to fight for their rights. Hence a politically appropriate strategy would be to get the poor of all religions and castes together to demand social, economic and political justice. There is also a need to get the common Hindus and Muslims together to discuss their grievances against each other. Ghettoisation has completely cut off all contacts between the two communities and hence conscious efforts will have to be made to create platforms for inter community dialogue between the common masses. Politically ghettoisation will have to be challenged through demanding appropriate policies in housing. Diversity index will have to be applied to state and private institutions to observe whether these bodies are making attempts to include personnel from different caste and communities. To counter the situation a 'broad and sustained campaign against the aggressive designs of American imperialism, the economic policies of imperialist globalization and the sinister plans of the communal forces has to be organized.'^[17]

MUSLIM COMMUNITY IN MAHARASHTRA AND MUMBAI

Since the study is based on Muslim women's groups in Mumbai, it is important to have a look at the community in the city.

National Demographic data

The census of 2001^[18] shows data based on religion in each state and Union Territory. The purpose of this data was to assess the progress made by different religious groups so that the state can devise intervention strategy for improving their conditions. Out of the total population of 102.8 crores the Hindus constitute 80.5% of the population and the Muslims constitute 13.4% of the population. The Christians are 2.4 crores, Sikhs 1.9 crores, Buddhists 79 lakhs, Jains 42 lakhs and others are 66 lakhs. The population in the age group of 0 to 6 for the Muslim community stood at 18.3% against the Hindu's 15.6% and the country average of 15.9%.

The male female ratio in the Muslim community is 936 as compared to 931 of the Hindu community, the national average being 931. The literacy rate among Hindus (65.1%) was slightly better than the national average (64.8%). Among Muslims the literacy rate is 59.1% which is below the national average. The highest literacy rate is recorded among the Jains (94.1%).

Among the Muslims the literacy rate among the females is 50.1%, below the national average of 53.7%. Slightly better is the female literacy rate among the Hindus (53.2%), again below the national average. The highest literacy rate among the females was recorded among the Jains. The census has also given the gap in the literacy rate between the female and the male. This is known as gender gap in literacy. The highest gender gap was in the Hindu community at 23 points. The gender gap in literacy rate among Muslims was 17.5. The lowest gap was amongst the Jains at 6.8 points. The combined point for all religions was 21.6 points.

The census also gives data on economic activity for different religious groups. The proportion of workers to total population i.e. the work participation rate amongst Muslims is 31.3% with 'others' at 48.4%. Amongst the Hindus 33.1% were cultivators whereas amongst the Muslim 20.7% were cultivators. The percentage of agricultural laborers was 27.6% among the Hindus and 22% among the Muslims. An important fact which has emerged in the 2001 data is that the percentage of workers in household industries is the highest among the Muslims at 8.1% which is much above than the national average for all communities at 4.2%. The percentage of female workers in household industries was very high among the Muslims at 19.3% which reflects their association with traditional home based industries.

Mumbai Demographic Data

The population of the island city is 3,326,837 from Colaba to Mahim on the western coastal side of the city and from VT to Sion on the eastern side of the city. The population of the outer city which in our parlance is the suburbs is 8,587,561, almost 3 times more than the island city. 5,788,363 is the population of the area just outside Mumbai which includes Navi Mumbai, Belapur, Sanpada etc. The total population of the island, outer and suburban city is 17,702,761. The island city, suburbs and the outer city along with its satellite towns is the called the The Mumbai Metropolitan Area/Mumbai Metropolitan Region (MMR). It includes 7 Municipal Corporations and 15 smaller Municipal Councils and covers an area of 4355 km² with a population of 17,702,761. MMRDA [Mumbai Metropolitan Development Authority] which is a state run institution responsible for the planning and development of this region. Although there is a single body responsible for the integrated growth of this region, it is still witness to large scale, unplanned and unorganized growth. It has not been immune to growth of slums and haphazard development.^[19]

There are 12 areas in Mumbai and the suburbs which have a predominantly Muslim population. They make up 1.5 to 1.75 lakh of voters.^[20] Over the many years of communal strife and ghettoisation, there are distinct Muslim localities. For e.g. Nagpada, Mohammed Ali Road, Bhendi Bazar, Dongri, Zakaria Masjid are almost entirely Muslim.

Dharavi, which houses a million people, is called Asia's largest slum. Muslims constitute 40 per cent of Dharavi's population. Located in the industrial belt of Mumbai, Dharavi is a centre of small-scale entrepreneurial activity, particularly garment manufacturing, leather processing, waste disposal, pottery and suitcase manufacturing.^[21] In the suburbs, Jogeshwari east, Millat nagar, Qureishi nagar in Kurla, Park site in Vikhroli, Behram pada in Bandra, Golibar in Khar have a sizeable number of Muslims.

Muslims staying in Mumbai are very heterogeneous. The *Khojas* and the *Bohra* form the small but wealthy *Shia* sect. The *Konkani* Muslim who migrated to Mumbai from the *Konkan* coastal belt are there in large number.^[22] Apart from these older set of sub-communities, a majority of the Muslims in Mumbai have come from UP and Bihar in search of jobs. Muslim weavers from UP called *Ansaris* came to Mumbai to work in textile mills.^[23] Since the 1970s the poor from UP and Bihar have been steadily coming into the city in search of livelihood and better living conditions. They work in central localities of Nagpada and Madanpura in small and informal businesses and workshops.^[24]

There are many firsts related to the 2001 census data. For the first time data about slums was collected from towns and cities having 50,000 or more population based on 1991 census data. The population of slums all over India is 40 million staying in 607 towns and cities reported to having slums. This means that 4% of the total Indian population stays in slums. It also means that quarter of the Indian cities lives in slums. Out of this 5 million are in the age group of 0–6. The situation is alarming for Maharashtra and specifically for Mumbai. 32% of the people in the state live in slums and nearly 5 million that is 5,823,510 are in Mumbai. About 49% of the population stays in the slums.^[25]

Political Participation

In the Lok Sabha elections held in April 09, all 6 seats in Mumbai went to the Congress-NCP combine. The Muslims in Maharashtra actually did not have much of a choice as the main objective of the community was to somehow prevent the SS-BJP to come to power. Other non-right wing parties like the SP, BSP do not have a mass base and hence do not really claim to represent the Muslim community.^[26]

Muslims form 10.6% of the total population of Maharashtra and 36.6% of Mumbai. The suburban parts of Mumbai have about 12.4% of Muslims. In all the 6 seats of Mumbai there are no Muslim candidates who were able to win. The party combine nominated A.R Antulay and Azam Pansare who failed to win the elections. As a result from Mumbai and Maharashtra there is no Muslim representation in the Parliament. Even in Aurangabad and Malegaon which are Muslim dominated towns the Muslim candidates lost because of the inability to field a joint candidate from across the non-SS-BJP parties. This division of votes actually favours the saffron alliance.^[27]

With the Lok Sabha elections of 2014 NDA government came to power with a thumping majority and lots of promises made. The representation of Muslims in this Lok Sabha is the lowest since the first general election of 1952. The 16th Lok Sabha has just 24 Muslim MPs, down from 30 in the 15th. That translates to 4.4% of the strength of the House. The House will have no Muslim MPs from Uttar Pradesh, a first. It will also not have any from Maharashtra, a large state with a substantial Muslim population. The only states to have elected MPs from the community are West Bengal (eight), Jammu & Kashmir (four), Bihar (four), Kerala (three), Assam (two) and Andhra Pradesh, Tamil Nadu and Lakshadweep (one each). Of these, of course J&K as well as Lakshadweep have Muslim- majority populations.

Given the nature of the BJP's sweep and the fact that it fielded hardly any Muslim candidates, the fact that the new House has so few from the community does not come as a surprise. The number of Muslim candidates and MLAs are on two opposite trend line. Even though the number of Muslim candidates has increased over the years (375 in 2015 against 357 in 2009), the number of Muslims elected to the Maharashtra Assembly has gradually declined, by one unit every election since 1999 (from 12 in 1999 to nine in 2014). While Muslims constituted 8.51% of the total number of candidates in 2014, they ended up forming 3.13% of the MLAs, which is very low in a state in which Muslim comprise 13.4% the population, according to the latest census.

One reason for this under-representation is the geographical concentration of Muslim candidates within Muslim-dominated seats. Seven seats with high Muslim populations had eight Muslim candidates or more. A situation like this could lead to splitting votes between Muslim candidates. In the end, only two of these eight seats elected a Muslim. The entry of All India Majlis-e-Ittehadul Muslemeen [AIMIM] into Maharashtra politics indicates the growing mutual disaffection between Muslim voters and traditional parties. Though recent surveys

show that the Congress received the majority of Muslim votes in Maharashtra (52% according to CSDS figures), it scored relatively low in Muslim-dominated constituencies. The party fielded only 17 Muslim candidates, out of which 4 were elected.*

Ghettoisation of the Community

Post Babri-Masjid demolition and the subsequent state pogrom against the Muslim community, especially in Mumbai, led to large-scale internal migration in the city from mixed localities to locations which were on face safe and gave a sense of security. Complete ghettoisation of the city spaces between the two communities is now complete with very little opportunities available for healthy interactions. There are localities within Mumbai, which have faced communal violence with periodic regularity that has led to evictions and thus a changing demographic and political profile of the community. Threats of more violence and State neglect have got the community in a state of despondency. In these ghettoized conditions, Muslim women saddled with illiteracy and backwardness and being a minority within a minority, is the worst affected. She is vulnerable within the family and also under scrutiny from the conservative forces outside. The communalization of the society and the impact of the state violence on the Muslim community has been unprecedented. The insecurity and alienation has pushed the community inward and that has severely impacted the social status of Muslim women.

Riots are not isolated events but are a recurring phenomenon which erupts periodically and thereby dispossessing people from their homes which in turn affects their socio economic status. The regular dispossession and eviction are also violative of their human rights.^[28] Although the eruption of riots has been spontaneous, its provocation has always been planned. A study by YUVA on formation of a ghetto in the western suburb of Jogeshwari shows that riots have been made to occur repeatedly over decades and hence there is an emergent pattern of violence with repeated instances of evictions. There have been case studies of families which have been evicted in all the riots which occurred over decades and now live right inside the ghetto. The police too have played a partisan role leading to loss of faith in the state machinery which is responsible for providing security to its citizens.^[29]

Repeated riots and evictions have altered the demography of the city, from a mixed locality comprising of Hindu, Muslim, Christian families staying side by side to areas which are completely Hindu or Muslim. This has torn the communities further apart from each other. As more and more Muslim families move inside a ghetto the density of population increases leading to very poor living conditions. Over the years a ghetto then becomes self-sustaining with no reason to interact with the other community. The employment and educational opportunities also get confined into the ghetto which cuts off the community from the rest of the city. Thus communities no longer live together, work together, study together. The most dangerous aspect of ghettoisation is the formation of municipal wards corresponding with the changed demographic profile. The ghetto thus formed is converted into a ward thus indicating that it now has political existence and legitimacy. With Muslims staying in a particular ward conveys complete political segregation of the community. There is a slow, deliberate and vicious separation of communities pointing to the complete division of city spaces based on communal lines. In retrospect the ghettoisation has separated the communities physically but has also tore them apart socially and emotionally.

Eight years after the Sachar committee report on the condition of Muslims and creation of a Ministry of Minority Affairs, a post-Sachar evaluation committee, headed by former JNU professor Amitabh Kundu, has concluded that though a start has been made in addressing development deficits of the community, government interventions have not quite matched in scale the large numbers of the marginalised. Poverty levels among Muslims, the committee found, remained higher than the national average between 2004–05 and 2011–12. In terms of consumption expenditure, Muslims are third from the bottom after the Scheduled Tribes and Scheduled Castes. Set up in August 2013 by the UPA government for an evaluation of the status of Muslims after the Sachar committee findings, the Kundu committee was given an extension by the NDA government. It submitted its report to the Ministry of Minority Affairs but there has been no movement thereafter. Nor have contents of the report been made public.

The Kundu committee recommends enactment of an anti-discrimination legislation to prohibit discrimination based on disability, sex, caste, religion to move away from quotas and quota politics. This is in line with “a paradigm shift in India’s approach to equality. Moving beyond reservations, they use diversity promotion and anti-discrimination to achieve social justice. Reservations are only one of several tools to address widespread, systematic discrimination in a society. Diversity index and anti-discrimination legislation together can help build a more equitable society and a deeper and more widespread notion of equality that go beyond group-specific quotas and accompanying quota politics.” It chronicles the phenomenon of “exclusionary urbanisation” with a decline in the share of Muslims in the rural-urban migration that was first noted in the 1990s and continues unabated. The percentage increase of Muslims in the urban population is low and the community is particularly under-represented in smaller urban centres where social factors and discrimination restrict mobility. The share of minorities in government employment remains low – less than half of the share of their total population in the country. The committee has recommended “government-led planned and targeted recruitment drives in a time-bound manner.” The committee notes that the natural advantage which Muslims have in initial health indicators like sex ratio, higher life-expectancy at birth, better child survival, are squandered away because of lack of equal health care access and amenities. “Inadequacy of health care infrastructure in Muslim areas, as highlighted in the Sachar Committee report, has not been addressed despite initiating specific schemes.” Schemes under the Prime Minister’s 15-point programme are plagued by lack of funds. Ministry of Minority Affairs (MoMA) asked for Rs. 58,000 crore under the 12th Five-Year-Plan but the actual outlay was fixed at only Rs. 17,323 crore. The committee recommends expansion of the 15-point programme to Mahatma Gandhi National Rural Employment Guarantee Act and the Pradhan Mantri Jan Dhan Yojana. Of the 37 government ministries and departments whose employment data was analysed, the minorities, on an average, constituted 7.5% of new recruitment in Group A services between 2006–07 and 2012–13, 9.1% in Group B Services, 8.6% each in Group C and D services. Priority sector lending to Muslims remains an issue. The committee notes: “MoMA reports that the share of PSL to minorities has increased to 16.09% in 2013–14 of total PSL by banks in the country. However, Muslims could get only 44.31%, while Sikh had 24.58%, Christian 21.87%, Buddhists 2.06%, Parsis 2.23% and Jains 4.96%. This shows that except Muslims and Buddhists, the two most deprived minorities, other minorities are able to corner larger share in PSL. This distortion needs to be corrected at the earliest.” Despite lower levels of literacy among Muslims than Hindus, Muslims have lower gender disparity in terms of education. Outcome indicators for Muslims at all levels of education are closer to the ST community. Though enrolment of Muslim children in primary schools is high, there is also a very high dropout rate so the community, irrespective of gender or rural-urban residence, is less likely to attain secondary and higher secondary education. But there is some cheer. The scholarship schemes run by the Ministry of Minority Affairs have done very well. The target for pre-matric scholarships has risen from 3 lakh in 2008–09 to 40 lakh each in 2012–13 and 2013–14 with a percentage achievement ranging from 115–221% with Muslims as main beneficiaries. This means that in some years, more than twice the scholarship targets were achieved. Post-matric scholarships to minorities have increased from 75,000 in 2008–09 to 5 lakh each in the last three years with achievements of 121–178%. Despite such high achievement in terms of physical targets, the pre-matric scholarship could utilise only 94.81% of the total allocation of Rs. 1,400 crore in the 11th FYP. Post-matric scholarships used 71.38% of the allocation, and merit-cum-means scholarship 71.23% of the allocation.*

The issues remain where they are. The non-implementation of the Shri Krishna Commission Report, tardy progress in the implementation of the Sachar Committee report, irregular dealings within the Wakf Board and no remarkable improvement in the general socio-economic conditions of the Muslims in the state, are issues which till date continue to bother the community. Ghettoization of the community, large-scale discrimination and lack of real opportunities for the youth are unaddressed issues. Not to mention the complete silence on issues of the Muslim women. They are too controversial for the state to handle as they are restricted by their own vote bank politics and in perpetual fear of losing out on the Muslim male votes. The NDA government post 2014 does not even have that pretense to live up to.

WOMEN'S MOVEMENT AND MUSLIM WOMEN

The Muslim community is 14.23% of the total population as per the 2011 census. Muslim women would then be more than 7 crore of the Indian population. To understand the current status of Muslim women it is important to do a historical analysis to see the Muslim women in the overall context of the status of women in India.

The reform movement was mainly headed by Hindu men for the betterment of Hindu women. The Muslim women though had many rights on paper did not exercise it. But the Muslim law allowed widow remarriage, right in property etc. She had all those rights which by law were unavailable to a Hindu woman. In reality both sailed in the same boat. The reform movement created space for women to create a platform to demand programmes for their development.

The situation changed considerable after the partition and the independence in 1947. The Muslim women were not only from a minority community which was facing hostility but also lagging behind other women especially after the passage of the Hindu code bill in 1956. With this legislation the Hindu women was made to come on par with Hindu men. This process of equalizing continues till date as amendments to the Hindu law happens periodically. The customs and practices which burdened the Muslim women were not done away as the community was resistance to any legislation which tampered with the *shariah*.

Women's Movement And Muslim Women

Muslim women's contribution in the freedom struggle and in the women's movement has never been fairly acknowledged. We scarcely read Muslim names when we narrate these instances. Our history books in school which are vehicles by which the current generation gets to know about their past have never gone beyond token names. As a result the larger society remains alienated to the presence of the community in the present ghettoized conditions and are also unaware of their role in the past. In all a complete erosion of the memory of the community has taken place.

Muslim women have played a significant role in the women's movement. Even on issues like purdah, polygamy Muslim women have been very vociferous and have fearlessly called for doing away with these customs. They have joined hands with Hindu women in putting up a joint front before the British. Participation in the national movement had prepared the Muslim women to play a significant role in building up their confidence and participate fully in the political life of the nation. Bibi Amman was a delegate of Women's Indian Association which was demanding the enfranchisement of Indian women. Their sons were new Muslim leaders who published two weeklies called the 'Comrade' in English and 'Hamdard' in Urdu. Their mother had organized women's protest meetings. The demand for franchisee for Indian women was done by a delegation comprising of Hindu, Muslim and Sikh women. They spoke in favor of joint electorates for women. But despite their stand the British divided women into communal constituencies. Against this a meeting was again convened to denounce the decision. In the Karachi session of AIWC Muslim women were against separate communal electorate. The conference was attended by Lady Hidayatullah, Mrs. Tyabji, Mrs. Harron, Mrs. Hamid Ali, and Ms. Firozuddin. Muslim women in madras were members of both the madras Muslim ladies association and of the women's India association. The leader of one was the member of the other. At the seventh session of the Madras Constituent Conference of women in education and social reform, Lady Mirza Ismail emphasized the non-communal interest of women. Half the conference delegates were Muslim women who had advocated swadeshi and Hindu Muslim unity. Mrs. Nazir Husein moved the resolution on the use of swadeshi.^[30]

In her presidential address to the AIWC Lucknow in 1932, Mrs. Hamid Ali urged a solution for the disabilities of the Hindu women and the reinstatement of Muslim law to improve the status of Muslim women which was more equitable than customary law. Amongst the many declarations the main ones were education for Muslim girls, against untouchability, against communal electorates and deplored the prevalence of unilateral divorce by Muslim men. They demanded the abolition of all disabilities affecting the rights of women in inheritance and the recognition of Muslim women's right of divorce by British courts. The final AIWC meeting was held in 1946 where princess Durreshahavar of Hyderabad passed resolution on communal unity.^[31]

Muslim women attended in large number many anti purdah meetings which were held in many parts of the country. While women were coming out openly against social exclusion they were also realizing that they are breaking the boundaries of tradition which were necessary to maintain group cohesion for economic gains. Many protested against the women's demand for doing away with purdah. Others like the Nizam of Hyderabad and Jinnah supported the women's cause. Attia Habibullah noted that political rights could not be exercised if women were in purdah. Only the rich could afford to do so. The begum of Bhopal was in the forefront of the movement to educate girls, and against the prevalence of veil. She delinked the prevalence of veils with religion and asked whether it is right to deny women her basic right on the basis of a mere custom. In 1929 she presided over the AIWC session and publicly and symbolically removed her veil and a resolution against purdah was passed.^[32]

The Muslim community took many efforts to educate itself by setting up educational institutions across the country. Badruddin Tyabji set up the Anjuman-e-Islam in Mumbai, Central Mohammadan Association was established in Bengal, Himayat-e-Islam in Lahore and the Mohammedan Educational Conference in UP. Writers like Hali and MaulviNazir realized that Muslim women cannot exercise any of their rights if they observe purdah. The Mohammadan Educational Conference established in 1886 passed its first resolution urging the education of women in 1888. The Urdu publication for women was founded in 1904. The magazine propagated women's education and urged for the removal of purdah and espoused feminist causes. These themes were taken up by other Urdu journals all over the country. By 1900 purdah clubs were organized which provided a platform for women to come together and discuss their problems. They gained strength from each other and encouraged each other for participation in social causes. In 1905 a Muslim women's conference was held in Aligarh Attiya begum and in 1907 the Anjuman-e-Khwateen-e-Islam was set up in Lahore by Begum Mohammed Shafi. She also presided over the Muslim ladies conference in 1909. A school for girls' education was set up by the Begum of Bhopal in 1914. She also convened the All India Muslim Ladies Conference and presided over it. Lady Afsar-ul-Mulk had organized the Anjuman-e-Khwateen in Hyderabad in 1901. At the session in Lahore presided over by Abru Begum a resolution against polygamy was proposed by Begum Shanawaz and passed, the conference was attended by four hundred women and two speeches were held against polygamy. In another session in Agra in 1921 again polygamy was condemned.^[33]

Apart from these regional conferences, many local Muslim organizations were formed. Some of these organizations like Anjuman-e-Khwateen-e-Deccan formed in 1919. Lucknow Women's Organization was formed where Muslim women activist like Begum Habibullah, Begum Wasim, Begum Aijaaz Rasul and Lady Wazir Hasan belonged. The Imperial Ladies of Allahabad was formed by Lady Suleiman who was also the President of the Hamidia Girls School in 1925. The All India Muslim Ladies Conference was active at the turn of century and its activities declined after the establishment of the All India Women's conference in 1926 which the Muslim women joined. In Calcutta Suhrawardiay Begum opened the Purdanashin Madrassah in 1913. A ladies health and recreation club was organized by Nawabzadi Sarah banu Begum. These and many more Muslim women were in the forefront in organizing activities for the development of Muslim women. The focus was Muslim women's education and economic independence.^[34]

After independence two factors affected the Muslim women. One was the partition where the Muslim women leaders migrated. And because they were reduced to a minority here they were compelled to comply with an unjust *shariah* law in many places. The need to preserve the culture and identity intensified.

The post independent India was witness to the so-called 'appeasement of the community' on one hand and the extreme marginalization and social exclusion on the other. To comprehensively understand this contradiction and the current status of Muslim women it is important to also address the 'structural forms of marginalization that have gone in to the making of the Muslim'^[35] as well as to analyze the 'institutionalized inequalities in Indian society'.^[36] Muslim women must be seen in the context of the position of the Muslim community, its marginalization, its backwardness, its physical, social, political exclusion and the Muslim community must be seen in the context of the structured inequality, anti-poor economic policies and absence of state structures in large tracts where the masses are at the mercy of the either the anti-social elements or are left to fend for themselves.

The Sachar report very comprehensively captures the abysmal conditions of the community and these conditions do not spare the Muslim women as she being a minority within a minority is impacted by her religion, class and gender. The Muslim women are more illiterate than their Hindu counterpart. 59% of them have never attended school. 26% of educated Muslim women them have illiterate husband, which means low levels of male education and hence emphasis on ceiling on girls education.

Less than 10% have completed schooling suggesting strong link between low socio-economic status and education. The majority of the girls are married off at 16 and in some part of the country it is 4–5 years lesser than 18. The mean age of first marriage is 13.9 in rural north. Less than 15% of Muslim women report themselves to be working, which means low work participation in public life. 2/3rd of Muslim women are self-employed or engaged in home based labour, occupationally they are in the informal sector, self-employed in the low paying, semi-skilled home based work, casual labourers and domestic workers. Reasons for low levels of work participation are low education, lack of opportunities, low mobility, domestic responsibility and lack of skills. As a result many Muslim women are not aware of government schemes. How will they know of these schemes as less than 20% have access to media and more than 50% are illiterate. Though common to other communities, 75% of Muslim women need their husband's permission to do almost all activities.^[37]

As per the study conducted by Bharatiya Muslim Mahila Andolan, named 'Seeking Justice Within Family' in 2015, while there is a trend of Muslim young women educating themselves, this is not reflected in their participation in work force. Muslim women, thus we see are not able to take up gainful employment. Out of the 4710 respondents in this study, it was observed that an overwhelming number, 78.7% of the women are home makers whereas only 7.9% work in the organised sector and the remaining 13.4% work in the unorganised sector. Muslim women are still far away from formal employment.

The annual income of 73.1% of the families is below Rs.50,000 out of which for 39.1 % families the income is below Rs.35,000. 18.3 % of the families have an annual income between Rs.50,000 to Rs. 1 lac and only 8.6%, i.e., 407 families have an annual income over Rs. 1 lac. This reinforces the findings of the Sachar report that the community continues to remain poor.

15.5% of the 4710 women surveyed were married below the age of 15 years, 39.8% were married between the ages of 15–18 years. If these figures are combined a good 55.3% have married before the age of 18. Only 10.6% got married over the age of 21 years which when combined with above figures shows that a big chunk is getting married and perhaps starting a family at a time when women from other communities are busy preparing for their graduation. This perhaps provides insights into the reasons behind poverty and deprivation of the community. One of the encouraging trends is that in spite of early marriage, 46.5% of the women surveyed have 1 or 2 children. Only 4.9% women have more than 6 children. 20.7% women have 3 children closely followed by 20.8% women having 4–6 children. 7.1% women do not have children.

This study brings out the fact that 53.2% of the surveyed women have faced domestic violence which explains their low social status. Overwhelming 82% women said they did not have any property in their name. 83.9% women confirmed that their current residence is not in their name. In short the largest minority in India is lagging behind the farthest.

Women's Movement, Now

Women have been an integral part of all major struggles in this country and her contribution has been well documented. Women have also been at the fore front of many smaller struggles in large parts of the country. Some of these movements have been actively supported by NGOs who have played the role of a facilitator in encouraging the leadership of women. The leadership of these grassroots organization and movements comes from within the community who while they fight their own battles with poverty and discrimination also mobilize other women for fighting injustice. The movement sees a shift from being led by upper caste/class women to being led by the poor women at the grassroots. The movement has also seen splits due to changing ideology and the changing composition of the movement itself.

While the mainstream women's movement has lost some of its steam, there has been a rise of subaltern women's movement in the form of organized assertion by Muslim, Dalit and Christian women. These movements have been mobilizing women from their own communities for developmental as well as political work.

One can draw parallels to see the development of Muslim women's movement which finds its impetus in the new economic policies announced in the budget of 1991. The growth of communal forces coupled or rather given impetus by capitalist forces led to the complete political, social and economic marginalization of the Muslim community. A progressive liberal male leadership being absent the vacuum was filled in by women of all hues and classes to take matters in their own hand. The community being in a tight grip of conservative forces within itself also stifled the liberal voices. The demolition of Babri masjid and the consequent communalization of the social fabric of the country and the insidious way in which the capitalist forces were unleashed paved way for Muslim women to raise their voices against not only its own conservative forces but also against the anti-people and anti-poor policies of the state.

While the women's movement has done a huge task of highlighting the women's issues and bringing them out of the closet, it unfortunately 'assumed the homogeneity of women's identity' [124] It, for the reason of being elitist, could not address the concerns of excluded and marginalized groups like the Dalit and the Muslim women. In fact the 'conspiracy of silence' in Gujrat in which the women's organizations participated after the genocide conveys the insensitivity of the women's movement. But the Muslim women in Gujrat, Mumbai, Rajasthan, UP, Tamil Nadu, Karnataka had already taken a lead in organizing themselves. National Muslim Women's Welfare Society in Rajasthan, Hukook-e-Niswan Mahila Sanghatan in Mumbai, Aman Samuday, Parwaaz, Niswaan in Gujrat, Institute for Minority Women in Madhya Pradesh, Astitva in UP, Nari Shishu Kalyan Kendra in West Bengal, Manitham Trust and Wind-Trust in Tamil Nadu and many more such initiatives were taken by Muslim women. The most marginalized were taking the lead in impacting their own lives and the life of the community. The launch of the Bharatiya Muslim Mahila Andolan [BMMA] in 2007 suggested the coming together of these scattered forces of Muslim women. In 2015 with a membership base of 70,000 Muslim women, BMMA has over the years emerged as a single largest organized movement of Muslim women.

The alienation, exclusion had created a large vacuum in leadership which was being readily filled in by the women. In fact the circumstances forced the Muslim women to enter the public domain. Be it for fighting the POTA victims in Gujrat or facing the brutal police in the Mumbai riots in 1992, be it the illegal detention of Muslim youth in Andhra Pradesh, be it the Imraana/Gudia case in UP – Muslim women had effectively and forcefully entered the public domain. Forums like the BMMA facilitated to give direction and motivation to the emergent women.

In the history of independent India it is the first time that Muslim women have taken the lead in not just leading the other Muslim women but also leading the community. The formation of BMMA ushers in an era of active Muslim women's leadership. The Movement was launched in 2007 and now after 8 years of its existence it has a membership base of 70,000 women. BMMA is a national, autonomous, right-based non-party political organization of Muslim women launched for the first time in the history of independent India. Currently it works in 13 states working on issues of health, education, livelihood, security and law reform. In the last 8 years of its existence it has achieved many milestones. Since its inception it has worked continuously on advocating for the implementation of the Sachar Committee report. It has liaised with state and national governments for implementing government schemes and programmes and has mobilized Muslim women for their development. It has also mobilized young men and girls from the community and imparted gender sensitization training and vocational skills to young minds. In many states BMMA has also initiated the process of reaching out and mobilizing Muslim women working in the unorganized sector. It runs 7 Karwan Centres for vocational skills development and 2 *Aurton Ki Shariah Adalats* providing legal aid.

On the issues of Muslim personal law reform BMMA has changed the discourse around the issue. Instead of being problem centric BMMA has gone ahead and prepared a draft of Muslim Family Law based on Quranic and Constitutional values. This draft has done away with all the discriminatory aspects of the uncodified shariah law and has ensured equal legal status for Muslim women. This draft now forms the basis on which decisions are taken in

the *Aurton ki Shariah Adalat* which is another landmark in the journey of Muslim women in India. BMMA strives to voice the aspirations of Muslim women from time to time through different surveys and studies. It has published books to highlight the contribution of Muslim women in the last 20 years, it has published case studies of women who have been unilaterally divorced. It has also done a national study to highlight the aspirations of Muslim women as far as the Muslim personal law is concerned. It has also studied the post-Sachar situation of Muslim community through its study titled, 'Broken Promises.' Currently BMMA is in the process of training Muslim women to become *qazis*. As a result of BMMA's work the discourse is now not what the community or state can do but what Muslim women are already doing to address their backwardness.

Apart from leading on the personal law front, BMMA has time and again raised the issues of the Muslim community. On the recent beef ban by the state of Maharashtra, BMMA submitted 6000 signatures demanding the lifting of the ban. When the Shiv Sena called for removal of words, 'socialism' and 'secularism' from the Constitution, BMMA protested against any interference in the basic values as enshrined in the preamble of the Constitution. It has also protested regularly against anti-women fatwas passed by sundry religious bodies and have presented an alternative voice and vision to the community.

In a national study BMMA-ORF titled, 'From Seclusion and Exclusion to Inclusion: Indian Muslim Women and Their Initiatives, the authors have elucidated the efforts made by Muslim women to address the socio-economic-educational marginalisation of the community and specifically addressing the concerns of Muslim women. While most of them are involved in developmental activities linked to education, livelihood, awareness and facilitating schemes and entitlements, there is an emerging trend of organisations, movements and networks who are bringing about a structural change within the community by challenging the hegemony of entrenched interest groups and providing an alternative vision and voice to the community.

The first achievement of the movement of Muslim women was their ability and fearlessness in providing an alternative voice to the community, the voice of its women. This is the first time in the history of independent India that an organised Muslim women's movement has emerged and has sustained itself since the last 8 years. It took Muslim women 60 years after independence to find its voice and to challenge the hegemony of patriarchal forces within the community.

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Chapter 3

LEGAL CONCERNS OF MUSLIM WOMEN

Although the Indian sub-continent was ruled by the Mughals no attempt was made to enforce the *shariah*, as a result different sects and sub-sects continued to follow their own versions of *shariah*. There are two main sects amongst the Muslims; they are the *Sunnis* and the *Shias*. The *Sunnis* are further divided into 4 schools of jurisprudence that is the

Hanafi, Shafi, Hambali and Malliki. The *Shias* are further sub divided into *Ismailis, Bohra, Ishnaashari*. The *Bohras* are further sub divided into *Dawoodi, Sulaimani Bohra*. And thus it goes on into further sub sub-sects. Apart from this there are regional groups like *Memonis, Malabarlis, Quresihis, Ansaris, Pathans, Halais* etc. Some of them are governed by their group/jamaat's understanding and interpretation of *shariah*. All interpretations have one thing in common and that they are extremely patriarchal and always understand law to be on the side of the man. This heterogeneous community was never ever united under one *shariah*, neither in the times of Mughal and nor in the 21st century. In fact women were denied their *shariah*-based rights like the right to property and inheritance, right to divorce, right to matrimonial home etc. *Shariah* was evoked to mark the community differently from others and to deny women her rights either by not implementing the *shariah* or denying any reforms in favor of women. Protection of *shariah* was and continues to remain a convenient excuse to deny women her rights. ^[1]

The current predicament of the Muslim women can be traced back to the events of the Mutiny of 1857. The British successfully crushed the joint struggle of the Hindus and Muslims against its rule by initiating the policy of divide and rule. ^[2] They very consciously initiated policies for the political and economic marginalization of the Muslims from whom they had usurped power. During the British rule the Indian male reformers pressurized the British to introduce legislation in favour of women. The women were not in a position to demand any changes in their situation due to lack of education, mobility and awareness. Once the legislations were in place the women anyway were hardly in a position to make use of the laws. These reforms impacted all women but were mainly legislated keeping in mind the Hindu women as they were disallowed widow remarriage, child marriage was rampant, and women were denied rights in property. When the reforms for Hindu women took off it put the Muslim leadership under pressure to introduce the same for Muslim women and hence the passage of the Shariah Application Act, 1937 and The Dissolution of Muslim Marriage Act of 1939.

By independence and as a result of partition the community was reduced to extreme poverty and destitution divest of its previous power and glory. Post-independence too the leadership of the community, the clergy, who supported the Indian National Congress during the independence struggle, committed their support provided it did not interfere in the Muslim personal law and other institutions. With partition of the country the Muslim middle class migrated to Pakistan. Those who remained behind turned out to be self-seeking leaders who did not take any concrete measures to improve the conditions of the community, least of all the personal law. The Muslim community came to be governed by innumerable secular laws but it continues to resist even Qurantically approved changes in the *shariah*. The State policy of non-interference in matters of *shariah* continues even though the Muslim women have suffered due to its faulty implementation. Thus the most important and most politicized and most neglected has been the legal reforms for women.

Uniform Civil Code and Muslim Women

The debate on reforms-in-personal-law verses the Uniform Civil Code [UCC] has been an ongoing one. While women's organizations favored a UCC for gender justice, the same demand was made by right-wing forces to get

the Muslim community to give up their personal laws. In order to take the matter of reforms forward, it is essential that the personal laws are reformed as and when an opportunity arises. With increasing attacks on the identity of the community nationally and the changing perceptions internationally, especially after 9/11, the community has acquired the tendency to look inward. In such a scenario a reform process, which is sensitive to the predicament of the community, is the need of the hour. To substantiate this, a study published in 2000 showed that 52 % of Muslim women are in favor of reforms within the religious framework ^[3]. A decade and a half later a study by BMMA showed that 83.3% Muslim women want a codified Muslim family law to ensure justice within family ^[4]

While the minority communities, particularly Muslim community have expressed their concerns over the imposition of the UCC, the Hindu right wing has insisted on it for proving that the minority communities have to merge in the larger Indian, read Hindu identity. Due to widespread communal violence over the last so many decades, the Muslim community has always been on the defensive, and constantly feeling the need to protect its minority identity. The insecurity and a sense of alienation prohibit any progressive interface with the Muslim law which has become a mark of the Muslim identity and any reference to reforms within it conveys an attack on this identity itself. Muslim women are caught in a bind, always having to choose between her rights and the rights of the community. Her identity as a 'women' and as a 'Muslim' is always in a state of conflict. ^[5]

Under Article 25 the Constitution of India gives the right to all including minorities to have personal laws based on respective religious tenets. Under this provision the Muslim women are entitled to gender just reforms in the Muslim personal law based on the Quranic values of equality and justice. The recent Supreme Court observation on UCC also has emanated from the need to bring about a gender-just legal framework and not from a desire to impose or force anything on different communities. As per the BJP manifesto the NDA government elected to power in 2014 wants to impose a family law on all communities with the intention of national integration. It is important to point out that national integration cannot happen by a common family law but by treating all citizens equally. There can be no imposition of any kind as this would impinge on the religious freedom and secularism principles enshrined in the Constitution. Nor would different socio-religious communities accept this.

Like all religious majority and minority community in India, Muslims must also have a codified Muslim personal law based on its religious text. Just as there is a Hindu Marriage Act for Hindus, just as there is a Indian Christian Marriage Act for Christians, just as there is a Parsi Marriage and Divorce [Amendment] Act for the Parsis, Muslims too should have an amended Shariat Application Act or better still a comprehensive Muslim Family Law to ensure a law for the Muslim community which is in consonance with the Islamic and Constitutional values of justice and equality.

The recent events of targeted violence have led to an atmosphere of insecurity and deep sense of fear within the Muslim community and amongst all minorities. Any talk about of UCC, is only adding to the strongly felt sense of hurt and alienation. This atmosphere of intimidation does not help the cause of women's demand for justice at all. It appears that for the fringe right-wing groups UCC is another stick to beat the community with. There is also a strong fear that in the name of UCC Hindu marriage laws will be imposed on all other religious minorities. Going by the hate campaign against the minorities since 2014, the fear of the minorities is very real. It is also time that all religious minority and majority community state their positions on the UCC. A UCC is meant for all communities and not just Muslims. Are all communities willing to give up their personal laws? It is a question that all communities have to ask themselves and state their position in public space. For all practical purposes there is an optional civil code existing in the form of Special Marriage Act of 1954. Let each couple decide under which law would they like their marriages to be registered.

The state thinks of the clergy as the true representative of the Muslim community and the clergy thinks that by defending the Muslim personal law they are doing a yeoman service to the Muslim community. It does not matter to them that this defense of a discriminatory law has made the struggle of Muslim women even more difficult. With the state recognizing only the conservative religious voice, with the conservative sections consciously oblivious to the travails of the Muslim women— the legal rights of Muslim women are hanging in the air.

The Muslim community in the absence of progressive leadership and thus headed by the conservative clergy did not move ahead on many social, and economic parameters. The issue of Muslim personal law having been politicized and made to be linked to the identity of the Muslim community has remained untouched so far by all stakeholders concerned. The threat of instant oral unilateral divorce, meager mehr [dower] amounts, polygamy, lack of adequate post-divorce maintenance are major issues that the Muslim woman confronts.

Past Legislations

The British government enacted the Shariah Application Act [SAA], 1937 which was an attempt at applying *shariah* law and not customary laws to the Muslim community. The Act states that the Muslim community will be governed by the *shariah* and not customary laws. The Muslim women at least by law had the right to divorce, right to remarry after divorce or widowhood, had right over property. But her legal rights were eroded by customary practices. Hence a need was felt for legislative changes. The passage of SAA would in some way restore her legal rights. This law was welcomed by Muslim women and other political leadership of the community as it served to unify the community under one law at the same time gave rights to Muslim women as ensured by her religion.

While it gave rights to Muslim women, it also took away some by an amendment by Mohammed Ali Jinnah. The Act mentioned that the Muslims will be governed by the *shariah* 'notwithstanding custom, usage and law.' Which means whatever may be the customs, usage and law, the *shariah* will apply. Jinnah amended the Act by removing the word 'law.' That means that *shariah* will not apply if there is a prior law existing. This amendment was made to excuse some trading communities who had legislated that women will not inherit from their property. If the SAA would have been passed without the amendment then these communities would also have been forced to let their women inherit. Jinnah pandered to the demand of the trading class and harmed the cause of Muslim women after initially supported the bill. He later sought amendment which was implemented thus making women's rights subservient to the men.^[6]

This Act does not specify the content of the Muslim Personal law. It merely states that Muslims will be governed by their Muslim Personal Law. As a result, each school of thought continued to apply their different understanding and interpretation of the *shariah*. There are, therefore many conflicting views on several issues especially those concerning divorce where each view claims to be based on their respective interpretation of the *shariah*. One cannot see much advantage except for the fact that it tried to bring the Muslim community under one law. The fact that different sects and communities are left to interpret and apply their own laws shows the heterogeneity of the Muslim community and its laws. It brings home the fact that Muslims in India have not made a serious attempt to codify diverse practices of the different schools of thought. Other Islamic/Muslim countries have codified their laws and tried to ensure justice to women.

In 1939, the Dissolution of Muslim Marriage Act [DMMA] was passed which gave Muslim women the right to seek dissolution of her marriage on nine specified grounds. This is the only legislation enacted by the British, which introduced a substantive codification of the divorce law. The Muslim personal law as practiced in the early 20th century did not offer any ground on which a woman could dissolve her marriage. The right to divorce was absolutely in the hands of men and they exercised it at their own will. There was no legal means by which a woman could free herself from a bad marriage. To remedy this situation, there were instances of women converting to other religion. Since marriage of a Muslim and a non-*Kitabiya* [*Kitabiya* are those on whom a book has been revealed] is not legal according to Muslim Personal Law, a marriage, where the woman converted, became invalid. The DMMA was thus passed, not because men who made laws were sensitive to the needs of women but because Muslim leaders feared conversion of 'their' women to other religions. This Act was uniformly applicable to all Muslim women of all sects. It shows that despite the diversity of sect and practice, a uniform codification is possible if the political will exists within the community.

However the Act though benefited women was indeed piecemeal. The Act only lays down the grounds on which women can seek divorce. It does not lay down any procedure or a time frame within which she can get one. The man can divorce his wife without assigning any reason and even in her absence. He may or may not approach the court or

any authority to seek divorce. The Act does not question or restrict the man's unbridled right to oral triple divorce. The Act deals only with divorce and not with related matters such as maintenance, custody of children, payment of mehr etc. For these matters, the woman has to file separate cases under other laws, sometimes in other courts.

The next piece of legislation came nearly 40 years after independence in the form of the Muslim Women's [Right to Protection on Divorce] Act. Under Cr. P. C. 125–128 any dependent (parents, wife, child) is entitled to the right of maintenance. Prior to 1986, a number of Muslim women took the protection of this Code and claimed maintenance. However, in 1986, following the controversy in the Shahbano case, the Muslim leadership in India holding that Cr.P.C. 125 amounted to interference in their religious matter, disqualified Muslim women from applying for maintenance under the provision of the Criminal Procedure Code and enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986. This Act was passed to neutralize the judgment and appease the orthodox Muslim religious leadership.

The Act placed the final responsibility of maintenance on the Wakf Board which either does not exist or are not functional in many States. It shifts the responsibility of maintenance from the husband to the relatives and the Wakf Board. The husband knows that if he does not provide maintenance, he could still control and harass his divorced wife to beg at different places for maintenance. The husband takes responsibility for the children till they are 2 years of age. After that the responsibility falls on the wife. In order to claim further maintenance from the husband she has to again approach the civil court. This negates the legal right of the child to be maintained by her/his father and absolve the father of responsibility beyond a certain period. Moreover, it also contradicts Muslim law, which requires former husband to maintain boys till they are 18 years of age and girls till they are married. The provisions of the Act are patently violative of the fundamental rights to equality, equal protection of laws and non-discrimination on the ground of religion, as guaranteed by the Indian Constitution to all citizens. Since then there has been no effort either by the State or by the Muslim community to revive the process of gender-just reforms in Muslim personal law.

Moreover, Muslim law is not homogenous and its provisions vary according to the different sects and sub-sects. Further it is an amalgamation of customary law and practices, statutory law and interpretations of Quranic verses. So while a Muslim woman can go to the court to seek divorce a Muslim man is not required to do so, he can pronounce divorce thrice and terminate the marriage contract and this despite the fact that there is a Supreme Court judgment against oral unilateral divorce by the husband. While gender-just reforms within Parsi and Christian matrimonial laws are affected with the initiative and support from the State, it is a stark reality that there exists no political will to bring about reforms in Muslim matrimonial law that would benefit the women from the community.

There are multiple implementing agencies that dispense justice unlike the Hindu community where family disputes can only be addressed by the court. In case of the Muslim community there exist *shariah* courts, *Qazis*, *Muftis* [religious clerics], *jamaats* [sect arbitration councils] that also take in cases of family dispute. These bodies are readily accessible and have closer contacts with the community unlike the secular court structures, which are expensive, inaccessible and time consuming. Though accessible they are dominated by men who arbitrate and settle disputes, which more often than not go against the interest of the women. These individuals and institutions have adopted a very patriarchal, conservative and anti-women interpretations of the religious texts and some of the more parochial groups do not recognize the Indian Constitution and the secular legal machinery. Muslim women do approach the family court and other localized State run legal structures but as said earlier the time and money required to pursue the case is beyond the reach of many women, especially Muslim women.

Reform Efforts by Muslim Women

To challenge the patriarchal interpretations and to relook at the Quranic injunctions, feminist scholars like Amina Wadud, Ziba Mir Hossieni, Riffat Hasan, Fatima Mernissi have documented a fresh approach towards reading and interpreting the divine text.^[7] The interpretations are progressive and ensure that it is possible to secure women's rights without renouncing the religion. Indian Islamic scholars like Dr. Asghar Ali Engineer and Dr. Zeenat Shaukat Ali have extensively documented the rights of women in Islam and have given hope to many young Muslim women to challenge the clergy and demand a gender just law based on these interpretations.

There are also many positive Supreme Court judgments in favour of Muslim women.^[8] Given the fact that the Muslim law is partly codified and what is uncodified is dependent on the interpretation of the clerics, these judgments are relevant to propel the struggle of Muslim women for justice.

The Muslim women in the 1990s, especially after the demolition of the Babri Masjid have been taking lead in small ways to challenge the age old dogmas and asserting themselves for realizing their rights. The first instance of this awakening was visible during the Imraana controversy. Imraana was raped by her father in law. She received a fatwa which declared her marriage to her husband as void. There was a huge uproar from the community against this fatwa. Many Muslim women activist came forward to support Imrana and rallies were organized to condemn the fatwa.

In sharp contrast to this was the year 1986 when the Muslim women were hardly organized and there was no public outcry against the Muslim Women's Act which instantly took away a Muslim women's right to secular law. Imraana was not alone as she was supported by scores of Muslim women across the country who organized rallies and public meetings to condemn the fatwas. A social organization in Lucknow called Tehreek galvanized public opinion against the fatwa and supported Imraana through the ordeal. In Mumbai, Hukook-e-Niswan Mahila Sanghatana [Federation of Muslim women's mahila mandals in Mumbai] along with other women's groups like Women's Research and Action Group organized a massive rally to condemn the fatwa and questioned the existence and validity of bodies like the All India Muslim Personal Law Board and other assorted bodies who issue fatwa to subjugate women. They raised slogans like '*Sarkar hamari chup hai maulana se darti hai!*' [our government is quiet, it is scared of the clergy]. It was a massive show of strength by Muslim women against dogmatic forces.

The Muslim women's groups also tore to pieces the nikaahnama released by the All India Muslim Personal Law Board. The Board's nikaahnama did not invalidate triple oral unilateral divorce nor did it include the delegated right to divorce. It did not put any restrictions on polygamy. In fact it validated violence against women by the husband. A young Muslim girl from Mumbai called Muskaan Shaikh tore the nikaahnama in a crowded press conference to bring home the point that Muslim women are coming of age.

In 1996 a group of Muslim women got together to make a standard nikaahnama which ensured the rights of Muslim women in her matrimonial home. This nikaahnama was sent to the AIMPLB for their approval. The Board rejected the nikaahnama on the ground that it allowed women to exercise the delegated right to divorce. A Muslim woman if she wants divorce can get one as it has been delegated to her by her husband at the time of marriage. This provision makes a woman independent of men if she needs to terminate the marriage.

After this rejection another set of Muslim women in Mumbai affiliated to WRAG took up the same nikaahnam and further modified it in favour of women and released it in Mumbai. In 2008, activists of the Bharatiya Muslim Mahila Andolan further modified the nikaahnama and released it during its Annual Convention held in Delhi in 2008. The salient feature of this document is that it completely disallows oral divorce; it makes arbitration compulsory and puts a completer ban on polygamy. 15 marriages were conducted in Gujrat and 40 in Mumbai on this model nikaahnama.

In a spontaneous reaction, Muslim women in Mumbai called a press conference to condemn the fatwas issued by a cleric pressuring Muslim women to wear purdah. More than 50 women participated in the conference and condemned the fatwas and stated that women alone can decide what purdah means to her and whether she will observe it or not. Nobody has the right to decide for her and nobody has the right to issue such discriminatory edicts. The press extensively covered the event and it was widely reported.

In 2007, Muslim women affiliated to the Bharatiya Muslim Mahila Andolan, have also taken the lead in drafting an alternative Muslim personal law which is gender just. A National Consultation was held in Mumbai to seek Muslim women's views on codification of Muslim law. The Consultation was attended by close to 300 Muslim women from different states like UP, Gujrat, Madhya Pradesh, Chattisgarh, West Bengal, Rajasthan Karnataka etc. The delegation from different states deliberated on the discriminatory aspects of the Muslim law. In the 2-day conference Muslim women took up each aspect of Muslim law and deliberated on not what the law is but on what

they want. What kind of Muslim law is aspired by Muslim women? How should be the process of divorce, how much mehr should a woman be getting? These and many aspects of Muslim law were discussed. The Conference resolved that the Muslim law as it exists is discriminatory and it is time that it is codified and the conference takes on the responsibility to work out a draft of an ideal Muslim personal law. Thereafter regional consultations were held in Chattishgarh, UP, Maharashtra, Madhya Pradesh, Orissa, Gujarat to discuss the draft law with the Muslim women. These consultations were organized by the activists of the Bharatiya Muslim Mahila Andolan. Muslim women enthusiastically participated in these consultations and gave their views about an ideal Muslim personal law. This draft was released on 18 June 2014

The draft was prepared by nationwide consultation with thousands of Muslim women, lawyers, academicians and scholars of law and religion. It was the first instance of law which was drafted after due consultation with the most affected section of the community, the Muslim women. Barring a few negative voices, the draft has been largely welcomed by the community. The provisions of the draft law are such that they have broken fresh grounds and have opened the doors of reforms for the community as far as law reforms are concerned. The process of preparing a codified law was as important as the draft itself as it initiated discussion on an issue over which the community had assumed silence.

The draft lays down the conditions relating to solemnization of a Muslim marriage which include payment of mehr and unambiguous consent to marriage by both the parties. The conditions also include the age of marriage to be 18 and 21 years for the girl and the boy respectively. The draft nullifies marriage within the prohibited degrees as well. And the pertinent provision which has been brought up in most discussions is the one linked to polygamy. The draft prohibits a man to marry another woman in the subsistence of his first marriage. It proposes polygamy to be made illegal.

The draft also throws light on the procedure for the solemnization of marriage. The parties have to approach a registered qazi and give a letter of application 30 days prior to the solemnization of marriage. The actual procedure includes the ijaab [proposal] and qubool [acceptance] in one single sitting. This is followed by the filling up of the elaborate marriage document [nikaahnama] which contains basic details and signatures of the bride, groom and the witnesses.

The draft also outlines the responsibilities of the qazi including ensuring the conditions mentioned above before solemnization of marriage. The qazi must also demand authentic proofs pertaining to the date of birth and the place of residence of the parties. The qazi must fill up the nikaahnama which is to be signed by Qazi, the contracting parties and two witnesses and must also maintain proper record of marriage and give duly certified true copies of the nikahnama to both parties.

The minimum mehr as mentioned in the draft should not be less than the groom's one full annual income. It can be given either in cash/gold/kind. In case it is difficult to fix mehr in this manner then it can be fixed based on the minimum wages of that location and on the basis of the profession pursued by the groom. The mehr must be prompt which means it has to be given to the bride at the time of the marriage. The draft does not give the benefit of delayed payment to the groom. The mehr is the wife's exclusive property and it is illegal to force, compel or emotionally pressurize her to forego or return the mehr amount.

Registration of the nikaah is compulsory and it is the responsibility of the parties to ensure that their marriages are registered with the relevant state bodies.

The draft makes a distinction between regular and invalid marriage. A marriage is deemed irregular if two adult witnesses are not present at the time of nikaah or if the marriage has been solemnized during the period of iddat or if the marriage has been solemnized without the qazi or if the marriage is not registered as mentioned and if the amount of mehr as specified is not paid. The said irregular marriage can be regularized within one year of the solemnization of marriage. The rights of women and children are not affected if the marriage is not regularized.

A marriage solemnized under this Act is invalid if the consent of either party has been obtained by force, coercion, undue influence or fraud. A marriage is invalid if the bride and groom are within the prohibited degrees

and if the bride and groom have not completed 18 and 21 years of age respectively. The second marriage is invalid if the husband has entered into this marital contract in the subsistence of the first marriage.

Apart from recognizing and accepting the provisions of the Dissolution of the Muslim Marriage Act of 1939, the draft recognizes three forms of separation between the husband and wife. They are khula [demand for divorce by wife], talaak [demand for divorce from husband] and mubarah [divorce by mutual consent]. Irrespective of who raises the demand for divorce the method of divorce would be the talaak-e-Ahsan method which is a divorce over a period of three months with intermittent attempts at reconciliation by the parties and their families. The draft deems invalid any other method of divorce.

The practice of halala is an offence. Halala is a practice where a divorced woman has to undergo a marriage to another man if she or her previous husband or both want to come back together in matrimony. Halala is not only unQuranic but also has been used as one more means to make a woman lead an undignified life.

Any children borne out of either irregular or void marriage are deemed legitimate as per this draft.

Maintenance as per this draft includes food, clothing, residence, educational, medical and personal expenses. It is the legal responsibility of the husband to provide the above even if the wife has an independent source of income. During arbitration maintenance will be the responsibility of the husband. If custody of child is with mother then the responsibility of maintenance of the child is with the husband. Procedure for obtaining maintenance during subsistence of marriage is as per Section 126 of the CrPC, 1908. Maintenance after divorce is governed by the Muslim Women (Protection of Rights on Divorce) Act, 1986.

Both the mother and the father are considered natural guardians of the child. At the time of divorce the decision regarding the custody of all children [male and female] will reside with the mother until they reach the age of 14 when the child can decide for himself or herself. After the age of 14 the other parent can apply for custody of the child to an Arbitrator. The consent of the child will be sought by the Arbitrators. The parent who has lost the custody gets fair visitation rights. If the child is not able to take decision then the Arbitrators will take decision based on the best interest of the child. In the situation of widowhood the mother continues to be the natural guardian of the children. The Arbitrators can take decision about custody based on guidelines which include the quality of upbringing till date and the physical and emotional safety of the child. The custody of the child is not necessarily lost if either parent converts his/her religion or if either parent remarries.

The draft defines Qazi as a person of either sex undergone training in Islamic law by a registered organisation and registered under this Act as per the rules. It defines Arbitrator as a welfare agency registered under the relevant government Act as well as registered under this Act according to the rules. The draft lays down the duties and responsibilities of the Arbitrators and Qazis. In June 2014 the BMMA released the draft Muslim family law and made it a public document.

In July 2013, the BMMA launched *3 Aurton ki Shariah Adalat* [Women's Shariah Court] in the cities of Dindigul in Tamil Nadu, Mumbai in Maharashtra and Ahmedabad in Gujarat. In the first six month of the opening of the Adalats it received 219 cases. In 2014 in all 263 petitions were received in all the three cities. In 2015, 310 cases were registered.

The Muslim women in these and other cities have been responding to the need expressed by other Muslim women for justice within the four walls of the home. Instances of rampant polygamy, instant divorce, practice of *halala*, underage marriages came before the organizations run by Muslim women and a need was felt to initiate community courts run by Muslim women. The courts run by Muslim men did not give space to women litigants to demand justice. In fact she was not given any space at all. These religious bodies connived with the male litigants to completely deny justice to Muslim women. By initiating and formalizing *shariah* courts the Muslim women have broken into the male bastion and have created their own space taking full advantage of the Constitutional and the Quranic rights.

Another instance of Muslim women asserting their existence in the sphere of worship was the PIL filed by BMMA in the Mumbai High Court challenging the decision of the Haji Ali *Dargah* Trust to restrict the entry of

women into the inner sanctum of the *dargah*. Haji Ali *dargah* is an iconic place of worship revered by all religions and gives access to all into its sanctum sanctorum. When the women were barred from entering the sanctum, BMMA as representing the voices of Muslim women filed a PIL challenging this restriction. Whatever may be the outcome of the court, the fact that Muslim women are now looking at themselves as equal citizens and equal members of the community, is amply demonstrated by this PIL.

In 2015 BMMA published a national study titled, 'Seeking Justice Within Family' in which Muslim women's views on reforms in personal law was elucidated. The study was revealing as for the first time not only the legal status of Muslim women was studied but also her aspirations and expectation from the personal law was expounded. According to the study, 53.2% women reported having faced domestic violence at some point in their lives. Most women said they go to family followed by police and then by social organizations or NGOs to complain about their domestic issues. Only 1.4% women reported having gone to a Qazi or Darul Qaza. An overwhelming 95.5% women have not heard about the AIMPLB – All India Muslim Personal Law Board.

While 75% of respondents wanted age of marriage to be above 18 years, 88% wanted boys to marry above the age of 21. More than 40% women have received less than Rs. 1000 as *mehr*. 44% women have not received the *mehr* at all. Most respondents were not aware of the empowering provisions about *mehr* and that it is their right to decide the amount. 83.9% of respondents want the annual income of the husband to be her minimum *mehr* amount. Overwhelming 91.7% or 4320 women have spoken out against polygamy saying that a Muslim man should not be allowed to have another wife during the subsistence of the first marriage. Of the 525 divorced women, 65.9% were divorced orally and 78% women were divorced unilaterally. The Study indicates that overwhelming 88.3% or 4159 women want the legal divorce method to be the *talaq-e-ahsan* method spread over a period of 90 days and involving negotiation and avoiding arbitrariness. 50% women receive maintenance from the husband during the marriage but 27% reported receiving none. Almost half of the divorced women were either being supported by their own parents or were supporting themselves by working as they did not receive maintenance from husband. 83.3% women feel that their family disputes can be resolved if the law is codified. 89% want the government to intervene in helping codify the Muslim personal law. Over 86% women want religious leaders to take responsibility for enabling Muslim women to get justice in family and they want these leaders to support the bringing about of a gender-just law. Overwhelming 86% want the community based legal dispute resolution mechanism to continue but want the functionaries to be made accountable to law and to principles of justice. They want the government to help ensure this accountability through a legal mechanism. 90% women want qazis to be brought under legal accountability mechanisms.

This study was an eye opener for the community as well as the state showing the immense difficulties in which the Muslim women are living and inspite of that are expecting change in their lives, change in the attitude of the community and the clergy and more support from the state.

Challenges

Muslims in India are going through some trying times. With conservative forces of the Hindu and the Muslim community rearing their ugly head, nationally and internationally it is becoming difficult for the progressive voices within the community to address their concerns of justice, peace and development. But the Indian Muslims are also living in a nation state which is bound by the values of democracy, secularism, socialism and fraternity. It is these Constitutional values which need to be protected and promoted by the community so that they can enjoy the fruits full advantage of the Constitutionally guaranteed political space by organizing themselves across the country. Whether it is demanding implementation of Sachar Committee report, Ranganath Mishra report, Prime Minister's 15-Point Programme or drafting a women-just and Quran compliant Muslim family law, forming Women's Shariah Courts, demanding entitlements and benefits, fighting for a secure social and political life – Muslim women have undertaken some very momentous and significant socio-political actions. These programmes and activities of Muslim women need to be supported by the rest of the community so that dignity and safety of the community is ensured. Democracy within is essential to demanding democracy from the state.

Internationally, especially in the last two decades, Muslim women have entered the religious domain hitherto held by men and have let the world know a completely humanistic and enabling version of Islam. Women are reading and translating the Quran to derive their own meanings and interpretations. With the emergence of Muslim women's religious leadership, there appears hope that the rights enshrined in the Quran will be restored to her. Muslim women are not just receiving knowledge from the so-called scholarship of Muslim clergy but are also creating religious knowledge. Some prominent names of women who are leading the democratization of religious knowledge are Dr. Amina Wadud, Dr. Ziba Mir Hosseini, Riffat Hasan and Fatima Mernissi who have challenged the patriarchal interpretations and translations of the Quran. These women internationally and movements like BMMA in India have inadvertently opened the doors of change by creating knowledge from their own perspectives and their own lived realities which are largely experiences of injustice and inequality.

As Muslim women go from strength to strength, there is hope for the Muslim community as well because voices of women are voices of justice, equality, fairness and humanity.

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CHAPTER 4

ORIGINS, STRUCTURES, FUNCTIONS AND ALLIANCES OF WOMEN'S SHARIAT COURT

In the previous chapters we have explored the advent and efficacy of ADR Forums. We have also studied various aspects of ADR within the Muslim community. The current and the following chapters will now focus on how these forums managed by Muslim women originated, how they function, whom do they align with and finally what do they do on a daily basis to provide legal aid. As part of this study, 28 litigants who lodged their cases with the 3 Women's Shariat Court [WSC] were studied in depth. This and the following chapters capture their strategies as alternative forums within the Muslim community.

Many women's organization offer legal counseling to women. However when it comes to providing legal aid they refer the women to lawyers. The lawyers with best of intentions try to help the women but the system does not allow them to do so. As a result of the inability of these formal state systems to remedy the situation and because of widespread incidences of domestic violence, informal systems have emerged and are gaining approval from the people as well as the state. *Nari adalats* and *mahila panchayats* are those innovative community responses to tackle violence. Mandated by Article 39 A of the Indian Constitution, these community legal aid structures are people's courts with people-friendly systems. Many organizations have tried to build the capacity of these structures to become para legal workers and to make quasi-legal interventions on behalf of women in distress, including networking with the local police, state commissions for women, minority rights and human rights organizations and other government institutions and structure.

In addition to the formal legal system and the above mentioned community based groups, there are multiple implementing agencies that make quasi-legal intervention on issues pertaining to legal problems of women. In case of the Muslim community there exist *shariah* court, *qazis*, *muftis* and *jamaat* [sect arbitration councils] that also arbitrate and settle family disputes. Muslim women access these bodies more readily as they have close contacts with the community unlike the court structures which are more distant, expensive and time consuming. Though accessible, these bodies are dominated by men with a patriarchal and conservative mindset whose actions are often based on anti-women interpretation of the religious texts and hence undermine the interests of the women.

In Mumbai in the last decade, many community based structures run by Muslim women have emerged. They are playing a crucial role in making quasi-legal interventions on behalf of women in distress within their communities, even in the absence of a theoretical understanding of gender, patriarchy, feminism and the laws. Such groups function as alternative dispute resolution forums which to a large extent enjoy the confidence of the community which is the foundation on which the success of their strategies lies. Partnerships and symbiotic relationships also emerge between the members of such groups and legal professionals who initiate litigation on behalf of distressed women in courts, when required.

Although these women's groups may have a legal status [they are registered under the Public Trust Act or the Societies Registration Act], they do not necessarily function like an NGO. They comprise of women from the local community. They function informally and sporadically. The members are from the same geographical locality. They are also informal and are less or not paid so there is very little threat of financial instability as the requirement itself is very little. The expenses are also borne by the service seekers. The members of the group stay within the community and most often belong to the same caste or religion as the majority of the people within the community follow.

Since they stay within the community, they know most of the families residing there. They are also available most of the time, even at odd times. Domestic violence happens anytime and if it happens in the night, the members are accessible and intervene without much worry.

Women visit these groups after they have exhausted the family resources and before they go to the lawyer. A research done by Jagruti Kendra throws light on the attitudes of women who face domestic violence. Out of the 50 women, who were spoken to not one of them have gone to the court to solve their problem. Although a small sample, it does indicate that court is not the first institution that a woman thinks of when she thinks of justice. The reasons they give for not going to the court is that they do not have money, they do not have the time that will be required to pursue the matter and that they are very scared of the structure. They even say that by going to the court they will in fact increase their problems and not solve it. There are some who are not even aware of the existence of the courts. Parents are the first persons to whom a woman speaks when she faces domestic violence followed by friends. Only when the problem is not solved here do they go out further and seek the help of an active woman in the area and thereafter any informal body that might be functioning in the area. The formal court comes in the end or don't come at all.

ORIGIN

Let us now see how the three Muslim women's groups emerged. The following paragraphs will help us understand the origin, structure and activities of these groups.

Origin of WSC of Mahila Shakti Mandal

The Mahila Shakti Mandal was formed in 1995. The person who initiated this WSC, Khatoon Shaikh, was invited to attend a training programme on women's rights. She was, after that in touch with the social worker called NahidaShaikh. When Khatoon's sister-in-law was facing the brunt of domestic violence she approached NahidaShaikh who was then part of the Special Cell for Women and Children. While Nahida gave her legal support, the battered woman also needed support for her children and a roof over her head. To fulfill this need, Nahida referred Khatoon Shaikh to SAHARA, a project of Anjuman-e-Islam meant to provide support to distressed women. SAHARA not only gave a roof to Khatoon's sister-in-law but also, on request from Khatoon Shaikh, agreed to facilitate the formation of a WSC in Navpada where Khatoon Shaikh resided. Thus began the process of formation of this WSC. This WSC happens to be the first Muslim women's group to have completed 20 years in 2015.

The SAHARA project then was headed by a trained social worker from the Tata Institute of Social Sciences, who also happens to be the author of this study. She wanted the WSC to be independent of any long term institutional or organizational support. The long term plan involved establishing and supporting more such women's groups in the community where women take the leadership of their issues. In keeping with that objective the WSC was registered with the Charity Commissioner. The very first sitting of the WSC was in Khatoon's house which was about a 100 sq.ft. The first 5 members were Khatoon Shaikh, Naseem Babu, Zahida Shaikh, Salma Gulab and Zubeda Maniar. After the initial few months, the local committee gave them their office to sit once a week. The 5 members along with the SAHARA staff would meet every week to plan their activities. Once these women started to sit in the office, they would have many women from Navpada community visiting them regularly. The concerns expressed by the women were scholarship for education, loan for small businesses, medical aid and most important of all, domestic violence. The SAHARA project had some provision for giving medical and educational aid which it promptly started to disburse through the WSC. Since the project was new to Anjuman-e-Islam, the disbursal rules, procedures and systems were soon set up. Applications were called for by the WSC and after careful scrutiny were submitted to the Institution head office. Once they were sanctioned the concerned woman would get what she had asked for. Similar processes were evolved for loan, medical and educational aid. The WSC was also approached by women who faced marital difficulties. At first the WSC was at a loss but gradually learnt to evolve ways in which to support women for her social, emotional and legal needs.

Till 1999 the WSC remained under the support of the Anjuman-e-Islam. Thereafter it got the support of Women's Research and Action Group [WRAG] a women's organization based in Mumbai. The WSC initially had 5 members who did not have any previous experience of justice delivery. But they were all victims of injustice and had the urge to 'do something' for women who needed legal help, emotional support and counseling. For them starting the WSC was not a big problem as all of them had issues which they felt needed to be addressed. Khatoon's sister-in-law was facing domestic violence; Salma's daughter had a similar problem. Naseem was a widow and so were Zahida and Zubeda.

As the WSC began to function it was approached by distressed women for support. Initially they responded to women out of sheer empathy. They had no knowledge of law or procedures. They were scared of the police as the worst communal violence after independence had just been experienced. The sheer burden of private violence forced them to ignore the violence by the state. As if they inherently knew what justice is, they started provided legal aid to the women who approached them. The guardian organization was quick to start training and capacity building for this WSC. The focus of the capacity building programme was on developing an understanding of gender and violence. Soon topics like counseling techniques, legal education were added for women to carry out their activities in a professional manner. As victims got support and their cases got solved, they joined the same WSC to act as counselors to other women victims. The victim thus became a change agent.

Origin of WSC of Samjhauta Mahila Mandal [SMM]

The SMM was formed in 2002 with 4 active members, Fatima, Naseema, Bhavji and Shamim. They did not have an office of their own and hence would sit in Bhavji's house. They too were approached by women for counseling. WRAG which was supporting WSC took the decision to also support SMM. Thus began their training and capacity building. Even before forming the SMM, Fatima was part of the Saheli groups formed after the 1992–93 riots. This group was part of the Mohalla Committee and liaised with the police on community matters.

Origin of Hamraaz Legal Committee [HLC]

Jagruti Kendra [JK] is an NGO catering to the problems of the overall community through the organized strength of the people. The Jagruti Kendra WSC [JKMM] was formed by JK to organize women from all communities to empower themselves as well as the community. The community empowerment model had led to gathering of people's strength to collectively raise issues. As a natural progression the JKMM realized that they are not really equipped to understand the special concerns of Muslim women. Muslim women have always been active members of the Kendra and have enthusiastically participated in all programmes of JK. But the JK staff felt inadequate in dealing with the legal problems of Muslim women. To effectively support Muslim women in their legal concerns, the Hamraaz Legal Committee [HLC] was formed under the aegis of the JKMM. The purpose behind forming this Committee was to offer legal aid and counseling services to Muslim women. The intent was that the local Muslim women must organize themselves to carry out this work irrespective of whether the supporting organization exists or not.

In 2000, Sister Chitra from JK through a young Muslim woman activist approached WRAG to help the organization to set up support systems for HLC. JK wanted to work in collaboration and set up a legal aid centre with special focus on Muslim women. The process began with training and capacity building of some key staff of JK and community leaders. Simultaneous to the process of capacity building began the legal intervention with active regular support from WRAG. Thus in 2001, the HLC was established with initiative from JK and support from WRAG. The team comprised of staff members of JK who were both Muslim and non-Muslim women. And from within JK it was at the behest of Sister Chitra that the Committee became functional.

The relationship between the two organizations decided the progress made by the HLC. Although there was no written contract, it was decided that WRAG staff will take on the responsibility of training the staff of HLC and JK would monitor the day to day functioning of the Committee. Training programmes were also held for other JK staff.

The prime focus of the capacity building programme was to give inputs on Muslim personal law. WRAG staff would visit the HLC every fortnight and would sit with them at the time of case intake. Drafts of application form and notice was prepared. Registers were made and regular guidance was provided at the time of case intake. This process of training and setting up of processes, systems and procedures went on for one year and in 2001 the Cell was formally inaugurated.

It is intriguing and interesting to know that these WSCs were formed just 3 years after the demolition of the Babri Masjid, widespread communal pogrom against the Muslim community and the serial bomb blasts that had ripped through Mumbai in 1993. Mumbai was particularly impacted in the second phase of riots in 1993 which actually was a state backed attack on the Muslim community. Amongst the many

impact of the violence was also the forced entry of Muslim women in the public life. At the time of the violence women came out of their homes to protect their men and homes. Many women saw the police station for the first time, which they went to for lodging complaints against the perpetrators and for finding their missing family members. In the immediate aftermath, many families lost their male earning members and women were thus by force of circumstances became earning members and heads of the household. This was their first movement from private to the public. They realized their own power to defend their own families. So as Khatoon says, *mahaul ban gayatha*. [the time was just right]

Although there is no direct causal relationship between the communal violence and rise of Muslim women's leadership, one can presume that violence did have a psycho-social impact on them which led to them taking on the charge of their lives and of the community. The women who initiated the WSC though were not directly impacted by the riots or the blasts, they were deeply psychologically affected. Khatoon Shaikh the founder member of the WSC took active part in the relief and rehabilitation work. The WSC comprised of women who were Muslims and who lived in Navpada which was gradually turning into a Muslim ghetto after the communal violence in December 1992 and January 1993. Fatima Qureishi of the SMM was a member of the Saheli group which was formed after the riots. She was also an active member of the Mohalla Committee which was formed all over Mumbai after the riots in 1992-93. The activists of the WSC dovetailed their post riots intervention into the activities of the WSC which they started immediately.

Profile of Founder Member of WSC

Khatoon Shaikh who is the founder member of the WSC had initially studied till 7th class from an Urdu medium school in Imambada in South Mumbai. Her parents did not think it is necessary for her to study further. After a gap of 25 years she took to education again and appeared for her 12th standard exam from Distance Education Department of SNDT Women's University. She knew only Urdu but she was forced to learn Hindi as her WSC grew in strength. She can now read and write in Hindi.

She has 3 sons and 4 daughters and they all are married. When she had started the WSC she was told that because she has started the WSC, nobody will marry her daughters. Initially even she was apprehensive, and then she gained confidence and insisted on everyone knowing that the girl's mother runs a WSC. She believed that only a good man will thus come forward and marry her daughter. Anyone who wants to trouble his wife will refrain from giving any proposal anyway. Her gamble paid off and all her daughters are happily married with children. Her sons are also married and she is a proud mother-in-law to three daughter-in-laws and plays with her more than a dozen grand children. She is not able to give exclusive time to each of her family members but she calls all of them home for get together and if she is traveling for work which is close to any of her daughters then she visits them. Khatoon's father was a social worker and very helpful to the poor and the needy. She thinks her social worker streak has come from him and she admired him for his work. She was also influenced by TV programmes called Udaan and Aakaar and says that after seeing these programmes *ek ummeed paida hoti thee ki hum bhi kuch kare* [We became hopeful that even we should do something]

Profile of Founder Member of SMM

Fatima took the initiative to get others together because she wanted others to benefit from them, *kisi ka fayda ho, kisi ka kaam ho jaaye*. [somebody should benefit, somebody's work gets done]. She and the others felt that just as they have suffered others should not. Fatima has done her 12th from SNDT Women's University. She has now recently enrolled for her graduation again from the SNDT University. Her husband had a small business of making toys. She has 4 sons and one

daughter. All of them are married and are staying separately. Her husband, who is now no more, was very supportive of her work. While her WSC was supported by WRAG, she along with young girls of the community did a course in Civil Defense and Para professional's course from the Yashwantrao Chavan Open University. These courses gave her a lot of confidence and directly and indirectly helped her in her work of. Her daughter-in-law was also actively involved in the WSC and also appeared for her 12th class exam with the help of the WSC.

Profile of Founder Member of HLC

Although the HLC is a project of JK, the force behind the Committee is Gulshan Khan. She was interested in social work since childhood. Whenever she saw people in trouble she would feel bad and would wonder in what way she could be of help. She wanted to do something for the distressed. When she would go to school she would want to do something for the poor. She would tell herself that she would do something once she grows up. Even in her own life she had many ups and downs which gave her the impetus to do good to the society.

Gulshan studied till the 10th and latter through the Distance Education Department of SNDT Women's University she cleared her 12th class exams. This she did with the help of WRAG. When she shifted to Jeri Meri from Byculla, she concentrated on the civic issues of the community – cleanliness, basic amenities etc. She would get people together, mobilize them, and take them to the ward office. With this work she got strength and skills on how to talk to the ward officer, how to put forward one's point of view. First two and then four and then more and more people joined hands with her. Whenever people came to her she would do their work, whether it was with the police or at the ward office or within the locality. All this work was done before joining the JK. She came to JK to attend a youth programme. In JK she got a lot of training inputs. She became a member of the JKMM. She continued to attend the training programme but did not join them as staff yet.

Gradually she became a leader of the WSC in her area. With that leadership responsibility she got the *himmat* [strength] and *jazba* [passion] to work for others. The then president of the JKMM offered her a job. She was hesitant as it was a paid job and she felt that somebody who needs money should do this job. The sister then explained to her that it is not the question of money but the capability to carry out the work in the area. She appeared and cleared the interview in 1998 and started working in JKMM. Her first case was very challenging which involved preventing a girl from becoming a prostitute. She had to do the most challenging job of working with the police and she was successful in rescuing the young girl. She was proud of the fact that she was able to do what other much senior activists were not able to do. It also gave her a lot of strength to work with the police. She thereafter called a meeting of the police and the women from the community for an interaction. The problems faced by women were placed before them. After this interaction the attitude of the police also changed.

All the three founder members come from humble backgrounds but with a passion for service to the community. As they got support and opportunity they flowered into committed social workers supporting the cause of the women.

Challenges before the Founder Members of WSCs

The road was not easy for them. At the time when they would leave their house to come to the WSC, they would become the laughing stock of their neighbours. They would be accused of making money or getting a salary. The leaders of these WSCs fought this ridicule and negativity by telling themselves that they should now not look

back and learn to ignore the comments. Now after many years of their consistent efforts at running the WSC and improving their own conditions, the same people who ridiculed them are coming with their problems to them. The current president of the WSC

says that they did not get this strength while sitting at home. They got it from the other women in the WSC. They felt that if they can do it why can't we. With each case they gained strength and confidence in their own abilities. When they helped women retrieve her belongings, when they were able to get man into the police lock up for hitting his wife, when they cried with the other women and rejoiced with her when her case got solved, they got the strength to go ahead.

The men in the community too would say that these women have no other work and hence are breaking up families. '*talaak dilanewali aurtein.*' '*ghar tod़u aurat-*' [women who facilitate divorce, women who break homes] - they were given these names. But women came forward and said that they too wanted to form WSCs and work like them.

As the WSC began its work, many litigants who visited them would say that the case is too complicated and that the WSC will not be able to solve it. The WSC took the challenge and took efforts to find a solution to her difficulties. They would start contacting people in organizations, in the religious institutions, in the police station and slowly they would find a way out. As Khatoon says, '*apne aap dimaag banta gaya*' [our minds started to strategise]. They would not hesitate to pick up the phone and ask. This innate confidence helped them tide through the rough patch. For instance none of the WSC women at that time knew Hindi. The registers were written in Urdu. Then a visitor suggested to them they should write in Hindi because these are important documents which might be required in Charity Commission, Women's Commission, in the court, in the police station. It must be written in a language which everyone can understand. This suggestion propelled the founder members and others to learn Hindi.

Some women's organizations have also showed doubt over their counseling skills. They would say these are women from slum communities, who are uneducated and do not have a feminist perspective. But the WSC continued its work because they were sure that they are there to support women. Some members have been accused of taking bribes, of indulging in violence. Men who have been made to give lump sum maintenance to his wife by the WSC have made obscene and vulgar calls to the members. Sometimes they get threatening calls too. Not just the WSC women but their family members also have bore the brunt of their work. For instance Khatoon's son was implicated in a false case of murder. On investigation with support from some sensitive police officers she realized that the false case was lodged by a local goon who was caught by her while he was sexually abusing young girls in the community. So to take revenge he implicated her son.

The WSC women were told by senior male members from the community that they should observe purdah [veil] and not talk to men, *gair admi se awaz milake baat nahi karna chahiye.* [You should not talk to men as an equal]. The local maulana would tell them that they should sit at home and manage the house. They would be told that the husband is her *mijazikhuda.* [Your husband is your God]. The WSC women would argue with such people by saying that they believe in the equality between women and men. They do not consider men to be lowly and hence they expect men to also not consider women to be lowly. Men will call themselves [God] *mizaji khuda* because it goes in their favour.

The husbands of the WSC heads were also not spared. Men in the community would tell them that his wife now is becoming more famous and that now people know him through his wife. The husbands would then put pressure on their wives to cut down their activities and sit at home. Khatoonapa's husband would always insist that she should put his name along with her own name. She would also tell him that if she is becoming famous, even he is becoming famous as she is known as his wife and the daughter in law of his family. She told him that even their *jamaat* is consulting her on issues of the community. That in some way convinced him that she is doing the right thing.

The family is not always supportive. Fatima's sons and her daughter in laws are not very happy with her work. They do not believe in her work and say that they are breaking up families and not benefiting anyone. It is only very

recently that her elder son has become a little supportive. She continues to do her work inspite of the opposition simply because as she says, she likes to do the work that she is doing.

So a community which has no education or livelihood has been able to throw up women's leadership in a big way. This is so because the Muslim women were leaderless so far. They were crushed within and outside the family. After forming the WSCs they realized their own potential for being leaders. They are leaders now and are having interface with other stake holders within the community like the clerics, political leaders, and civil society groups. Now they have realized the leadership within them and can talk to anyone with confidence.

Profile of Other Members

In WSC, out of the 20 active members, 2 are non-Muslims and the rest are Muslims. Most of the WSC members are home managers or house wives. Some go for domestic work, others sell clothes, cook food and some others do stitching work. Those who work outside for a living are not very regular, but whenever they have time they visit the WSC. Many more women would join in but they have their own financial difficulties. They want to run homes, pay the fees of their children for which they need to earn and that is why even if they want to they cannot actively participate in the WSC.

Women who have joined the WSC since the last 2–3 years come regularly. 2 women come from bandra west and the rest are from Navpada and Behrampada. Some women have joined the WSC after their own or their daughters' cases have been successfully solved. Till date the WSC has not taken any special efforts to make any women join the WSC. Almost all women have joined after they have registered their cases, either their own, or their daughters, or their sister in laws case. The founder member of the WSC started the WSC when her sister-in-law faced violence within her family. The current president of the WSC joined the WSC when her daughter's case was successfully solved. Very few come with the intention of joining the WSC; they come with a case, they like it and they join it.

The HLC was formed which initially comprised of 14–15 women. Out of the 15, 5 were active members who managed the show. Zarina, Shahnaz, Ahmed, Prabha and Gulshan take active interest in the Committee. Thus one was a non-Muslim and the rest were Muslims. Currently with a new structure, the JK representatives are 2, Gulshan and Kala. The local cells comprise of local women from the community. The socio-economic profile is the same as WSC. They stay in the same community and face the same problems as the rest of the women.

In SMM, there are 30 Muslim women who have taken membership to the WSC. Out of these 30, 12 are very regular and out of these 5 are legal aid providers and counselors. All of them belong to poor families. In spite of their social handicap they do home visits, visits to the police and come regularly to the WSC meetings. The 3 members out of 5 do domestic work and support their families.

WSC women negotiate and strategize in their own ways to come to the court. There is a lot of pressure from home to refrain them from attending the meetings but they strategize and come. Sometimes they lie and say that they are going for an *istema* [religious congregation] or that they are going to meet someone and then they come to the WSC. They take the risk because they want to come to the WSC. They are also often accused by family that they take the name of the WSC and go to roam about. Not all of them are supported by their husbands but they fight with them and come. When the president tells a particular member to go back and stay at home for some days till matters cool down, she refuses. She says she will fall ill if she stays at home. Conversely many men support their wives work in the WSC and encourages her as he feels she is doing good work.

A WSC activist does a lot of work in the court without any financial gains because through her work she gets respect in the area where she stays. She also becomes famous; people know her name and identify her. She also gains respect in the area from where the women litigant has come. Even if she is not leading the court and is just an ordinary member she earns a name for herself. Through these active members, the court gets visibility and more women approach it with their problems. It is a matter of pride for the founder members that their group members have become famous and have gained respect from many. Some WSC members would, rightly, ask for some compensation for their time which they give. Since they are all poor and work to support themselves and

their families, giving two hours in the court invites the wrath of their families. If they work for 2 hours to wash clothes, they would earn at least Rs. 500 per month. There is some expectation of monetary compensation from the supporting organization.

As work grows and as more and more women join in and as more and more WSCs are formed, the confidence of the members increases. Khatoon says, 'I have seen only good after the WSC was formed.' She was earlier the leader of one court. Then many more such groups were formed. Then a Federation of groups was formed of which she was chosen the leader. As a result of her commitment she was a SEO for 5 years. She was then made the Maharashtra State convener of Bharatiya Muslim Mahila Andolan and is now its National Council and National Working Committee member. She was also on the Committee of PM's 15-point programme. The men, who manage committees, now complain that earlier people came to them with their problems now they go to the WSC. They themselves approach the WSC when they have a problem at hand.

It is interesting to know how the current President of the WSC got involved in the WSC. When Razia begum got a notice from her daughter's husband her hands were shivering. She did not know what to do. She used to wear burkha and never even went from Bandra to Mahim which is not even 2 kms. She had 5 daughters and even they never left the locality. They would make flowers in the house to be sold in the local temple and earned their living. The entire family was into garland making. Slowly they got the confidence as their sister's case got solved. The entire family would finish their work by 2 in the afternoon and come to the WSC to hear the difficulties of other women. Slowly they started taking responsibility within the WSC. Her daughters did a paraprofessionals course in social work and started working in organizations. Her daughters rejoined their education which they had left half way due to poverty. Her three daughters joined organizations and also studied. Out of the three one daughter became a lawyer. The supporting organization played an important role in their growth. The girls were supported financially for their education. They were also encouraged to work and study and also take responsibility in the WSC. As a result all her daughters are in this field and contributing to the society and to the community. As Razia begum says 'we did not know how to talk, let alone read and write but we had an *umang* [interest] to do something in life.'

STRUCTURE OF WSC

Membership

The Mahila Shakti Mandal's WSC in 2015 has 35 officially registered members. These members have paid the membership fee and have filled up the forms. Out of these 35, 10 come regularly to the WSC, which is twice a week from 2 pm to 5 pm. Out of the 10 active members, 2 are non-Muslims and the rest are Muslims. The days which are fixed for meetings are Monday and Tuesday. Out of these 10, 5 are involved in counseling and legal aid. From the year 1995 till 2010 the WSC functioned without any of its workers being paid for their contribution. From 2010 onwards the supporting organization called the Ashana Trust arranged for a small honorarium for the members. From 2013 onwards the WSC is called the *Aurton ki Shariah Adalat*, programme of Bharatiya Muslim Mahila Andolan. In 2015 the *Adalat* is managed by 10 active members.

The SMM has 30 members, out of which 12 are regular. All of them are Muslims and stay in the Behrampada community. They pay Rs. 30/- per annum as membership fee. In 2010 Ashana Trust began to support the SMM. In 2015 the WSC of SMM merged with the WSC of MSM and now both function collectively.

The structure of HLC is very different from that of SMM and MSM. It has an organic link with the supporting organization. The arrangement is three tiered where JK which is the parent organization. It supports the JKMM which comprises of women from all communities. The HLC is a committee within this larger JKMM. The HLC is further decentralized into community cells comprising of 5 women each. These cells are in 15 different localities within Jeri Meri.

The 2 members who run the HLC are paid staff of Jagruti Kendra. The 15 women in the 5 cells are volunteers, they are not JK staff and they are not paid by anyone. The expenses are to be borne by the litigant. They also do not

take any fees from the woman who approaches them. The Committee which comprises of local women leaders is the Core Committee. The purpose behind forming these cells was to facilitate women to fight against domestic violence and get support in their immediate vicinity.

Timing

The members of the WSC come on time although some are a little late. The WSC does not believe in pressuring any one for working in it. They give their time and energy out of their own volition. The women also support their own families by working outside and because of their commitments they are sometimes late or are not able to attend the court meetings. If they take responsibility of any visit then they are accountable to the women and to the group and if she does not fulfill her responsibility the issue is taken up for discussion in the court.

The work does not suffer as there are always 4–5 women who are present at the time of the WSC. There is no fixed time to leave the court although officially they are supposed to close at 5 pm. Sometimes the negotiations and talks with the couple, sometimes the sheer number of cases in a day and sometimes the lengthy sharing by the women delays the members of the court. There are times when the litigant or the opposing party come from far off places and can manage to reach the court at the time of closing. The court members then show sensitivity and take in the litigant or any other group. On such occasions the meetings go on till 7.30 pm also.

The WSC does not take new cases in the month of Ramzaan, but continues to do the follow up of old cases. When the attendance becomes very low and for a long time, the president issues a notice to all the members and they all come scurrying to the meetings with renewed promise to being regular. The WSC continues to function on the commitment of a few regular members.

In 2015 the merged WSCs of Mahila Shakti Mandal and Samjhauta Mahila Mandal now called the BMMA's *Aurton ki Shariat Adalat* function for 2 days in a week from 2 pm to 5 pm.

In HLC the members earlier would sit once a week on a Thursday at 2 pm. The WRAG staff would also come initially to help build up systems. Gradually the Committee became independent and functioned on its own as a project of JK. Then as cases piled up they realized that a day goes in only doing the formalities of filling form, taking application. A lot of time was spent in understanding her case and listening her out. The actual intervention would begin only after a week. So the Committee decided that to avoid delays, the members would be available in the JK centre through the day and they would call the couple for counseling or joint meetings as and when it is convenient to both the parties.

Expenses

The WSCs and the Secretariat of BMMA are all housed in one centre in Bandra. Hukook-e-Niswan Sanghatana which is the Mumbai chapter of Bharatiya Muslim Mahila Andolan is also managed from here. All these groups are inter-related and form part of the larger BMMA umbrella. These groups are economically sustained by Ashana Trust. The members of the Federation and of the two WSCs are also members of the Bharatiya Muslim Mahila Andolan which is a national movement of Muslim women. In fact the Andolan is managed by a core team which comprises members of all the above mentioned groups. The same office is managed by all of them. The Federation meetings which comprises of BMMA area leaders happen on the first Saturday of every month and the core team which comprises of representatives of all 4 meet every Friday to strengthen the work of the Andolan. The same office also functions as the State office of the Maharashtra Unit of the Andolan. On request by WSCs the litigants have also donated fan, chairs, and tables for the office. The WSCs would earlier take a minimum of Re.1 donation from all those who visit the office. For donations received the WSC issues receipts. The WSC has its own letter head and the active members have a visiting card also. In 2015 the litigant is requested to pay a one time fee of Rs. 1500/- on registration. The fee is waived off if the litigant is poor.

In 2015 the BMMA's *Aurton ki Shariat Adalat*, merged MSM and SMM are supported by Ashana Trust and share a common office space. The HLC works from the office of JK which is housed in the St. Jude's Church.

They function from office for counseling, follow up and for participating in other activities of JK. So compared to SMM and MSM WSC, they have had a more stable office space. The HLC is also funded by JK and hence it is more stable.

Elections

The MSM and SMM conducted elections every two years. Ideally it should happen every year but sometimes they are not able to manage it due to lack of time. In these elections they choose the president, vice-president, treasurer and secretary. The members can stand for any one post. It does happen that those who are elected do not fulfill their responsibilities. They do not come for the meetings nor do they call the meeting. There have been times when only 2–3 women have managed the mandal activities. But the work has never stopped. They have continued to take cases through the last 15 years. For many years now the elections have not happened.

Name

The HLC was called Hamraaz because it means the members wanted to convey to the women litigant that she is now their friend and that she can share her problems with them without the fear of it being discussed anywhere. *Hum yeh use vishwas dilana chahte the ke hum uske hamraaz hai.* [We wanted the woman to know that she can trust us]

The mandals had changed their names many names before this name was finalized. Just arriving at a name was a process in itself. All the members were asked to suggest names which were all listed down. Then an informal election was done to arrive at one name. After many changes and umpteen meetings this name was arrived at. In the SMM the name was decided by the founder member. It is important to note here that mandals are now called the WSC. This renaming is a very political act as the members now work as a *Shariah* Court which so far was considered the domain of the Muslim men. By renaming itself as *Shariah* Court Muslim women have reclaimed the Muslim men's hegemony and control over religion and its various institutions. Muslim women can also intervene effectively in *shariah* matters and provide platforms for women to seek justice in family matters hitherto denied to them by the male *shariah* courts.

VALUES OF THE 3 WSCS

The WSC feels that it is necessary to speak in favour of women because in a patrilocal society a woman leaves behind her house and her family and her entire support system to go on to stay with complete strangers. Right from the time she is born no attention has been given to her decisions. As Fatima says what is the point in making a women's court if we are not able to give attention to a woman's decision? In no other set up is her decision given any weightage. If she goes to the police station they say it is a matter between the husband and the wife and they send them back asking them to talk to each other. The police is not concerned about what happens to the women if she is sent back to her husband against her wishes. There have been instances where the litigant has asked the court if they are taking responsibility of her safety if they ask her to go back. The court very rightly cannot take responsibility as none of them are going to be with her in that house. It is finally the woman who has to manage in that house and hence her decision is paramount.

The cases received by the WSC suggest that the in laws have very high expectations from their new daughter-in-law. So while it is the responsibility of the in laws to understand her, as Razia Begum puts it, *us ko samet ke leve*, [they should understand her]. But they are actually very very demanding. Within 15 days of marriage they complain about her cooking, her sleeping habits, about her style of washing clothes. They are insensitive to the fact that she is not familiar with the house, with the cooking methods, with the layout of the house, about where the toilet is and where the bedroom is. There have been cases where the in-laws have sent the young bride back into her mother's house to learn house keeping. In this period while she is still adjusting the man goes ahead to have another relationship. Because the woman is so helpless and vulnerable in this situation, the WSC feels that they should be supporting her.

The rules and regulations of the court are driven by these values. Their primary rule is that when a woman comes to them they must listen to her carefully and with full attention. After documenting her case she is consoled and given assurance that she is now not alone and that they will support her till the end. After reconciliation if she goes back to her marital home, the members visit her to assess her situation in her house. These visits are done once every fortnight or once a month. There are times when the woman herself gives a call and apprises them about her condition. There are times when the women feels that she cannot adjust and that she wants to give up on her efforts at working out the terms worked out during reconciliation. If she does not want to go at all than they tell her husband that they cannot force her. If in the course of the counseling the WSC women opines that the women is at fault, then her faults are not expressed in front of her husband or her in-laws. It is told to her in a separate counseling session when her marital family is not around.

Although the prime concern of the WSCs is women's rights, they listen to the husband also. All members are instructed to not use abusive language and never to indulge in violence.

The WSC also want the women to be independent and take as much responsibility of her case as possible. Gulshan recounts an incident. Once a woman came to her and insisted that she went with her to the police station. Gulshan told her to go ahead, with the instruction that she will join her later. But she deliberately did not go. The women went to the police station on her own and solved her own problem. Thus the WSCs tell the women not to depend on the organization but be self dependent. If she goes alone for the first time she will never ever need any one else. The next day the litigant told Gulshan that she understood why she did not come.

ACTIVITIES OF THE WSC

Case intake

The case intake process of all 3 WSCs is more or less the same as they were trained by the same supporting organization. When a woman comes to the WSC she is asked to talk about her problem and register her case. She shares the details of her problem. She is then given an application form to be filled up. In the application her and her husbands address and phone number is noted down. Information about marriage and about her children is also taken in. The WSC also takes two photographs, *nikaahnama* [marriage document], and copy of the complaints to the police if any. The WSC maintains a register and one photo is stuck to the register and one on her application form. Then her case is entered in the register and a fee is taken from her. They listen to her entire story as not everything is written down in the application filled in by her. All details are written down in the register as she narrates her story. Details like how long is she married, how many years she stayed with her in-laws, how many years she was in her parents house, did the husband take her back and after how many months did he take her back, what were her difficulties, where did she deliver her child, did the husband come to take her back etc. Women in the WSC who are literate write all this information. They also write letter to the police station, women's commission or anywhere else that they may want to send a letter to support the woman. The entire data then is transferred into an excel sheet on a monthly basis. The court has also now started to record those cases who have not formally registered but who call up its chief functionaries and seek advice on phone.

Then the court members give the litigant time of eight days. They give her their visiting card and ask her to call back in 8 days. In the meanwhile a notice is sent to her husband and he is called to the WSC. They give him a date and time on which he should come and talk. They tell the women to give a call to find out if her husband is coming or not as the husband may not necessarily come on the day on which he is called. Only if her husband is coming do they call her other wise her visit might go waste. Sometimes the husband can come on a Tuesday and not a Monday so they tell a woman to always call before coming.

On the day of joint meeting one amongst the WSC members talk to the husband. They tell him that his wife had come to them and has told them the problems that she is facing and that she here to narrate her problems in front of him. The women is then encouraged to tell all her difficulties in front of her husband.

The joint meeting of the husband goes on for hours on end. The husband most often counters the wife's version. For e.g. If the wife has complained that the husband has not been maintaining her, and if he says that she is lying and that he has been giving her money, the WSC asks the husband as to how and when is the money given, is it given when somebody especially children are around, and if he gives maintenance then why do children go to the neighbors for food and why is his wife without any food in the house and why is she unhappy with him. If the man has been lying than that lie is caught through this conversation. There are also times, though not too often when the woman appears to be in the fault. In that case, she is made to understand her own faults in a separate meeting when her husband and in-laws are not called. This is done so that the women is not made to feel small and embarrassed in front of her husband against whom she has lodged the complaint. Criticism of the wife in front of the husband is avoided so as not to weaken the position of the women in the family in case she wants reconciliation and wants to go back. In any case in the end the woman is asked about *her* final decision. Based on her decision further talks with her husband and in laws are held.

The three WSCs receive cases related to property, maintenance of women, maintenance of children, domestic violence, oral divorce, abandonment by husband. The court in its initial stages only took the cases of women as only women approached them. As they became successful in their support to women, more and more women started to approach them. And as their popularity spread, even men started to approach them with their domestic problems. The women sat together with the supporting organization to take a decision as to whether they can take the cases of men. The supporting organization did not take a decision for them but facilitated a discussion whereby the members of the WSC themselves will take a decision on that. After a lot of deliberation, the court decided to take the case of men with the intention of reaching out to the women. And their estimation was right as men who approached the WSC for help were actually the perpetrators of violence on their wives. Eventually the women against whom the man had lodged a case got benefited. As time went by man who genuinely had a problem in their marriage approached the WSC and they intervened to solve the crisis. Some women were not very comfortable taking up such cases as it meant that they had to summon the women for whom the WSC is actually working. This issue was again discussed in the meeting with the supporting organization and this dilemma had to be resolved as to how a women's group can take up a case against another women. After discussion it was decided that if a man approaches the WSC, it will take his case. But in order to call the woman to discuss the matter, the court will not issue her a notice. Instead a member of the court will personally call the woman on the phone or visit her personally to tell her that her husband has approached them for help and being a women's group working to support women, they would like to speak to her to know her side of the story. This process is followed in a very friendly and non-threatening manner so that the woman feels comfortable to come and talk.

In HLC when the case comes to the cell whether she is a woman or a man, the members listen to them carefully. They take all details from her about her problem. It should not happen that she shares with them something after her in-laws come in. They take a written application from her. They give her a form and ask her to fill it. They take photographs and prepare her completely. Then they send a letter to the husband. In the letter they write that his wife has come to their WSC with a complaint, they would like to meet him and talk to him. So if the man wants to meet them and talk he comes over. Some people when they realize that the WSC has called they get scared. If he does not turn up they send another letter. If he still does not turn up then they themselves go to talk to him. Then they explain to him their objective and explain to him why they would like to meet him. The husband then might come for the meeting. They also call the wife and have joint meetings with the wife and the husband. In the meeting they share their problems with them. As Gulshan says, '*apni bhadas nikalte hai.*'[they unburden themselves]. The final decision is left to them.

The objective behind charging fees is to take care of the daily expenses of the WSC. Also when they pay fees they have a sense of responsibility. Earlier the fees of the WSC was Rs. 50/- . The fees now has been increased to Rs. 1500/-. In some cases where the women is very poor then they do not take anything from her. They in fact put in their own money for her and go with her to the police station, to her home or wherever else it is required. If there is reconciliation between the wife and the husband, then the follow up meeting is held with them as a couple

or even with the women independently. Then every two three months, whenever they have time they go and meet them and visit them. The HLC gets cases from localities outside Jeri Meri. They get cases from the villages also. They try to solve the cases of Hindu women as much as possible but if they are not able to do it then they send it to the Family Court. And cases of Muslim women are solved in the court itself. They try for reconciliation first but if they insist on divorce then they refer the case to the qazi and with his help the divorce papers are done in the WSC itself. Suppose someone has had a divorce and then wants her belongings and money back, and then they try and do that.

Legal intervention

The main activity of the WSCs is to provide legal aid to distressed women, especially Muslim women. It is important to analyze why a group of semi-literate and illiterate women would want to give legal aid in a situation when the law is semi-codified and there are religious agencies apart from formal courts involved in implementing the Muslim personal law. There are unique problems to Muslim women which they see that other women don't have it. Two wives are allowed, a man can just say 'talaak' thrice to terminate a marriage - a Hindu woman does not have that insecurity. Women who run this WSC are aware of these issues, they have seen it in their families, and they have been themselves victims of this discrimination. Hence they feel very strongly about these issues.

The legal system allows the Muslim personal law to function the way it is functioning now. Muslims need not go to the formal court to litigate. This works to their advantage as even WSCs can play the role of arbitrator. The realization of this possibility in addition to the discriminatory law fuels them to do this work. In addition, the ghettoized and communalized atmosphere gets them all together to do something as controversial as giving legal aid to Muslim women. It is just not enough for them to work on issues of sanitation, cleanliness and hygiene and toilets, they have to work on these issues because somewhere they feel very discriminated. Gulshan simply puts it, 'we were interested in law because we are dependent on law.' Information about law is very necessary, especially for women. For e.g. the DV act was passed in 2005 for women, if women do not know about this law how will they use it? How will they fight for justice? If they have to fight for their rights then they must know the law.

Funding

After its inception the mandals were supported by the SAHARA project of Anjman-e-Islam for all its activities. That time its intake fees was only Rs. 10/-. It did not have enough money to pay deposit, rent or for any of their activities. The other activities like medical and educational aid were also sponsored by SAHARA. None of its activists were paid workers. Later the courts started getting financial support from WRAG. Thereafter they were counseled into becoming independent of the organization as far as its office expenses were concerned. The other supporting functions like training and capacity building continued. To manage the rent and other office expenses they started to rely on the fees which they received from the women who registered their cases. In 1995, the fees was Rs. 10/- Then it was increased to Rs. 100/-. Then it was Rs. 150/-, then it was Rs. 200, then Rs. 300/- and now in 2015 with the two WSCs merging into BMMA, it is Rs. 1500/-.

This money was also used for WSC members to pay visits to the husband if he does not respond to the notice. The cost of postage and stationary is also covered. The WSC is situated in the western suburb of Mumbai but the women do visits to far off places like Badlapur, Umargoan etc. they have even visited far off states like Kerala and Jharkhand. At such times this money is used. During such long visits the WSC women spend many days travelling. This money is then used for her refreshment and food expenses as she does not have the time to cook and carry food. But if the visit is close by within the suburban area then the women leaves post lunch. The money for these expenses is given by the President as advance. If after the expenses the balance amount is not too big then that amount is not taken back from her. On the day when the WSC sits i.e. on Monday and Tuesday, the women are given tea. For outstation visits to places outside Mumbai or Maharashtra, the WSC women ask the women litigant to spend for their travel, food and stay. Two women from the WSC then take the responsibility to do the long journey and help the women. Some of the places which the women have paid visit to are UP, Delhi, Bijapur, Rajasthan etc. If the litigant is very poor then even the outstation expenses are borne by the WSC.

The current office which houses both the WSC and BMMA Secretariat is big enough for all the groups to function and keep their cupboards. The meetings and training programmes are held here and vocational courses are also held here. Before that the rent was managed from the fees and at times the members have paid the rent from their pockets. The members have undergone a lot of trouble for managing this court but they continue to work because as they say they have a lot of *umang* [enthusiasm]. In short the sense of solidarity and ownership is very strong.

RELATIONSHIP WITH THE SUPPORTING ORGANIZATION

The Mahila Shakti Mandal and SamjhautaMahilaMandal were supported by the SAHARA project of Anjuman-e-Islam. The association between the two continued till 1999 i.e. for 4 years. In these 4 years the Institution supported them in many ways. The key person of the project gave her time, skills and knowledge in the developing the capacities of the group. The WSC soon moved out of the local committee's office and again shifted to KhatoonShaikh's home. Khatoon had a big family of 7 children and husband. The family was completely supportive of her work but Khatoon realized that the WSC needs to function from an office so that she continues to get support from her family without putting them off by running the office from her home. The SAHARA project then supported them to get a rented office. It gave deposit and monthly rent. Within the span of 4 years the mandal shifted office 4 times, i.e. every 11 months. And for the 4 years SAHARA supported for deposit and rent. Educational and medical aid were also disbursed through support from the SAHARA project.

The groups now graduated to giving counseling services and legal aid to women. The project initiated training programme on gender, feminism, counseling skills, law, rights of women vis-à-vis police etc. Exposure programmes were organized for women to know the outside world.

Celebrations, picnics were organized. They also started liaising with other organizations and groups, for better networking and support to the women who approached them for help. The project coordinator conducted the proceedings when they met once a week for receiving cases requiring counseling. All procedures and systems were laid down with the help of SAHARA. None of the members then were paid counselors, although all SAHARA staff was paid by Anjuman-e-Islam.

In 1999 the mandals along with their work of WSC decided to part ways with SAHARA. The project coordinator who had supported the initiative resigned from the Institution. Her successor and the mandals were not able to sustain the relationship between them. As a result the relationship soured and the WSC decided to become independent of its first supporting organization.

The project coordinator joined WRAG and requested the organization to support the WSC. The organization agreed and started to support them financially and otherwise. This association lasted for 9 years. They continued to receive financial support from WRAG towards its rent and other activities for a period of 2-3 years. The focus shifted from financial support to capacity building. The training and capacity building was further streamlined and institutionalized. In the mean time many more groups were formed and WRAG took on the responsibility of conducting training programmes for all of them. In 2015 the WSCs are all associated with BMMA and are supported by Ashana Trust.

ALLIANCE OF WSC

Over a period of time the WSCs have been able to establish good rapport with local agencies, government offices and other societal stakeholders. All these institutions are required to help the women who approach them in distress. The court then becomes a focal point, a single window through which the women gets access to all other services. They work with the police, clerics, lawyers, government bodies like the Minority Commission, Women's Commission and other NGOs and community based groups to help the woman concerned.

WSCs and the Clerics

It is much easier for a Muslim woman outside the formal court. For example if a woman who needs a divorce approaches the court under the Dissolution of Muslim Marriage Act of 1939 then she may have to wait for many years before she is granted a divorce. In the meantime, the husband will remarry and set up another family. So if she approaches the *Darul Qaza* then her case may be decided in a short time but it may not be in her favour.

When the women come to the WSC they are sometimes confused and may want to know what other options they have. They are then given a choice of either approaching the formal court or the *Darul Qaza*. She is explained the procedure of both and both services [of the lawyer as well as of the *qazi*] is made available to her. She is also counseled as to what would be better for her. She is told that if she is absolutely sure of the divorce then the option of WSCs is better. The girl sometimes does not want to stay with the husband as she is tired of the harassment. Sometimes the husband remarries and has children. In such a situation too women want divorce as she feels that why should she continue to struggle in her life when her husband is happily married. In a situation like this when the women is keen on divorce and if the husband is not responding then the WSC approaches the *qazi*. Her nikaah is annulled; this is called *faskh-e-nikaah*. The *qazi* sends three notices to the husband and after that she is free. It does not happen immediately, the three letters go in three months and if he does not respond or when he comes he makes allegations which the *qazi* realizes are baseless, then he goes ahead and annuls the marriage. A certificate is issued by the *qazi* whereby the divorce is declared and the woman is free. The *qazi* also negotiates with the husband for getting her *mehr* back. The

husband is more easily influenced by the *qazi* as he negotiates with the husband on the basis of *shariat*. He tells her that even on the Day of Judgment she can demand her *mehr* back. The religious language puts a pressure on the husband to part with the money.

Once the marriage is annulled the papers are then notarized by the *qazi*. This is done because not all government officers know Urdu; the documents hence are translated in English and are notarized. This is helpful if the girl's name has to be removed from the ration card or added at another place then the notarized version is accepted by all government offices.

The WSC has an interesting story to tell. Once they received the case of a woman who had received a divorce notice from her husband. On receiving the notice, the woman came to WSC, crying and pleading for help. The WSC immediately visited the *qazi*'s office but did not openly confront him. They said that they want to do a nikaah. The *qazi* said he would oblige and asked where the girl is, the WSC showed her a woman who was part of the delegation. Then the *qazi* asked where is the boy, to which a WSC women replied that he is not there. The *qazi* very confidently asked, how can a marriage happen in the absence of the boy? The WSC women were waiting for this question. They in return asked him, if a marriage is not possible without the boy, how come a divorce is possible without the girl? The *qazi* was completely flabbergasted and apologized for his folly and since then has been supporting the WSC in cases of divorce. Currently the WSC have a few *qazis* who play this supportive role and help women get divorce through the process of annulment.

A Muslim woman can also approach the local *qazi* or *Mufti* for her legal matters. The relationship of the WSC with the *qazis* is two pronged. While on one hand they question the anti-women rulings of the *qazi*, they also collaborate with some of them for helping women get justice. The WSC is always alert while it deals with the clerics. There was one instance where the couple had come to the HLC and was in the process of working out reconciliation. One fine day the girl received a talaqnama from the *qazi* on behalf of her husband. The girl came to the Committee. The Committee members called up the *qazi* and questioned him on the talaqnama. The *qazi* said that he knows the boy. To which the WSC said we know the girl and this is no way to terminate a marriage. The Committee threatened him that they will do a case on him. He called the Committee for discussion and said the boy will pay 3500/- The Committee refused and made him give all her belongings as well as iddat amount of Rs.20,000/- This incident is indicative of the strength of the group which helps them to negotiate with the clerics. The WSC does not recognize oral unilateral divorce. So if the women litigant receives a divorce paper from her husband with the *qazi*'s stamp on

it, the WSC approach that *qazi* and inform him that they do not support this type of divorce and question the basis on which he has sent this divorce. All the three WSCs have got clerics associated with them informally. They support the WSC women in helping women get divorce.

The WSC does receive opinions from the *qazi* saying that women should not be doing the work that they are doing and that they should stay home and observe purdah and that they have no right to come out of the house. Once a *maulana* [cleric] had helped a man to unilaterally divorce his wife. The WSC sent him a notice by saying that the method of divorce was not right. The *maulana* responded by saying that women should be sitting at home and not doing this kind of work and that he will not respond to the notice. On this the WSC went and met the *maulana* and asked what his problem with the WSC is. They told him that they have come to have a dialogue with him with full respect. To which he said that women are meant to spoil things. The women then became angry and a fight ensued. Although it was a masjid women fought with him and told him that it cannot be the case every time that men head organizations and become presidents. Even women can do it and today we will show what women are capable of. But by and large there has been no challenge to the work of the WSC from the clerics. Some *qazis* are also scared of the WSC.

A *qazi* associated with the WSC finds their work very relevant for Muslim women. All those instances where the women is troubled by her husband the WSC tries to help her. If he is violent, does not maintain her, does not leave her, than they help the women to lead a happy life. The *qazi* is happy that the WSC also tries very hard to convince the man to financially support his wife. And finally if the woman has reached a stage where it is not possible for her to live with her husband than they also help her get a divorce. It is at this stage that the WSC approaches the *qazi* and asks him to make a khulanama. He says, WSC *dono ko sukun dete hain*, [the WSC gives peace to both the parties].

There is a lot of pressure on the supporting *qazis* as they give their services to a women's organization. They have to explain to the others that the WSC has been doing good work and has not breached any quranic values. He also checks with the man's side to know if the court has taken any bribe from him or he had to feed them or treat them. When he finds the WSC clear on those accounts, then he gets the confidence to support them and is able to defend his association with them more confidently.

WSC and the Police

At all stages of litigation, the WSC take the help of the police. And whether the police will be of help or not cannot be guaranteed. When they are supportive the work gets done, and if they are not, the job becomes difficult. Police are gullible to corruption. In many instances the police have been bribed by the husband and in that case they have just not supported the woman, but in fact have misguided her by giving wrong information. In one instance in spite of complaining to the police 3–4 times, she did not get any help from them. As one litigant says, *uski jeet hoti thee aur meri haar*. [he would win and I would lose]

But in one instance the litigant confronted the police and threatened to go to the Anti-Corruption Bureau and human rights organization if she is not helped. This worked as the police realized that they are not dealing with a weak, vulnerable woman but someone who knows the law and is confident of using it and who has the support of an organization. Since that threat, the police have gone out of their way to help her and are actually scared of her. This shows that knowledge of one's rights and its assertion helps women increase her confidence and a confident woman then is able to gain access to help from state institutions.

Support of police is especially required when the husband or his family are just not willing to come and talk. In such a situation, the police pick up the husband or any of his family members. This brings them to the negotiating table. The police are extremely useful when it comes to retrieving the belongings of the woman. Also in instances where the woman is facing violence or if there is a threat to her life than the WSC advises her to lodge a complaint with the police.

Some litigants do not trust the police any more. In one case when a woman's house was usurped by her husband's second wife and family, she approached the police for help but they accepted bribe from the other family and

actually made her leave her own house. She says, *policewalon se to nafrat ho gayi hai. Kyon ki who jiska khayenge unka gayenge.* [I hate the police because they support those from whom they get money]

The WSC encourages the woman to go to the police station on her own so that there is less dependence on them. Samira went to the police station thrice on her own whenever her husband was violent with her. Once she was too scared to go so she called the WSC women to accompany her. He never came to the police station but came to the WSC.

The police played a positive role in Halima's case when all the members of her in-laws family were picked up and put in the lock up. All of them had ganged up to beat her up and she was covered with blood and bruises when she went to the police station along with the WSC. Same is the case with Amina on her return from Indore. The police told the ticket collector not to ask for her ticket as she was with her 5 children and battered and bruised. Her husband too was put behind bars for beating her up.

All the three WSCs share a good working relationship with the police. Over the years the police have realized and understood their nature of work and even refer cases to them. But problem surfaces when the top officers are transferred and new ones take their own time to get themselves acquainted to the work of the court. Some are downright insensitive and show no regard for them. At such times the court members pay a visit to the police station and introduce themselves to the senior police officer.

The experience with the police station where the court is based is good because they know the group has been working consistently for many years. They even send cases to them where they feel that the women's group will be a better option for the litigant. But when the court members have to visit other police stations, the response of the police is not so good. When an abused and battered woman is taken to them to lodge a complaint they say that the matter should go to the court and not to the police. The WSC woman then has to show her identity and apply pressure to get the work done.

There are groups who take money from woman and also bribe the police. The police then think that this court is also like them and hence do not treat them with the same respect. But when they make inquiries with the woman who tells them that she did not bribe the WSC, and that they in fact spend money for her, the police then are convinced that they are genuinely working for the benefit of the people.

WSC and Local Committees

The WSC is situated in the slum community where it co-exists with other local groups and committees. If the couple is from the same community, the woman usually approaches the WSC and the man approaches the men's committee. The man feels embarrassed and feels it is below his dignity to go the women's group in his own area. In such instances the court takes the help of the committee to make him come and talk to them. The women tell him that they would like to hear his side of the story and help the process of reconciliation. The other committees are all-man groups and hence women feel very uncomfortable approaching them. Also these committees meet in the late evenings, a time when most women are busy in their homes.

There are many ways in which these committees are supportive of the work of the WSC but they tend to favour men or at least speak on his behalf. They also thus form a sounding board for the man who perceives that being a women's court he will not get a sound hearing. He not only then complains about his wife but also about her family and about the WSC. The court then has to be on a defensive and has to prove to the Committee also that the girl is not safe with him. In case of Shabina's daughter's case, her husband went to the Ekta Committee and insisted on reconciliation. The Committee in turn put pressure on the WSC to insist on reconciliation. The WSC then decided to have a joint meeting with the Committee, the litigant's husband and his sister. The meeting was arranged at 11 in the night. One senior member of the WSC went for this joint meeting. But his sister did not turn up and even he came very late. The Committee members realized that the fault lies with him. They told him that they will henceforth not support him and that he should not come to their office. In another incident, her husband went to

the WSC leader's home at 11 in the night to trouble her. She immediately called up the Committee members to complain about his behaviour. After this incident, the Committee also stopped supporting him.

After many years of credible work, the WSC is now approached by these local committees even on issues of civic amenities. For e.g. If the water connection has been cut, the committee members first approach the WSC members to take up the issue with the civic authorities. This has happened because as Khatoonmentions, '*hum me sachai hai, hum insaaf karte hai.*' [we are with the truth and we do justice]

The WSC also collaborates with such groups in other cities and states. Instead of handling the case from here, they refer the case to a known committee or group in that area. They also do the follow up with that committee.

WSC and Quasi Government bodies

The WSC members are part of the local police peace committee which was a police-people partnership to maintain peace and harmony in the community. When these committees were active, the members were part of it and would regularly attend all the meetings. In fact there was a phase when these Committee meetings were dominated by women especially those women who were associated with the WSCs. The women would talk about their problems in the area and the police was made to respond to them.

When the *Mahila Dakshata Samiti* was active, the WSC members were also part of that and would regularly attend all the meetings. Another body called the JhopadpattiPanchayat was formed on lines of the Mohalla Committee, which too was attended by WSC women regularly and in large numbers. There was a phase when all these committees were disbanded. Some of them have been revived now. In 2015, the Mohalla Committee Movement Trust is active. In addition the police have also started the *Mahila Suraksha Nivaran Kendra* to provide support to women in distress. Members of the WSC are active in this Kendra and sit in the police station to handle cases of women.

Sometimes when the case is complicated and the man does not respond or threatens the court members then they refer the case to the State Women's Commission. They, then issue notice and call both the parties for discussion. At one point of time when the Commission was headed by a sensitive person, there was a good partnership with the WSC. The personnel in the Commission did not know the Muslim law and so if a man orally divorced his wife they would accept it. But the WSC instructed them about the cases that they were referring to them and requested them that they should be called when their case comes up for hearing. An ad hoc committee of the Commission and WSC women would get formed to handle the case. There was a phase when the Commission stopped functioning and the relationship almost ended. In 2015 the Commission has become functional again. The WSC has decided to revive its relationship with them.

The WSC shares a good rapport with the State Minority Commission and cases of intimidation and threat by the husband have been referred to them and they have cooperated with the WSC. Some members of the WSC were also appointed on the State Committee of the Prime Ministers New 15-point programme.

Arrangement between WSCs and Lawyers

The WSCs have had a long and interesting relationship with lawyers and the court system. After its inception the WSC did not have the privilege of any legal support. They went by the principles of gender equality and their own innate sense of justice based on their own experiences of violence and domestic abuse. In 1997–98 as they became successful in helping women and their publicity spread by the word of mouth, more and more women with more and more complications started approaching them. The WSC then felt the need to engage a lawyer who could support them when issues went beyond their comprehension and ability.

The supporting organization got in touch with a well known lawyer who much to the relief of the women started visiting their court and taking up cases requiring her expertise. This phase lasted for about a couple of months when the lawyer started to charge heavy amounts from the poor women. She was also not very women friendly as her decisions many times went contrary to the interest of the litigant.

After this failed relationship the court members when in need of a lawyer would approach either the State Women's Commission or other NGOs. This went on for many years and in 2005–6 the second supporting organization, WRAG decided to offer legal support. The lawyer was paid by the organization and the activist of the court coordinated with her for legal aid. For e.g. if a man does not turn up for meeting despite repeated notices and phone calls, or in cases where there is a property dispute, or if the jewelry or belongings of the women is more in number, the court would take the help of a lawyer. This arrangement was operationalized in such a way that the lawyer and the WSC members would meet once a week and discuss each case to work out a joint strategy.

In HLC the WSC women were initially alone like the WSC. They too felt the need of a lawyer. JK being a well established organization has always had lawyers in their midst. At one point of time there was visiting lawyer who would guide the Committee and visit them twice a week. Most of the time, the WSC activists would go to the court directly. One staff of JK who is in charge of the Committee accompanies the women for the first time and introduces her to the counselor. The woman is advised to be in touch with the counselor and do the follow up and the Committee also does the follow up with the women. She in fact is advised to come and report to the Committee about her plan with the counselor in the court. Currently they too have a lawyer who is a JK staff and she is regularly in touch with them for legal support.

The WSC also strategize. If they want to take the help of a lawyer, they first go to her house to retrieve her belongings, because they know that once the case goes in the court they will not be able to do that for the women and she will remain deprived of her belongings. In many instances she does not get her belongings in spite of the best efforts of the WSC. The in-laws sometimes sell off the jewelry or break her furniture; in such instances also the WSC refers her to the lawyer so that the remaining stuff can be collected through the court. The court members also feel the need to have a lawyer who is associated with them so that they continue to get information about law and procedures from them. It is like an on-the-job training for them.

Although the WSCs are run by Muslim women and most of the litigants are Muslim women, many times non-Muslim women also approach them for support. At such times, they are in constant contact with the lawyer and if the matter reaches the stage of divorce than they formally refer the women to the lawyer as divorce of a Hindu woman cannot happen in the WSC. In such cases too the WSC members collect important documents like marriage card, list of her belongings, ration card, property papers etc. The guidance comes from the lawyer and the implementation is done by them. These proofs become essential to help women strengthen her side before the court.

Sometimes the lawyer also needs the help of the WSC. A lot of information can be collected by them by doing home visits. The court members also speak to the neighbors to understand the case better. Even in the case of a Hindu woman it is important to collect proofs like wedding card, photos, list of utensils, jewelry list which are used in the court as evidence.

This collaboration is also beneficial to the lawyers as they manage the court end of the case and the WSC manages the community end of the case, for instance, going to the police station, gathering evidence, putting pressure on the husband etc. They do a lot of work in strengthening the case of women before it comes up before the court for the final judgment. For e.g. a woman had approached the WSC whose husband was dead and her 3 children were taken away forcibly by her mother-in-law. She had approached them to get custody of her children. They put the case in the court through the lawyer and the court passed the order which was later put up for a cross examination. At the time of cross examination a lot of evidence is required to support the women. The evidence is in the form of the registration of the case in the WSC, her visits to the police station which can be proved through the NC papers. The court members help her go to the police station, and also advise her to keep the documents safe as they may be useful at a later date. Thus WSC activists play an important role in strengthening the woman's case in the court. The training given on court procedures is also of big help as then they know what precautions to take and also advise the litigant about the precautions that she needs to take. In cases where the woman needs to go to the doctor or hospital for medical evidence then the WSC women go with her. They advise her to keep all documents carefully. These documents are then useful in case the matter goes to the court. Thus going frequently to the police

station with the litigant, going with her to the hospital, going to her in-laws house for repeated negotiations are activities which cannot be done by the lawyer but they need this data to fight her case in the court.

Currently in 2015 the *Aurton ki Shariah Adalat* has no lawyer on board. It manages the cases on its own. But in case of difficulties they do consult lawyer friends informally.

Lawyer and the litigant

Lawyers need money to survive and it is in their interest to drag the case. For each appearance they charge the litigants. It could be Rs. 200 or Rs. 500/- . Even for filing the case they charge money. Even for each appearance they charge. The work done in each appearance can differ. If the appearance is for filing then there is nothing much to do. If the appearance is for adjournment then the lawyer has an application for adjournment. When the lawyers appear in the court, they do not even stand for 5 minutes. Matters are called one by one and if the party is absent then the matter is given the next date. The purpose of Family Court is to help women get justice in case of marital dispute. But there are thousands of cases pending in the court. There is a need for at least 3–4 Family Courts in Mumbai itself. There should be Family Courts in districts also.

The lawyers live in a different world and the litigant who approaches the lawyer is in a different world. The lawyer has to prepare for the hearings. After the hearings they prepare for drafting for the next day's hearing. While the lawyer is preparing for 5–6 cases every day, the litigant is involved in her own case. She wants to tell the lawyer everything, again and again. It is important that as a lawyer she listens to her and assures her that her version is included in the drafting. Many times woman wants to drag man to the court to take revenge. At such times the lawyers suggest to her that instead of wasting your time in getting revenge, it is better to get something out of him. In this situation the WSC can play an important role in getting the man to negotiate an amount that will be of help to the women. Putting the man in the jail will not help the women except may be give her a momentary satisfaction, but what after that.

Expenses

On an average a women spends Rs. 5000 for her case. Lawyers who are sensitive may not take the fees at all or they may give the facility of paying in installments. An interesting observation made by Adv. Shabana is that if we charge less than the litigant might think that we are not good lawyers and she might not have enough confidence in us. Women are exempted from court fee but she has to pay the process fee. The lawyers also have no idea how long the case might go on.

The litigants who have approached the WSC for help were sometimes referred to the lawyer. Although this lawyer was associated with the WSC, she quoted a price of Rs. 10,000, with no guarantee that she will get her rights. The litigant was extremely poor and earned only about 20–30 rupees everyday and had a child to support. She just did not have the capacity to pay this lawyer. In this instance she paid the same lawyer Rs.250 for sending notices to her husband to which he did not respond. She also paid visits to the court but nothing seemed to happen. She realized that '*umar nikal jayengi lekin faisla milega hi nahi.*' [I will spend my entire life and yet will not get a decision from the court]. So she stopped going to the court and told herself that whatever will happen, will happen through the WSC only. She started coming to them every week and insisted on divorce. Because they know that courts are going to be an expensive affair, many women do not even entertain the thought of going to the court. As Shamimbanu puts its, *court mein jaane jitney bade to hum hainahi. Koi na koi raasta to nikalta. Iske bare mein to socha hi nahi.* [we are not so big to go to the court, some or the other way will be found. I have never thought about it]. Akko also mulls that probably with court orders she would have been able to get part of her husband's property, but at that time, the WSC did not have a lawyer on board and she did not even have two rupees on her. She did go to the Family Court where the lawyer asked for Rs. 2000/- and that was just not within her capacity.

Interface between the WSC and the Court

Sabera says, *court mein jane ke liye apne pass paisa nahi, aur mujhe maloom hai ki paise bina court ka khel hota nahi hai*. [I don't have money to go to the court and I know that the court work will never get done without money]. To earn also and support 4 children, she knew that she will not be able to fight her case through the court.

For any woman to access justice through courts she must have a good understanding of law, she must be well prepared in knowing how to use the law, know its nuances, and work out strategies based on this knowledge. How many educated woman can boast of having this understanding? What can we then say about poor, illiterate, vulnerable women? Even if she is getting free legal aid she has to invest a huge amount of time, energy, effort and emotions. A woman who approaches this system without knowing what is in store for her, is in for a rude shock.

Procedural delay

When the Family Court was formed there were many people behind it, there was a movement in its favour and many people worked for it. It was started with a different perspective, to work for women for helping her get justice. It should not have the environment of a criminal court so that women feel comfortable and can fight for justice. With time the environment in the court got degraded and now it functions like regular court. The original purpose must be revived so that women benefit from it.

The procedures of the court are very complicated and cumbersome. If a case is filed now the first objection will come after 8–15 days. Thereafter it will go for second checking. After the second checking the litigant will get the final number. This will take a month. The matter will then finally come in the court. Most women litigant are unfamiliar with the court setting, she would not know where to go, whom to meet, which floor to go. In this situation, it helps her immensely if somebody is there with her. If summons have to be collected then it should be collected before the first date that has been announced. The women should collect the summons to be issued to the husband. The Court issues it but it has to be collected by the women and sent to her husband before the first hearing date is announced. Actually the summons should go from the court but to hasten the process the lawyers themselves advise the women to do the AD and give it to the police station. Even the process of AD is new to the women. It requires her to go to that part of the court where the envelopes are sold, then court fee has to be paid, the letter has to be acknowledged. These are small activities but difficult for women to understand. Even first time lawyers find the court language unfamiliar. Phrases like *'bhatta bharna hai, court fee lagana hai, RD, ER* are used as if the whole world knows what it means. So for a woman or even a man going to court for the first time, it is a trying process. On the first day of the hearing if a man comes then it is fine but if he does not then she has to wait for one more month. If on the second date too he does not turn up then she gets a third date. So three months are gone without even a single hearing.

The case thus goes on for 2–3 years and even more. The cases filed in 2000, 2003, 2004 are still pending. In case of maintenance, even if the final order is passed how does one execute it? Suppose the court passes an order saying that the husband must pay Rs. 3000 as maintenance and if he does not give it, then executive proceedings will have to be initiated, which requires the woman to give a new petition, a new application. Dates are given for that also and if he does not respond to that than a distress warrant is issued which means he should sell his things and give her the money. If that also does not work then arrest warrant is issued. Even that does not work as there are instances of man who stay in the jail. If a man has no income he actually enjoys his stay in the jail. The entire process does not serve the purpose as the woman does not get what she came to the court for.

Within the court there are structures existing like the counseling centre or the legal aid cell, which have very specific tasks. Litigants come to the counselors who sit at one place the whole day from 9am to 5pm. They will talk to the parties, counsel them. But when it comes to the implementation of the decisions taken in the counseling session, the counselors are helpless. If the parties come the next time it is ok, if they do not come than what?

Women complained that in court women gets only further dates but no justice. The actual hearing is only for 2 minutes. One litigant says that in the court her problem should be discussed thread bare. But nothing of that

sort happens. If the husband is not paying maintenance the court should see her conditions and pass an order immediately. She should get some relief immediately. As one woman says, *Chakar khilate hai, dhake khilate hai court wale.* [the formal court people make you go there so many times] Parveen says, *Court me bahut ghasar ghati karwate hai, jald iinsaaf nahi milta hai, poori zindagi nikal jaati hai court ke faisle ke liye.* [in court women have to go umpteen number of times, they don't get justice easily, the whole life passes by just to hear the decision of the court]

One litigant very categorically says that women should not go to the court. She finds the WSC very appropriate for a woman. She can get what she wants from the WSC. She says, *court mein jayenge to dhakka dhukki, bhaagdoud. Mera kaam dhanda rozi roti sab choot jayengi.* [if I will go to the court they will make me run around, I will lose my source of income in that process]. The process of litigation in WSC allows her to continue to do her work.

Lack of Documents

The court is not a good place for women who, for some reason, do not have their relevant documents in place. In one instance, the woman did not have her proof of marriage. Her nikaah had happened in the village, many years back and that too without the nikaahnama. There were only 4 witnesses and one qazi. There were no photographs also. The lawyer had also expressed her inability to do an affidavit as there was just no proof.

In Naziyas's case too she did not have any document to prove her right over her brother's property so the WSC also felt that without any proof there is no point in going to the court.

Lack of Confidence

Naziya says that neither she nor her family had been even to the police station so there is no question of going to the court. Since there was no precedence in the family she just did not have the confidence to go to the court.

Lack Of Support

Naazma did not think about going to the court and nobody suggested that to her. If her parents would have supported her maybe she would have gone to the court to get her remaining belongings. After the divorce, her parents too lost interest in her case. She believes that if she would have gone to the court she would have got her things.

Corruption

Women perceive the courts to be corrupt. It will favour those who throw in money. Usually men have the financial capacity to hire a lawyer and hence he is more likely to benefit from the process by indulging in corrupt practices.

Stigma

Kulsum did not want to go to the court as her family wanted her to remarry. Going to the court is considered a stigma. She might find it difficult to get marriage proposals if the prospective family comes to know that the girl has gone to the court. In a way going to the court signifies that the women and her family are empowered and can fight for their rights if things go wrong. Even about her divorce only her family, her husband's family and the WSC knows.

Suggestions to the court

The court can appoint court commissioners to see that the orders are followed. These Court Commissioners can collaborate with the WSCs which will also give legitimacy to the work done by the WSC. The report of the WSC will then be considered valid and legal.

While some of us say that the WSC is like a court, Rubina has an interesting take. She advises the formal court that if it is not able to give support, they should change their style of functioning and work like a WSC. They should make both the parties sit in front of each other and take quick decisions.

Court bhi WSC ke jaisa hona chahiya, phataphat hone wala kaam. [the formal court should be like the WSC, where the work happens quickly and fast]. It should not be that litigants get date after date and time just flies by.

The court, due to its inherent nature, will not move out of the court premises. The entire judicial system works from within a physical space. Due to its immobility the court can only do as much as it is already doing. But it is obvious that much more needs to be done, which the courts are not able to do. This is where the WSCs step in. There are a lot of things which a WSC does but a court cannot. The court cannot conduct visits to verify facts. If the husband says he is not earning or he does not have a house, there is no way the court can check. They go by his statement and at best arrest him for non payment of maintenance. They are not able to do this is probably because they do not have personnel. That advantage of personnel is there with the WSC, as women take the responsibility of visits for verification, giving notice, for counseling, for retrieving belongings, for speaking to the neighbors etc. Its functioning is very hands on.

The women's court works outside the formal court, physically and legally. It is an independent body, independent of the court and is autonomous. After the court passes an order or even if a decision is taken in the counseling sessions of the legal aid cell, the WSC oversees its implementation. For e.g. if the decision taken is to return her belongings, they can go with the girl to her in-laws house and help her collect her belongings as per the check list. If in a counseling session the woman decides on reconciliation and wants to go back to her marital home, they can pay weekly or fortnightly visits to see if she is fine.

A WSC is a good in-between arrangement. It is outside the family and not inside the court. For instance, the court will pass an order for maintenance. But who will oversee its implementation? This is where they can play a role. So for each order passed by the judge, there could be a series of measures which they can undertake to implement that order. That would make them a body complementing the formal legal structure. It is easy for them to help women get maintenance. Many times the lawyer herself has referred the woman to them as the pressure through the WSC helps the women get lump sum maintenance.

In case of maintenance case, the WSC can play a role before and after the court steps in. She could be guided to collect information and documents regarding her husband's employment, find out the address of his work place, collect his salary slips, find out the name and address of his employer etc. After the maintenance order is passed, they could visit his workplace, meet his boss and arrange for the payment. The litigant may not find this very comfortable if she has to do it all alone. They can also help the court and the police arrest him if such an order is passed.

Even for access to children, the couple need not go to the court; they can meet in the community, in the WSC office.

Muslim women and the formal court

A woman who goes to the court does not get divorce quickly and she may land up at least 4–5 years to get a divorce. In the meantime, a Muslim man can remarry legally so he goes ahead and remarries and has a family and his wife is still struggling in the court for divorce. The law for Hindu women is very specific. If the woman wants to go back to her husband then the case is put up for restitution, if she wants custody then the case is put under the Hindu Maintenance and Adoption Act. Thus for each legal problem there is either an Act or a clause within the Act which can be utilized by the lawyer. That is not the case with the Muslim law as this law is not written down. The 1937 Shariat Application Act is rarely used by the lawyers. Not many lawyers know how to handle a Muslim women's case. There have been instances where the lawyer has put the case of divorce under the Muslim Women's Act which is actually an Act to be used for demanding maintenance after divorce. The case should have been put under the Shariat Application Act.

The matters of the Muslim women get disposed off faster in the court compared to Hindu women. If a divorce needs to be given the khulanama can be made outside and at the time of divorce in the court the document pertaining to the khula can be produced in the court. A separate petition is filed in the court for declaration which

once done becomes equivalent to divorce. The couple can also prepare documents of divorce based on mutual consent which is like khula a valid form of divorce in Islamic law. Any divorce happening outside the court, either by qazi or anyone else is considered valid by the court, provided there is no dispute between the two parties on that. If a Qazi has issued a khulanama and if the other party does not accept it, then the matter goes for cross examination in the court. The court for the sake of saying will say that the qazi has no right to run a parallel system but eventually they accept it thinking that the matter is atleast getting solved.

For custody of children the cases of the Muslim community are filed under the Guardianship and Ward Act. The problem is of the execution of the orders of the court which are common for all communities. Even if the court gives order for access there are issues concerning vacation of the children, holidays, overnight access. What happens when the court orders are not put into practice?

WOMEN'S SHARIAT COURTS AS ADR FORUMS

Many forums exist outside the court and support or harass women depending on their mandate and genesis. They have varying degrees of legitimacy in the legal system. Because these are voluntary bodies which have emerged from the society, they are playing a role which the formal legal system is not able to play. The WSC is an informal arrangement outside the court. This arrangement between the court and WSC is informal and has no government sanction. The question is can this arrangement be institutionalized and formalized? Can ADRFs like WSCs be made part of the court? Should they be formalized? Will they serve their purpose better if they are outside, autonomous and beyond the purview of the courts? Is there a possibility of the WSCs being registered in these formal courts as ADRFs and support the court from outside in implementing its decision? Should there be a system where the WSCs are linked to the court as implementing bodies?

Conversely, the question is should they be linked at all? Will the WSCs not loose their autonomy if they become part of the court only to implement its decision and not be a part of the process of justice delivery? Why should two independent autonomous bodies be linked at all? Given the nature of their varying degree of formality, will the larger structure not engulf the smaller one? The WSC has its own procedures, rules and regulations and is independent of other structures and bodies. Why should it follow the dictates of a larger body?

The current legal justice system is excruciatingly slow and needs a total revamp for remaining relevant. It is bogged down by its own weight of procedures which does not help woman. If it would have been speedy and effective, it would have been a fair demand that all women irrespective of her caste and religion must go only to the court. But given the tardiness and lackadaisical functioning of the court, nobody can suggest that women only approach the courts for legal redresser.

Arguments for Affiliation

It is a known fact that the courts work at a snail's pace, it is bogged down by its own weight of procedures which does not help woman. It is now the need of the hour that the system is overhauled to see how it can remain relevant to the most vulnerable and marginalized. The courts will have to work out arrangements to see how its orders can be implemented. It will have to coordinate with bodies outside its purview to carry out its order to its legitimate end.

The Family Court is managed as per the Family Court Act in which right now there is no provision of the WSCs or any other body playing any role in the resolution of the dispute. But they can play a role when the case has still not been formally registered with the court and is still with the counselor.

A lawyer is in the court in the working hours. She/he does not have the time to make home visits, take women to the police station, and spend hours in counseling the parties. The relief offered is faster and cheaper and these bodies are also more accessible to women. If they get a formal recognition they will be able to perform better. The gap between the litigant and the legal structure is too wide and this vacuum is being filled up by these bodies. The benefit of this arrangement does and will go to the women.

In many ways the WSC is like the counseling centres based and within the purview of the court. The court counselors do or are supposed to do what the WSC does outside. The Family Court in Mumbai has an alternative resolution forum on its 6th floor. Organizations like Bapu Trust, CEHAT for counseling of women and then there is Muskaan for child counseling. Every court has 2 counselors. When the case is registered in the court, they are first sent to the counselor. The counselors are overburdened with work as there are 7 courts in Family Court but only 2 counselors. The purpose of meeting the counselor is to work on a settlement. If the settlement is not possible then the matter is referred to the court. Apart from counselors there is the legal aid centre where women who cannot afford to spend goes for support. Even here the matter gets delayed as they have their own set of problems.

The court structures work within the court premises whether they are lawyers, judges, counselors or free legal aid advisors. In such a situation where people in the court are not able to do anything outside the court, the presence of the WSC acts as an advantage. The WSC works outside the court, physically and legally. It is an independent body, independent of the court and is autonomous. After the court passes an order or even if a decision is taken in the counseling sessions of the legal aid cell, the WSC can oversee its implementation. For e.g. if the decision taken is to return her belongings, the WSC can go with the girl to her in-laws house and help her collect her belongings as per the check list. If in a counseling session the woman decides on reconciliation and wants to go back to her marital home, the WSC can pay weekly or fortnightly visits to see if she is fine.

The women can form groups and affiliate themselves to the court, keep record of what they do and then the court can attest it. The WSC can do a lot of pre-litigation which takes care of lack of preparedness on the part of the litigant. They tell her what will be required of her, what is doable, help her decipher and demystify law for her and coordinate with like-minded lawyers so that she is able to use law to her advantage.

Arguments against Affiliation

If we link the court and WSCs then they [court] may not accept them as it is. They will put conditions. WSCs can give better facilities, have follow up, keep it open and informal; women can always come back to them. Courts work within law and their decisions are final. Many people go to court not to get justice but just to harass the other party. They can function independently and increase affectivity by getting more training as an ADR. They should have no formal relationship with the courts. The relationship between the WSC and courts should not be institutionalized. They should be assisting the court from outside as an independent body.

One option would be ask for a formal recognition of the WSC by the legal structure. But the fear remains that then such bodies will lose their autonomy, and will land up becoming extensions of the court and then gradually adopt the culture of the courts which so far have had little benefit for women.

All alternative structures like *Lok Adalat*, *Mahila Samakhya*, *Parivarik Mahila Lok Adalat* have been offshoots of the legal justice systems. But bodies like WSCs, NGOs have emerged from the society in response to the tardiness of the formal legal system. The arrangement of these bodies so far is informal and in many places has worked out well. So probably these WSCs should proliferate and reach out to as many women as possible. In this way they maintain their autonomy, work on their weaknesses and strengthen themselves. If at this stage if they merge in some way with the larger system, it will collapse. The formal system as well as the informal are not geared up for this merger. The formal system must reform itself to remain relevant. Till then the women keep working informally because it is working. Constantly review and reform the informal system and at the same time have regular constructive interface with the formal system. The ultimate concern of both systems should be justice to the poor and vulnerable.

OPINIONS ABOUT WSCS

Perception of WSC About Their Own Work

The WSC is a grassroots court and the conductors of this system are women who have not even attended school. What makes them do this work? From where do they get the push to do it? While it is true that they have never been to school and sat with a book and a pen, but when they joined the WSC and sat there for 2–3 months, they

realized that a distressed woman needs emotional and physical support first and that can be given only by another women and that does not require any education. It helps when the WSC member themselves have been through such crisis in their own lives and thus realize the importance of psychological support in giving women strength to cope with her own.

The lack of education is compensated by training on law by the supporting organization. The training is also not one time but is a continuous regular process. Information on Muslim law, Hindu law, court system, procedures, etc. help women get knowledge which gets translated in action when they go about helping women. As Razia begum puts it, '*WSC me jaane se hum ko himmat mili, padhai likhai se himmat nahi mili hai.*'[we got strength after coming to the shariat court and not from education]

The WSC thinks they have the capability to give justice as they have received training. Their confidence has increased as more and more people approach them for support. More and more people have approached them because they have been successful in helping women who have approached them already. The local police, local corporators also realize that this WSC can deliver and can support a woman better than they can. One case successfully solved further increases their credibility. They are then known to be a group that works and gives results. A police for instance can only put a violent man in the lock up, he cannot do much to support a woman who is outside and needs help to gather her life back.

The WSC does the work of the court. It is a court. Gulshan Khan's confidently says, *court ka kaam to hum hi kar le te hai.*' [we land up doing court's work]. In fact the court's work is over once a judgment is delivered. It is not bothered about what happens after that. The WSC continue to do the follow up and are available to her if any problem crops up in future. They know they are not 'trained' lawyers but they also know that not many women can afford a trained lawyer. They offer the strength which exists in the unity of women which no lawyer can provide.

Perception Of Litigant About The WSC

Litigants find the WSC like or better than the court. One of them categorically says that the WSC works as per the law, so they are courts. And they are in fact better than the courts because in a court structure, the litigant has to follow the word of the lawyer. In WSC women listen to the litigant and do what she wants them to do, '*apni marzi se apun sab kuch kar sakte hai, dabke rahne nahi padta.*' [I can do what I want to do. Don't have to be under anyone's control] She goes ahead and says that it is better if the lawyers are not there at all. Kehkashan says, 'there should be more WSCs because what work does not happen in court happens here. One goes to the court, spend 2-3 years, keep running and nothing happens, then sometimes the lawyer is not there, sometimes the judge is not there, sometimes the boy's party is not there and sometimes the girls side is not there. Then some more time will go in negotiations. In WSC one can sit in front of each other and say what one has to say. They give time to think and then they think and it is faster, better than court *ka chakker.*' When the woman is busy the WSC gives her a call to find out about her and also call her if there is some development in her case. Safia asks, which court will do that for you?

Reshma says, WSC can be called a court but the only difference is that the WSC favours the women. Both can work together as both are doing the same thing. The difference is that the WSC does the work fast and the same work is done very slowly by the court. *Sunwai jaldi hoti hai.* [hearings are held quickly] Court will just give dates, then the case is filed and then First Information Report [FIR] is done. *Kharcha bhi nahi milta aur bacha bada ho jata hai.* [you don't get maintenance and the child grows up]. Then to take the child the father will come. That is not the case with the WSC.'

Women are very practical when problem solving is concerned. When asked if she would have gone to the court to resolve her issue, Nazneen's mother says, if she would not have got the support of the WSC she would have gone to the court. Many people advised her that her problem will be solved if she went to the court. But since the WSC was close to her house she came here and her problem got solved so there was no need to go to the court.

ADVANTAGES AND DISADVANTAGES OF THE WSC

Advantages

The WSC is doing a very constructive work of supporting women, gathering evidence for court proceedings. Before coming to the court, they help in doing a lot of ground work which solves a lot of the problems. There are times when the women are very confused, she at times approaches them seeking divorce, but over a period of time may end up demanding maintenance and not divorce. She may approach them with the demand for maintenance and after the processes and the response of the husband may end up demanding divorce. They are with her throughout this phase helping her navigate through her own thinking and feeling processes. She can change her mind in the course of her interaction in the WSC.

They also help her physically in the court, which room to go, where to file the case, where does the clerk sit. If she goes alone she moves from one room to another and there is nobody to help her. It is a physical as well as psychological support to woman who is anyway vulnerable because of her domestic problems. She is not alone in an alien setting with complete strangers, she is accompanied by someone whom she trusts, whom she is comfortable with and with whom she can share her questions and queries without feeling uncomfortable.

The advantage of the WSC is that the litigant has her kind of women in it. The litigant and the WSC women are from the same social, economic and educational background. Both are from the same milieu and that increases the confidence of the litigant. She not only takes her own case forward but later also becomes an active member and helps other women. She says if she can do it, why can't I?

The women in the WSC are uneducated and yet run a court and do the job of a lawyer. What matters is not education or literacy but a sense of solidarity with the women litigant. A woman gets support from another woman and for that one does not need a paper and a pen. One does not need to be educated to offer support and solidarity. What is required apart from this commitment is training on law in a language and manner which can be understood by an illiterate woman.

The women in the WSC call themselves a 'court' because they believe that they try and give justice to women in distress. They know the law although they may not know the technicalities. There have been instances where the lawyer from the men's side tried to intimidate them and questioned their knowledge about law. His brief interaction with them made him realize that they knew law and they handle cases as per due procedure. But they also realize their limitations and feel that there should be collaboration between them and the court.

Women feel comfortable in the WSC. They understand the difficulties faced by the woman who is facing marital difficulties. This understanding gets conveyed to the litigant and she reaches a stage where she can confide with the women in the WSC. They get the feeling that here is a place where they can say what they want to say and the women with whom she confides are not very different from her. She gets the confidence that she is not alone. The counseling helps her to take a decision.

Disadvantage

The disadvantage of the arrangement is that the WSC when frustrated immediately refers the litigant to the lawyer. The referral gives satisfaction to the litigant as well as the WSC women but their aggression decreases because of the presence of a lawyer. They would have handled the case if the lawyer would have been absent. The woman who approaches the WSC thinks that the next level is that of a lawyer. But it should not necessarily be the case that a woman has to go to that level.

The WSC needs to understand when they should be referring the case to the lawyer. A lot of time gets wasted in referring the case to the lawyer when it could have been actually done by them. There are times when they need to act urgently without having to give notice to anyone. There are times when they need to forego procedures and act instantly. In such situations referral to lawyer could unnecessarily delay the process when it could have been easily avoided.

The limitation of the WSC is that it needs to be more formal in its approach. The documentation should also be done properly. All decisions taken by them must be written down, signed and sealed by both the parties and this documentation must be done formally and there should be a format for that. If the proceedings are formally documented then it can be produced before the court and can be relied upon as a formal legal document.

All decisions taken by them are not binding. One cannot force any party to abide by it. It does not have enforceability. Unlike the case if the person does not follow the court, one can go to the police.

The advantage itself sometimes becomes the disadvantage. The informality which is the boon becomes a bane because it is then not taken seriously. The perpetrator of offence against the women is not scared of this group. The group must establish its credibility and professionalism by making it more formal and business like.

The training also has to be continuous as new members join and take part in the case handling. They become a part of the WSC but not necessarily become part of the training. The supporting organization must undertake continuous evaluation and monitoring to assess how the new and old members are intervening in the case. There is also a lot of scope to improve the documentation process which is dependent on availability of literate persons in the group. If such a person leaves or becomes irregular then the documentation suffers.

The WSCs also do not have adequate networking and alliance with free legal aid cell of the courts. Although the functioning of these cells is pathetic, they can collaborate with them. It is a harsh reality that women cannot afford the lawyers and in such a scenario availing the services of the free legal aid cell is important. There already exists a loose network of NGOs working with the free legal aid cell. The WSC should join this network.

The women in the WSCs sometimes give their own opinion which can be her personal view. She might say to a woman, *maar khayi to kya hua?* [so what if she is hit?] In spite of all the training and inputs patriarchal values do impact its decisions. The patriarchal mindset of the women in the court can sometimes thwart the process of justice.

MUSLIM WOMEN, MUSLIM LAW AND COURTS

Muslim law operates at different levels. One can approach a cleric, a lawyer, a sect council and even a WSC. A lawyer who is also a qazi will give a combined view of *shariah* as well as secular law. A WSC will look at both set of laws and decide in the best interest of the women. So there are multiple arbitration bodies which have taken the onus to provide legal succor to the community. Law as mentioned earlier is not codified except for the Acts passed in 1939 and 1986. There are various versions of the Shariat Application Act of 1937 which do not necessarily match with each other. It is in this chaos that Muslim women through WSCs have entered and are participating in legal aid process purely from the point of the view of the women.

Muslim women and Muslim law reform

The Muslim community in India is governed by the Shariat Application Act of 1937. This Act is in a way incomplete as it only says that the Muslim women will be governed by the shariat. It does not say anything more than that. For e.g. it does not say how the divorce can happen or how much should be the mehr. There is nothing in the text which only says that Muslim community will be governed by the Muslim law. The explanation of what this Muslim law is given by many prominent lawyers like Mulla, Tyebji. So different lawyers have given different explanation and interpretation of what constitutes Muslim law. And this explanation differs from lawyer to lawyer. Anything related to Muslim law then Mulla, Tyebji, Amir Ali or Fyzee are referred to.

For getting her rights under the Muslim law, a Muslim has to approach the Family Court. One of the suggestions to make procedures and systems easier for Muslim women it was suggested that there could be a Muslim matrimonial court within the Family Court just as there is a Parsi matrimonial court. Just as there are special lawyers to specialize in Parsi law, there could be Muslim and non-Muslim lawyers who could specialize in Muslim law and work in this Muslim court within the Family Court? And there is always a higher court to review the decisions. Government can

think of a special bench for Muslims in the Family Court itself. Even at the district level we could have the same system which should not be objectionable.

In *Shia* Muslim communities like the Agakhanis and Bohras there are bodies called the Arbitration councils which arbitrate in family matters. They derive their authority from the Imam unlike the councils in the Sunni community which do not derive their authority from any divine source but are formed by the sub-sects of the community as social provision. The *Shia* communities which arbitrate have a constitution, systems and procedures by which arbitration takes place. Some of these systems can be studied and a lot of learning can happen to strengthen the processes for women.

A Muslim women has a choice, she can approach the secular court, WSC, her jamaat as well as a DarulQaza. This is mandated by the Article 39 of the Constitution. All of them are arbitration bodies outside the court but they are very different from each other. A *Darul Qaza* has better acceptance than the WSC as it is a religious body. The jamaats are social bodies doing arbitration work on all matters of the community, not just women's cases. A WSC in question are better equipped to handle women's cases as they support the battered women's perspective. They respect the women's point of view which is not always done by the other bodies. A DarulQaza is generally accepted as a formal arbitration body but it is not necessarily sensitive to the women's cause. A jamaat may be more accessible than even the WSC but again it may be extremely patriarchal in their attitude towards women. A WSC is more favourable towards women but they may not exist everywhere and may not enjoy the legitimacy of a *Darul Qaza*. But the fact remains that they function in our society as bodies of arbitration.

Muslim women can benefit more from the WSC because Muslim women are not as mobile as the others. If the WSC is in the community then it is a help which is easily available for her. There are also restrictions on her mobility from her own family, especially her father and brother. The burkha also restricts her. Rehana says, Muslim women remain confined to their homes, *ghar me pack rehti hai*.' She also does not have the confidence to go out of her mohalla to seek support and justice. In such a situation when help is just next door it gives her the confidence to move out and seek help.

We see a lot of energy in Muslim women at this stage and they are very actively involved in many aspects of community life and are taking leadership. What is thus important that they are able to take up the issue of Muslim law reform in a systematic and an organized way, although they have a long way to go. The efforts taken by BMMA as seen in the last chapter is important. Drafting of a codified family law, setting up *Women's Shariah Court* and eventually facilitating women to become qazis are some very important milestones which the Muslim women's movement have already passed. They have set the bar and precedence. All further discussion on the issue of Muslim personal law and legal redresser are incomplete without referring to the steps already being taken.

CHAPTER 5

LEGAL AID PROCESSES FOLLOWED BY THE WSCS

PROFILE OF THE LITIGANT

The women who come to the three WSCs under study for help are from all communities, but mainly Muslim women approach them for help. From amongst Muslim women also women from different regions of the country come for support. Women from different sects like *Bohra, AgaKhanis from Shia sect and Qureishis, Ansaris* from the Sunni sect approach the WSCs. They may use different strategies to help her but their primary value is that she is a human being first and a woman. Her other identities come latter.

The experience of the WSC suggests that the number of litigants have increased. The nature of problems faced by women has also changed. Earlier the woman would come to the WSC after having tolerated the difficulties for at least 5–6 years. Only when it became unbearable would she take any action. She was also willing to adjust after initial attempts at reconciliation. But women now have become aware and are not willing to put up with violence.

The men have not changed but the woman has. She is aware of what she wants and is not hesitant in asking for it. Unlike the past, now she also gets support from her parents who are by her side and negotiating on her behalf. The WSC activists explain this shift by saying that the size of the family is as big, the cost of living has gone up but the income levels are the same or in fact have reduced. People continue to stay in small homes with lack of privacy and space. There is a struggle for meager resources. The son is still the earning member of the family and both mother and wife vie for his income. There is just not enough money to stay comfortably. Comparatively she is more educated than the previous generation and hence more aware of her rights and has the confidence to assert her individuality and independence.

The WSC gets cases from far off place like Nagpur, Delhi, Kolkata, Allahabad, Gulbarga. From the state of Maharashtra they get it from Malegoan, Bhiwandi, Thane, Nanded, Osmanabad. If the litigant is from Mumbai, then the WSC takes up the case but if she is from another district or state then they take the help of other organizations to support her.

All women who have been respondents to this Study are Muslims and belong to the poor socio-economic strata of the society. They are all unskilled or semi-skilled and do home-based work to support themselves. Zakira is a para nurse, Shamim and Salima do domestic work, Naseema cooks food and supplies to others while Arfa works in a small workshop. Shaista, Amena, Sharifa and Sultana are dependent on their parents while Rahima is dependent on her young son.

All of them married below the age of 20 and their current age is less than 40. Only 1 is above 50. Most of them stay in a rented house or in their parent's house. Their earnings are less than 5000 per month and they are either illiterate or studied but not finished their 10th class. Only 2 respondents have passed their 12th class. All of them have very small school going children with few having teenagers less 20 years of age.

PROBLEMS FACED BY THE LITIGANT

All kinds of marital problems are received by the WSCs. But the main ones are domestic violence, lack of financial support from and harassment from the in-laws. They also get property matters. Over a period of time the number of cases has increased. All three WSCs collectively receive close to 500 cases every year.

Domestic Violence

Domestic violence is rampant. In this matter, the Muslim women are on par with her other counterparts. Out of the 28 women interviewed for this study, 16 have faced violence from their husband and in-laws which mean 57% of the respondents of this study have faced physical violence. Shakira had her hand smashed on the hard floor which made her bangles to break and cut her. Her husband beat her up with his belt the whole night by pushing her between the bed and the cupboard so that she could not escape his fury. Rabia was a convert to Islam. Her husband wanted to remarry and being a *Bohra*, her jamaat required her husband to get his wife's permission to remarry. To get that permission, he and his would-be second wife tortured her. They tried to kill her by giving her phenyl to drink. They would eat *gutkha* and spit on her. Her husband would hit her on her chest and hit the sole of his shoe on her head. They would have sex in front of her and her son for hours together. They would hit her and then force her to say that she has an affair with someone. But she refused as she knew they were trying to frame her so that they can get a divorce. He used to hit her on her private parts. He used to try to put *belan* [rod] in her vagina so that she could be accused of having an affair with someone. Both of them would raise the volume of the TV and hit her so that nobody could hear her. He would bang her head against the wall, against the edge of the window sill. He used to make her run in the chawl with a knife in his hands. The whole chawl is witness to his violence. He used to hit his helmet on her head. He would not let her meet anyone; he would lock the door from outside and go. He would wait outside the toilet but never leave her alone.

They used to hit her son Shahbaz also. Her husband would show notes to him and ask him did anyone come in the house and give notes to his mother. He used to give her only Rs. 15/- per day for herself and her son. Her husband and the other women stayed with her for a year and harassed her. Then they took away everything from the house. There was no bedsheet in the house. Her son used to feel cold so she used to make him sleep on her chest but for how many days she could do that? So she borrowed a banner from the neighbour and slept on that. Then she started working. She got the work of cutting rubber. One man would give her hot rubber which had to be cut in pieces while it was still hot. Her husband would throw that away. Then she started doing embroidery work. The other woman would cut the pieces. All this while the WSC members were with her, to support her, in visiting the police station and the court.

Nazmeen could not wear the clothes of her choice. Her *daadi-saas* [husband's paternal grandmother] told her that if she disobeyed her, she would be beaten up by her husband. While she was pregnant she was made to carry heavy pots of water up and down the house. Her *daadi saas* would not let her breast feed the child. When she went back after delivery, she used to hit the child whenever she would be breast fed. She wanted to separate the two when they would be sleeping. She would insist that the child be fed with tea in the bottle and not milk. She was not allowed to even use milk powder. The child was also beaten up with a belt when it would cry.

Asma was beaten up so badly that when she left her house she was bleeding profusely. She left the house in Indore and came to Bombay without a ticket along with her 6 children. She was also sexually abused by her brother-in-law who also abused her daughter. Her husband very clearly told her that he wants her for sex and that he is not interested in maintaining her.

Right from the time of marriage Shagufta faced violence from her husband. It has been 30 years now and she has been hit since the time she was 13. She never understood the reason for her violence. She also believed that some fault on her part has led him to beat her up. As she grew up she realized that what is happening to her is not right. He also demanded money from her although her parents were very poor and he had a good income. He wanted her

old father to pay 2 lakhs so that he could start a shop for his sons. When she asked for an account of his money, he would hit her and warned not to ask about his income. She never spent on her illness also. She has also faced violence from her sons. He has broken her ears, strangled her and banged her head against the wall. Her husband and mother in law supported him. Even Naazma faced violence since the age of 13. She also found her sexual relationship with her husband very painful. Her husband and mother in law were violent with her till she stayed with them. If the rice is burnt or if the salt is less that would be good enough reason for the violence.

Shahnaz's daughter faced violence since the second month of her pregnancy. Her husband wanted a house, fifty thousand cash and other goodies. When Shahnaz's mother refused he became violent. At the time of her second pregnancy she was hit so badly that her kidneys got damaged and she had to be admitted to the hospital. All attempts at reconciliation by the WSC, by *jamaat* and other organizations failed and she got divorce with help from the WSC.

Many women faced sexual violence which they felt embarrassed to report, though the WSC creates a comfortable environment for her to open up and discuss the intimate details which are the cause of her problems. When women insist that they just cannot adjust with the man, there are probably these hidden sexual reasons which should not be ignored or brushed aside. Parveen mentioned that she was scared of sex and of producing children. She was scared that the husband will come to know if she used any family planning method so she would avoid sex. And to avoid sex she would go away to her maternal family again and again. If a woman is not comfortable she will never disclose this angle in the WSC. Zarina's husband only wanted sex and would insist on it whether day or night. He would send away his three children out and have sex, and then he would come back from work and have sex. If she refused he would fight. Since he had three children from his previous wife he did not want any child from Zarina. Nazneen was forced to have sex by her husband even when she had her periods.

Alcoholism, Drug Addiction and Gambling

Violence is also linked to alcoholism. Hamida's husband though handicapped would hit her when he would come home drunk. Salma's husband was an alcoholic as well as a drug addict. His brothers were also the same and he would force Salma to sleep between his brothers. The entire family would gang up and hit her. She got support from her neighbour and reached the WSC for legal guidance. She was able to get divorce from him. Her second husband was also an alcoholic and even he did not support her financially. In fact he was unemployed and even snatched away her hard earned money which she had saved for her son's education. He was violent with her as well as her son. He would hit him with a rickshaw wiper.

Shamima's husband was also an alcoholic and would beat her up the whole night. He would also accuse her of having relationship with other man. The violence continued for 3 years. She was very scared of him and would even get scared of men who would resemble him. He had also sold away all her belongings and gambled away that money. Although he was skilled [he was an electrician, mason and a driver] he never worked. He earned close to Rs. 1000 per day but never gave her anything. He thought of women as lowly, to be used and discarded. His violence increased after child birth. He wanted young women for sex. He was also demanding dowry and in spite of earning made her stay near a dust bin and never bothered to feed even his child. Her father told her not to tolerate his violence and so she approached the WSC for help.

Lack of Support from Husband

Men also do not live up to the promises. In one instance the man promised that he would put the child in an English medium school but refused to do it. They don't care for the women nor do they care for the children. Hamida's husband never supported her financially although she married him with her own money and he was a handicap. He was an electrician but never made any effort to earn money. He never had his own house although he promised to buy a house within 15 days of marriage. That never happened and she continues to stay with her mother. She does domestic work and earns about Rs.20/- per day. Rabia had to do odd jobs to support herself and her son as her husband who earned a handsome amount refused to support. He wanted to remarry and wanted her permission

which she refused. To get that permission he stopped giving her maintenance. She did embroidery work and also cut hot rubber for survival. This indicates that maintenance is withdrawn to put pressure on her to succumb to his demands. Salma's husband though gave maintenance for her and her children; he did not buy a house. All her married life, she stayed with her mother and he stayed in Dubai. He had a house in Gujrat but he made her stay in Bombay with her mother. At the end of 8 years of marriage, she did not have a house of her own. When she demanded that he stopped paying her maintenance and she had to start working in a call centre to support herself and her children. Naeema faced violence and lack of financial support for herself and her 3 children. On top of it he never let her work to support herself. He once broke her head and she was bleeding profusely. In such a state she came to the WSC. The members marched to her house and demanded an explanation from her husband. The WSC advised her that every time he hits her she should go to the police station and complain. After repeated warnings by the WSC, his violence stopped and he also did not stop her from working outside. But he does not maintain her. Similarly Safia was not given maintenance by the husband and at the same time he refused to let her work outside. Firdous's maintenance stopped when her second child was also a girl. When she fell ill she was sent to her mother along with her 2 daughters with the promise that she will be given financial support. But no support came in after that. With support from WSC, Firdous is getting 1300/- per month from him.

Stress due to Hostile Environment

A woman is looked upon as free labour. When a woman goes into the house as a wife, the domestic help is done away with and entire responsibility of running the house falls on her. There is also a lot of pressure to do things in a particular way, food has to be cooked in a particular style, and it should be done in a short time frame. The food is rationed within family, whatever the mother in law distributes that has to be eaten without asking for more. In the maternal family she is used to a particular lifestyle but that changes suddenly and too many restrictions are put on her. In a new set up she does not get support from her husband on whom she is dependent, physically and emotionally. Women are also made to go hungry. This is not just out of poverty but because of the control exerted by the marital family. Even the stale food is not kept so there is absolutely nothing to eat. Naazma went without food for 10 days. She did not even know that she was pregnant. When she was on the verge of death, she was taken to the hospital. She was made to abort her child and left at her mother's house. Women go through a lot of stress because of this and suffer from many psychosomatic disorders. She feels guilty and her self-confidence gets affected. There are constant comparisons with other women in the family and that puts a lot of stress on her as she wants to constantly change herself to please others. A woman is always in a state of fear in the family. She is constantly getting the vibes of not being wanted or wanted only for her labour and the children. She is expected to be like a doll, wound her up and she will play your tune. She has no personality of her own, no likes and dislikes and no wishes and dreams. She should do what she is asked to and should not do what she has been forbidden. She should not go to her mother's house, should not call her or her relatives. This is probably the reason for her demanding a separate household. In a nuclear family it is more probable that he will listen to her and not his family.

Rubina's family found contradictory reasons to harass her. For 4 years after marriage she did not conceive a child. This irked her mother in law who mentally harassed her. Her husband in this phase was very supportive of her and even when his mother insisted that he remarries, he refused. When she gave birth of a child, her mother in law was happy but her husband refused to maintain her. Her husband also had an extra marital relationship after the child was born. Her mother in law also refused to support her but was willing to support her son whether he is earning or not. For 2 years he was dependent on his mother. She would send Rubina back home and look after her son. She too worked as a domestic help. The problems went on 3–4 years. Her husband was not able to settle down and earn enough money. She started doing odd jobs. In five rupees she would make 1000 tobacco packets. To earn Rs. 20 she made 4000 packets. Then she made labels. For labels worth Rs.5 she would have to sit for 2–3 hours. She was spending more on her medicines and she was also feeding so the child was suffering because of her work with tobacco.

Shamim had no right over her husband. The couple was completely controlled by his brother and bhabhi. There were restrictions on food, where she was told that she eats more even if she ate only 1 ½ chapatti. His bhabhi also

did not like it if she shared anything with her husband; she wanted Salma to confide in her only. Even when she wanted to talk to him she would be surrounded by the family who would sit around to listen to them. They were not able to talk to each other. If she bought medicines for her child she was objected to. She had to take permission to buy medicine for her child. Her husband never said anything in her support. He never objected if she hit her. His bhabhi hit her husband also.

The stress is not necessarily from the husband. Zarina and Rubina both sisters, faced a lot of discrimination within her maternal family. They were not educated and married off at an early age. They were told that girls have to listen to others. Even if the brother is younger to her she has to follow his instructions. When she came home after her divorce she was made to do all the work in the house. She would be constantly nagged about her divorced status and would be told that her sister's marriage is in jeopardy because of her.

In one instance the mental and physical stress impacted the mental health of the woman. The mental stress led to physical symptoms, typically called psychosomatic problems. The women lost all the calcium from her body and started losing her hair. She also became mentally unstable and would run away from the house. The hospitals too are not equipped to understand the physical from the psychosomatic. In case of mentally unstable women, if she runs away from the house, she is at risk of sexual abuse and assault. In such cases a woman is extremely vulnerable. She allows the problem to grow because if she shares these problems immediately after marriage, both family and the larger society accuse her of not being able to adjust. Sometimes sheer adjustment into a big family combined with increased household responsibilities takes a toll on her mental health. If in this situation, she does not get in-laws who are sensitive, then she starts experiencing stress and anxiety. A woman thus demands that she would prefer to stay independently, away from the in laws as then there are higher possibilities of the man listening and respecting his wife. The men usually do not listen to their wives and are more under the influence of his own family. Men give threats to their wives that they would divorce her if she leaves him. This means that he can divorce her but she cannot and to refrain her from going away, he, in a twisted logic gives her the threat of leaving her.

In some instances women are not able to adjust to a life after marriage especially if the man shifts to another village or another city. Parveen was not able to adjust to the village life where the toilet was far away, the water had to be filled from a far off place, the vessels had to be cleaned at one place and dried at some other place, there was no place to throw garbage. In such situations the man does not let the women speak to anyone in the WSC. He does not even allow her to speak on the phone and always makes efforts to take her away from her support system. But when the woman is aware that somebody is behind her she gets empowered and gets the strength to face the man. Once Parveen's husband was violent she told him that if he hits her again she will hit back at him and that too in front of everyone.

Remarriage by Husband

Salma's, Firdous's and Sabera's husbands had remarried and that was one of the reasons for these litigants to approach the WSC for help. It was by chance that Salma's mother and brother spotted her husband along with his new wife. Her husband also had a previous marriage which lasted for 7 years and he unilaterally divorced her by stating that he did not like her. Sabera's husband had another family in the village and after his death, his second wife and his children were made to stay with Sabera. Firdous's husband remarried because she gave birth to a girl child. When she fell ill with malaria, she was sent to her mother's house. She spent two months there. When she made inquiries as to why he has not come to take her back, she came to know that he has already married a divorced woman. Naazma's husband had an extra marital relationship with his own aunt. Rubina's husband had multiple relationships with other women. When Rubina shifted to Mumbai and shared her room with her sister, he misbehaved with Rubina's sister too and insisted that she marries him.

TANGIBLE GAINS FROM THE WSC

The nature of support given by the WSC members is completely different from what a woman would get from any non-community based support structure. It helps if the supporters stay within a stone's throw from the house

of the litigant. The WSC and the litigant share more than just a formal relationship of a helper and a victim. The families of both sides know each other. They know the history of each other's families. They have known the previous generation of the each other's families. They visit each other, borrow food from each other and are available for each other in happy and sad occasions. Hence as per the study of Jagruti Kendra, after family the next set of people a troubled woman approaches is the informal groups within the community. In one instance the women under stress got fond of listening to old filmy songs which were readily provided by the WSC women who were her immediate neighbours. Although they were very particular about giving their cassettes to anyone they would readily share with her as she was their neighbor and she needed emotional support at that point of time. Given below are some of the ways in which a WSC supports the women in distress:

Pressure Tactics

A very interesting case of Zulekha can be cited here. She had paid close to two and half lakhs to a person in return for her house. While she paid the money without any proof for her self, the buyer of her house took away her original house papers. The buyer of the house alleged that Zulekha in a state of trance had taken all the money back. Since there was no documentary proof of her payment she could not prove anything. She had lost her house as well as the money which was 2, 60,000. She needed a house, her daughter was in boarding, her son slept on the road and she slept in somebody else's house. She asked for help from the WSC. The WSC gave her an idea to trap the buyer into agreeing to their crime. The WSC told Zulekha to pour kerosene on herself and go to the police station. She did that and the police immediately responded and helped her. Both husband and wife who had taken money from her were put behind bars. Their son came running saying that they agree to their crime. The meeting was held before the police and there they agreed before the police that they will pay back the amount in installments. Another organization and local committee was also involved. She received all the money which is now with a builder. The WSC is in touch with the builder also.

Stop Violence

WSC's presence is effective in reducing the violence which women face. The man immediately gets the message that she is not alone. She is supported by not one or two women but by a group. Naeema faced terrible violence from her husband. Once her husband cracked her skull and she came running to the WSC. The members were so infuriated at seeing her condition that they immediately marched to his house and demanded an explanation for his act. He was warned not to indulge in violence at all. He did not listen, and once hit her so much that she came running to the WSC leader's house in the night crying and pleading for help. The WSC leader gathered others around and went to the police station immediately. After warning from the police station and from the women he stopped his violence. The impact of WSC intervention was that he thereafter did not stop her from working outside. Initially the court helped her get work. She then gradually started going out herself in search of work. She started making tiffins and supported herself. She says *mandal mein aayi to maarna band huwa*.[the beatings stopped after I came to the mandal]. WSC gave her freedom from violence. Abeda too faced tremendous violence from her husband who was very short tempered. In the first meeting he promised not to resort to violence and agreed on all conditions laid down by the court, but back tracked. He was violent again and she had to leave her house and go to her sister's house. Even after 3 notices he did not come to talk. Finally the members of the HLC went to his house and handed over the notice. He came to the WSC again and promised to refrain from violence. Since then he has been very sober and has not been as violent with her as he was earlier. He himself says *mandal ka dar batati hai*. He is scared of the WSC and thinks before saying anything to her.

Nafees after beaten up by her husband and mother in law came to the WSC. The women took her to the doctor and then to the police station to lodge her complaint. The court got the entire family arrested. They dropped her off at her house before other proceedings could begin. Her mother in law who was an activist in an NGO was also rusticated from her work. Something similar was done in Akhtari's case when the WSC immediately went to the police station and got her husband arrested. He was in the lock up for 3 days. After his stint in the jail, he refused

to take her back in the house and sold away the house by cheating her. He ensured that she does not get hold of the property. That time her children were too small and the WSC was far away from her house. She was not sure, whether to run to the police station, earn money to feed the 5 children or actually look after them.

Catching Hold of Him

When Naeema registered her case in the WSC, they sent him a notice and called him. But he did not come. So the women would go in the morning or late in the night. Whenever the WSC women entered the lane, his sisters would inform him and he would disappear. His children would help him run away. Whenever they went he would hide in the toilet. Women cannot go into the gent's toilet so to get hold of him they took the help of the police. He would disappear but his sisters would come forward to fight with WSC women. Then once the WSC women took the help of another such women's court in Behrampada and caught hold of him. He came to the WSC and the women told him that she does not want to stay with him. He said he wants the child and he will give divorce. To which the litigant said if he does not accept the child as his own then why does he want the child? She refused to give the child; she also did not want maintenance. She just wanted divorce. He agreed to give her belongings when he was finally put behind bars. For giving divorce he took another 2 years. But the WSC managed to do it.

Not all efforts of the court bear fruit. This is evident in Sabera's case, where in spite of sending him 3 notices, and even paying several visits, they were not able to speak to her husband. When the WSC would reach his area, he would hide himself and tell neighbours to tell them that he is gone to his village. The WSC women would go from Bandra to Dahisar to catch hold of him but in vain. After many attempts they were able to catch hold of him. But he just refused to listen to the suggestions given by the WSC. In 2007 he went to the village for good and did not come back. Later she came to know that he is no more.

Helping Enter the House

Rabia's house was in front of the house where Sisters of Jagruti Kendra stayed. Although the Sisters were not allowed to leave their homes after 10 pm, they could not stop themselves from helping her. They would accompany her to the police station. Every time she faced violence they would be there with her. At times he would hide in their house to avoid the thrashing. The Sisters next day would apprise the WSC head about the happenings. Once Rabia went for some work outside and her husband took advantage of that and changed the lock from outside. She went to the WSC. They took the matter up immediately and went with her to her house and broke the lock and made her enter the house. She had no other place to go. Then they went to the police station to inform them. The police was very supportive and said that it is her house and she can enter it at her will.

The WSC also went to the chawl owner. The house is in her husband's name. They told the chawl owner to postpone the selling of the room. They also took the help of a local political leader to prevent the sale of the room and are in the process of helping her transfer the room in her name. The chawl owner and the political leader are aware of the work of the WSC.

Sabera's husband remarried and had got his second wife and sons from the village to stay in Mumbai. She was staying in a rented house because her husband did not give any maintenance nor did he allow her to work. To escape his control she started staying in a rented house. He took advantage of this and made his second family stay in his house which was co-owned by Sabera. After his demise, the second family refused to vacate the house while Sabera continued to stay in a rented house with her children. The WSC sent two notices to the other family but they just did not respond. So now they have stopped sending notice but are planning to help Sabera enter the house. Earlier too they had helped her enter the house by breaking the lock. But she was made to move out again by the local police. On advise of the WSC she has also gone to MHADA to file a complaint but the officials there have also been bribed as a result she has not got control over her house.

Helping Gain Acceptance

When Reshma's in-laws refused to take her back, the WSC went to the Malad police station. Then they went to her house. Her in-laws refused to take Reshma. They told her mother in law that she is staying with her parents since the last 2 years. They are not taking her back nor are they giving maintenance. Women said that they will not go till they are able to leave her here. They also told her that they have gone to the police station and informed the police. They also said that they have also filed a complaint with the local social worker. If they harass her then she will first go to the police station and social worker and then come to the WSC. When the WSC women told them about the police they got scared. They now realized that she has support. After 15 days the WSC got a call from Reshma. She said her mother in law says that she does not cook, and that she keeps sleeping, and does not wash clothes. So the WSC went again to her house and did reconciliation again. After 2 months they got a call again from Reshma and she said that they are again harassing her and saying the same thing. 3 women from the WSC went again to her house and did another round of reconciliation. After that there are no calls. Her mother in law had objections with Reshma's mother coming to their house. They worked out an arrangement where the mother will not go there but Reshma will come and meet her. They wanted her to manage her relations without interference from her mother. In all the WSC did one visit to give notice and 3 visits after reconciliation was done. He refused to give maintenance after 3–4 months. For pressuring him to pay maintenance 3–4 meetings were held. Now her mother in law treats her well. She got undergarments for her and also gives Rs. 50–100 to her for her expenses; she also got bangles for her.

Negotiation with Local Panchayat/Jamaat

Muslim women are also affiliated to their sect association or *jamaat*. The matter can be taken to them for arbitration. Many times, before trying the last resort of going to the formal courts, litigants try and resolve the matter within their *jamaat*. These *jamaats* are managed completely by men and the decisions in marital issues are not usually in favour of the woman. They put a lot of pressure on women to adjust so that the family does not break. Nazneen's mother who belongs to the *Mansuri Jamaat* says, *jamaat mein meri beti ki sunwayi nahi hoti thi. Ladki ko daba duba ke bhej dete hai.* [*jamaat* does not listen to my daughter. They would always insist that she goes back to her husband's house]. In one instance the man approached his *jamaat* when his wife got him arrested. The *jamaat* asked the women to withdraw the case against him. But with support from the WSC she answered the *jamaat* by demanding maintenance, custody of child and a house. She would not withdraw the case till she gets what she wants. The matter was resolved in her favour when he abused her in the masjid itself. The *jamaat* realized that she is genuine and thereafter did not entertain her husband.

Nazneen first approached the *jamaat* but they forced her to go back. When she was unhappy with the decision of the *jamaat* she came to the WSC. When the WSC sent a notice to her husband he ran to the *jamaat*. The *jamaat* told him that there is nothing that they can do as he did not listen to them earlier. When the *jamaat* had sent her back to her husband's house, he commented that even the *jamaat* is not with you, you had to come back to me. *teri nahi chalegi hamari chalegi, abhi tu hamare pass aa gayi hai.*

Frequency of intervention

To successfully resolve the case as per the expectations of the women is sometimes a long winding task. Many times the case gets resolved in 3 sittings and at times more than 8–10 sittings and as many visits are required to resolve it. Some meetings are with the litigants alone, some are with her and her husband, and sometimes it is with the entire family, some meetings at the police station and some others at the *qazi's* office.

In Shamim banu's case the entire process of counseling in which reconciliation attempts failed, divorce and retrieval of belongings happened in 3 sittings. This is especially significant in the light of the fact that the in-laws of the litigant were not even based in Mumbai. This was possible because her in-laws did not contest her demand for divorce nor did they object to any decision taken by Shamim. In the first meeting, Shamim banu narrated her problems. The WSC sent a notice to the husband in Kanpur. They came immediately to the WSC and that is the

time when all negotiations happened. Shamim was willing to stay separately with her husband but he was adamant. In this meeting itself, both of them were sent to the terrace of the WSC office to see if it is possible to come to an agreement. But he refused to stay separately. This meeting concluded with the decision of divorce and retrieval of her belongings. In the third meeting, the husband got the divorce papers and both the parties signed. It was also decided that her father will go to Kanpur and collect her belongings. Since the child was small, it will continue to remain with the mother but they will take away the child after some years. In fact after five months, Shamim herself gave up the child to them as he was suffering from hemophilia and required expensive medicines which neither she nor her family could afford.

For instance in Tehmun's case the meetings with her mother in law was held 5 times, with husband thrice. So in all 8 meetings were held. For resolving Zulekha's property matter, one meeting was held in the society office, atleast 5–6 times in the WSC, and one meeting in the local committee's office. In Salma's case the WSC had to do at least 7 visits at his shop just to meet him and ask him to come to them to talk. They spent 3–4 months just to get him to talk. 10–12 visits were done to his house to trace him. There is no account of the number of phone calls that were made to get him to talk. The members are committed to help a woman in distress and they do not go by the watch. In case of Naeema, the court members have paid visits to the police station every time she was beaten up at odd hours.

Assertion over Marital Home

When Tehmun first came to the WSC she was very scared. In the process of counseling they realized that she is mentally disturbed. After reconciliation, she went to her husband's house but she came back with the same anxiety and fear. Her mother in law refused to keep her home. The court counseled her that she needs support and treatment. When she refused to take her back, the WSC adopted a strategy. Instead of calling her to the office, they called her to the police station. The impact of the meeting in the police station was positive on her mother in law. She got a little scared and agreed to take her daughter in law back after her treatment. When the WSC gave her a call back to take her she refused, at which they got agitated and warned her that if she does not take her back, they will drop her there themselves. They asserted that it is her house and she has all the right to go back to it. Her husband was continuing to have sexual relationship with her outside the house and as a result she was pregnant. The court told her mother in law about it and hence she agreed to take her back on the condition that she will not be allowed to meet her parents. The WSC agreed with her because her parents anyway were very poor and were not able to manage the expenses of her two children. In this instance the mother in law was trying to do away with her because of her mental illness and her son was conveniently avoiding confrontation with his mother and letting Tehmun face all the music. He was free of her responsibility but kept meeting her on the sly. This farce had to be exposed so that she gets an opportunity to assert her right over her marital house.

Supporting a Woman to File a 498A

Mumtaz's daughter in law wanted to stay separately the arrangement for which was made. She would frequently go to her maternal family in Malegaon. Her husband would be violent with her. She would go and come back and then go again. She stayed there for 4–5 months and then come back. During one of her trips to Malegaon she sent a notice to Mumtaz. She took that notice and came to the WSC. They suggested that she should get her back. So two women from the women's court went with her to Malegaon. In the joint meeting a heated discussion took place. She confessed that to get hold of her husband she also dragged her mother in law. She filed a 498A against her husband as he was very violent with her and made allegations against her character. Mumtaz got her back but asked her to remove the case which she did not. After coming back too they fought. But by now Mumtaz had started to come to the court regularly.

Once after a big fight a joint meeting was held between Mumtaz, her daughter in law and her son. The reason for the fight was that she had sold off the jewelry that he had bought for her and did a case against him. On hearing this accusation she left the meeting in a huff. She went to Dharavi to her aunt's house and lied that she was thrown

out of the house. Again two women accompanied her to Dharavi and explained the truth that she was not thrown out but left on her own. Her daughter in law went to Malegaon and insisted that her husband stay with her in Malegaon. Mumtaz agreed but her son did not have enough money so he asked for a loan. Mumtaz gave him 50,000 and made all the relevant documents in the presence of the WSC. Earlier he had refused to sign any papers but she insisted that without any written work before the WSC she will not give him any money. Her son shifted to Malegaon.

That was not the end of the story. She got a warrant again where she was asked to prove that her son is not staying with her. Again she took WSC women to Malegaon and hired the services of a lawyer, spent 500/- to get papers done to prove that her son was not with her but in Malegaon. After 2 years Mumtaz got a warrant again. Again 2 women accompanied her to Malegaon. Her son was not available. She went back to Malegaon again with the court members and got herself a bail. After one year another warrant was issued for her married daughter. She had come home for some work and sitting with her friends when the police came with the warrant. So for her bail too she went again to Malegaon and this time went with her daughter's husband and in laws. She was confident of doing it all by herself. After that her daughter in law put a case against her younger son. After 2 years her daughter in law wanted divorce. This time again she went with WSC women to Malegaon when her daughter in law demanded Rs. 50,000. To settle the matter once for all Mumtaz agreed to pay 20,000/-. Her daughter in law that time did not inform her that she is already remarried with a child.

After 5–6 months of this settlement her son came to know of this development and he came back. He demanded the house from Mumtaz. She took him to the WSC and told him to make this demand in front of them. In the court she told him that she has given him 50,000 and given 20,000 to his wife and she has incurred another expense of 10,000. She has a loan of 80,000 on her. She said she will have to clear off that loan and only after that can she make him stay in the house. Till that time the house will be given on rent to clear off the loan. So an agreement was made in the WSC that only after July 2009 will the house be available for staying. The reason for this elaboration was to show the WSC supports a litigant.

Visits Outside Bombay

The WSC gets cases from within the city and outside. Sometimes the litigant stays in the city but her husband is in some other city or village. In such cases, if the notices do not work, then they pay visits outside the city too. They have been to Gujarat, Karnataka, UP, Delhi and other states. In one instance they went to Gujarat not just once but 2–3 times.

Formal and Informal Training

The WSC keep guiding the women to take the next step. They receive about 4–5 cases every week and it is not possible for them to do visits with each litigant to different places. So instead of accompanying each woman to different places, they advise and guide her and then she does the visits on her own or with her relatives. This is like an informal training for women and invariably builds up her confidence as for many it is the first time that they are stepping out of the house. Meeting the lawyer, going to the police station, visiting another NGO for help all become part of her informal capacity building. The WSC along with the supporting organization regularly conducts formal training programmes where women get information about their rights. These programmes also help the litigant and give her the energy to fight her own battle.

INTANGIBLE GAINS FROM THE WSC

Confidence

A very common and oft repeated comment by the litigants is that '*mandal mein ane se mujhe bahut himmat mili.*' [I got a lot of strength after coming to the mandal]. It is remarkable the number of times the word '*himmata*' [strength] is used by the litigants. Simply put they feel empowered to tackle their problems after their visit to the WSC.

Education does not necessarily give confidence to women. The court provides legal support, but many other changes take place in the women. She learns to travel by bus/train. Because of her litigation, she has probably for the first time got an opportunity to travel by bus. Salma says, 'earlier I would be scared to travel alone in the bus, I was scared that if I would lose my way I would not be able to go back but now I can go anywhere, meet anyone and not scared of the police at all. I tell the lawyer what to do and what not to. My lawyer tells me I am a half-lawyer myself.'

Sabera is now so confident that she wants to start a WSC in her area. She says she will get a good response from women, because she sells bangles and hence is always surrounded by women who come to buy bangles and sit down to chat with her for hours. She also suggests that the Congress office can be used as the court office. She had come to the court to get her room back which the WSC is still trying to help her get but she says, *room to room ki jagah rahega par main badal gayi hoon, bahut himmat aa gayi hai, mujhe yaha se parivar se bhi acha sahara mila.* [I will continue to fight for the room but I have changed. I have got a lot of power and strength. I have got more support from here than I would get from my family]. She says she is not scared of men, even if he is a police wala. She talks aggressively even with the police. At the toll naka where they take money she tells them very frankly that those who do illegal work the police do not take pvti from them. But from poor people they are very eager to take money. She has become very fearless.

Naaz is herself surprised that she could fight her own battle and this strength she got from the WSC. She says without it her life would have been over. She had God above and WSC below.

Sense of Freedom, Comfort And Peace of Mind

After their cases are solved, women feel very happy and experience a sense of freedom. Rubina says, *pav me bedi nahi hai. Mai apni marzi ki maalik hoon. WSC nahi rehta toh meri wohi zindagi rehti. Wahi jaana padta.* [I don't have chains now, I am now my own master, if I would not have come to the WSC I would have led the same life and would have continued to stay there]

Women feel very comfortable coming to the WSC. The atmosphere is non-threatening. They sit on the floor in a circle and listen to her. The litigant and the counselors are from the same class and culture. Her lack of education does not hinder her. She can put her thumb impression and the rest of the writing is done by the court. One woman says, *Jab se WSC mein aai hoon mera acha hi hua hai. acha hota hai karke to aati hoon na mai.* [after I came to the WSC only good has happened with me. Because good has happened with me, I come.] After the first hesitation, women start feeling very comfortable. She starts knowing everyone in the WSC and everybody else also gets to know her. The familiarity makes her feel very comfortable.

As they start coming to the WSC and interact with the women, they experience a sense of peace. *Acha lagta hai, sukoon milta hai.* [I like it. I feel at peace with myself]. This sense of serenity comes not just because her case is getting solved or has got solved but because the place offers her space to just be. She either shares her own problems or gets to hear others which is cathartic. There is an unburdening of her mind.

Aggression

It may not be a very welcome change, but some women become very anti-men. Sabera says she hates men. When they say anything against women in bus or train she fights with them, she raises her voice and protest. '*turant tok deti hoon.*' That person then must keep quiet and not say anything. She says, '*mahila jo karti hai woh marad nahi karte.* [whatever a woman does a man does not do] If a woman is in trouble and needs hospitalization, she takes her and she will not bother whether it is day or night.

Caring

Women find the WSCs very caring and supporting. Women feel lonely and vulnerable especially when they do not have support from their maternal family or when they do not have any maternal family. As Safia says, *koi puchne wala nahi ho to inka [WSC] bahut aasra hai.* [even if there is nobody to ask for me, I know I have their support].

She feels she has somebody who cares for her. Tehmun says '*mere pahle ma baap chut gaye, mere doosre ma baap mil gaye*,' referring to the WSC as someone caring for her welfare as parents would do.

Safia has a big family in Hyderabad and whenever she had problems in her 20 years of married life she would go to there with her problems. This time too she got calls from her family but she did not go. '*jagruti mein mujhe mayka mila hai*,' [in the WSC I have found my maternal family]. She says this and breaks down. Whenever she comes to the WSC she sits for hours. She does not feel like leaving that place. She feels very relaxed and supported. Whenever she went to her maternal family they would say '*kya jhagda kar ke aati hai*.'[so you have come after fighting with your family]. But here she does not get to hear that comment. Now she has no time to go back to Hyderabad as she is working and supporting herself.

Naaz would come to Khatoon Shaikh's house even at 11 o'clock in the night to share her anxiety with her. Khatoon would listen to her with patience, calm her down and along with WSC women send her back to her house. Naaz would also get very angry with Khatoon if for some reason Khatoon was not able to go and meet her whenever she called. Naaz would express her angry as she perceived that she has been left alone. Khatoon would understand her state of mind and not mind her expression of anger as she felt the anger was valid

Trust and Independence

The litigants have immense trust in the WSC activist. They seem to be closer to them than the lawyer or the police. One litigant who filed her case in HLC said that she knew only Gulshan and that was enough for her to file her case in the WSC. It indicates the immense trust the women can elicit from the women in distress. Litigants also trust that their work will get done, whether it is getting divorce or child custody.

Not just legal intervention, many women are able to see the long term impact of their association with the WSC. The increase in their confidence helps them to find work by which they are able to financially support themselves and their children, which reduces their dependence on their maternal family. Rubina says, if the WSC would not have been there I would have worked for my brother, then for his child. I would have had problems taking care of my own child. Today I can support my children on my own.' She now stays alone in a rented house with her sister. Both of them work as para nurses and take care of each other's children. Safia dramatically says, '*main unhi ka [WSC] kama rahi hoon aur unhi ka kha rahi hoon*.' [I earn and eat all that belongs to the WSC]

Anonymity

She was confident that her problem would have got solved without the WSC because she has a lot of relatives here and some of them know *qazis* also. But she preferred to put the case in the WSC because she wanted to keep it confidential; *apni biradari me yeh baat faila nahi*. [so that this issues does not get discussed in my community]. The WSC is comparatively more formal and distant than the *jamaat* or *biradari*. The *biradari* consists of the larger clan and distant relatives before whom these matters become a matter of gossip and hinders future marriage prospects. A WSC gives that space which also protects the identity of the girl and her family.

Support

Women who does not have money, support, knowledge or anyone to guide her, feels very comfortable in the WSC with the confidence that she will get all that. Women who are extremely poor and need urgent support for ration or medicines get that support from them. From very poor women, the WSC does not take any registration fees. Rubina says, '*hum jaise aurton ko sahara milta hai, aage badte hai. Agar mujhe inka sahara nahi milta toh main haal jaati thee*.' [woman like me gets support, we go ahead in life. If I would not have got support from them I would have lost out in the battle]. There is so much money required to hire a lawyer that a women just gives up and sits. The WSC has a lawyer on board which gives free legal aid so a woman does not spend on a lawyer.

Women also feel uncomfortable going to the police or to the lawyer. She feels it is better to take help from another woman and solve the problem then visit places where they will get to interact with men.

Women who have had love marriages find the WSC to be very supportive. This is one area where even the family sometimes back out. There are times when the woman is completely lonely and at such times the support from WSC can be very very comforting.

All the respondents have said that more WSCs should be created as these are very helpful for women who are in distress and are not able to manage the difficulties in their lives. Some women are very simple, they take the violence as their fate and steel themselves up to not react to the beatings or sexual abuse. It is for these women that the WSC should be created so that they get the strength to challenge the violence. Akko tried to commit suicide but failed. She says she would have killed herself if the WSC would not have been around. *WSC mein nahi aate hai to badnaseebi hoti hai.* [it would have been my ill-fate if I would not have come to the WSC]

Firdous says she would not have got her maintenance or divorce if the WSC would not have been there. She was alone and they were the entire family. It would have been impossible to get 1300/- out of them every month. '*Mein vasooli nahi kar paati thee.* I would have worked and supported my children and not got anything from them.'

The WSC women are there all the time to listen to the litigant. In the case of Salma they probably did very few visits, but they were always there to guide her. She would come regularly to their office to report to them about any new happening in her case. She would be given further guidance so that she could take the next step.

Livelihood Support

Zarina and Rubina got vocational training from Saheli, a local support group and are now working as para nurses. Shamima developed enough confidence to work as a full time domestic worker. Cynthia turned into an English teacher. Akko was given financial help to buy a sewing machine and earn her livelihood. She was also helped with deposit money to rent out a house. The supporting organization that time, Sahara, Anjuman-e-Islam gave scholarship for her children's education. The individual WSC members also helped her. Someone gave her children books, someone gave them clothes, and someone gave her ration for the month. Later when she became a widow the society around her told her to sit at home, maintain purdah but the women encouraged her to go out and work and not listen to these regressive voices. Those who raise these objections do not feed our children is what the WSC told her and she went back to work.

Information

The WSC is a source of information for many women. In the process of receiving help they also get education about their rights in law and in religion. Even educated women do not know laws which are meant for them. Young girls especially get to benefit as they gain confidence to handle problems if they arise in future. The WSC also encourages litigants to do social work para professional courses which further gives them confidence. She then starts working in the WSC which further helps her gain confidence. Kulsum says, '*WSC mein ake bad hi main apne pairon pe khadi hui, husyar hui, ma-bap ke waha rehne se nahi hui, nahi to dar dar ke rahti thi.*' [I stood on my feet only after coming to the WSC, got confidence here and not in my parent's house. In my parents home I was very scared].

Sabera visits the WSC regularly. She says, *mera dil manta hi nahi hai, kyon, yaha aane se ghar ghar ki kahani apne ko maloom padti hai. Hum bhi unko raasta dikha sakte hai.* [I always want to come here. My heart wants me to come here. When I come here I get to hear the stories of other women, I can also guide them]. After gaining knowledge and experience from the WSC she has also supported many women, who have been abused by alcoholic husbands. Once a woman came to her who had 4 small children and her husband was alcoholic and violent. She came to her shop and complained, Sabera called her husband and told him that if he came to her shop in a drunken state she will get two boys and beat him up.

Naaz too has attended all the trainings on Muslim law, on Quranic rights, on gender, which were organized by the supporting organization. She says '*himmat bahar se nahi aati.*' [strength does not come from outside]. Each person has to gather that within herself and when she gets support, this *himmat* surfaces. As a result of the training she has now reached a position where she can help others. She is an activist associated with Hukook-e-Niswan

Sanghatana and Bharatiya Muslim Mahila Andolan. The training has given her a lot of knowledge and confidence. She can now enter a police station and get her work done. Earlier she would just sit in the corner of the police station in a *naqaab* [veil] and listen to the abusive language of the police.

Ability to Deliver

Women find the WSC worthwhile for the simple reason that their work got done. Someone got her money back, someone got divorce, someone was able to get lump sum maintenance and somebody got relief from violence. As Nazneen's mother says, *Aurton ki himmat rahti hai, aadmi dabta hai, kharcha pani bandhe jaata hai.* [women give strength, men get scared and give maintenance].

Acceptance of Family Norms

Women appreciate the fact that the WSC first tries its best to reconcile and get the woman and man together as family. As one of them says, *joodane ka kaam karte hai, toodane ka nahi.*

Taking steps to prevent the breakup of family is a value held closely by the women. Litigants also like the fact that the WSC listens carefully to both the parties properly. It is not the case that they listen only to women. They judge where the matter has gone wrong and the party responsible for it.

Safia actually wanted divorce but the WSC dissuaded her from doing so by saying that divorce is the last option. Other options must be explored. There is a misconception that women's courts encourages woman to take divorce. Safia is pleased by the fact that the WSC will not break the family by insisting on divorce. They in fact do not prefer divorce as a mode of resolving the issue. The husband in fact stands to gain if she seeks divorce as he would then immediately ask her to leave the house as the house is usually in his name. She would, out of her maternal instinct take the child along which actually leaves the man with no responsibility at all. Instead women should stay there, work, support herself and also make the man fulfill his responsibility. He should not be let off so easily. Only when the litigant is very clear about divorce which usually is when there is violence and abuse, the WSC goes ahead for divorce.

Costs

The litigants are happy with the fees. They realize that it would be so much more if they would go to the court. For those women who stay in the same community setting do not have to spend on the traveling also. For very poor women, the court bears the expenses required for traveling also. Rubina says because of the legal support she has been able to save the money which she would have had to spend on the lawyer. *Agar court ka rahta toh mai mere bacho ko kya khilati?* [if it would have been the formal court, what would I have fed my children?]

Remarriage

After a year of divorce Naaz wanted to remarry. That time also she approached the WSC and told them that she wanted to remarry. They helped her do the nikaah on the nikaahnama prepared by them. As a result she got a house and Rs. 10,000 as mehr. She did nikaah as well as registered her marriage in the court. In the divorce as well as the nikaah the WSC was involved as witnesses. Her brothers did not want her to remarry this man as he was not from their caste [biradari]. He was a Khan and she was a Bagwaan. She told them that she is not a small child and that she is a mother of 4 children and she knows what she is doing. She also wanted to have family again. They had got a fatwa that her nikaah is invalid. The WSC women took this fatwa to a Mufti and the Mufti gave a verdict that her nikaah was valid. The Mufti's fatwa went in her support.

Some quotes

If the WSC would not have been there, what would you have done? Some of the answers are quoted:

‘Mere to samne andhera tha, meri to ankhe band thi, mujhe kuch maloom bhi nahi tha. WSC mein aane se meri ankhen khulna chalu hui.’

‘meri samajh khulti gai.’

‘agar WSC nahi hota to meri zindagi kya ke kya ho jati thee’

‘Allah jaane kya karti, shayad mujhe ghoot ke rahna padta, ya mai mere gaon chali jaati, yeh to allah tala ka karishma hai, nahi bata sakti, shayad mandal nahi hota to mujhe bardasht karna padta. Mar kha ke rahti, jo bolta sunna padta tha. Aisa hi hota tha.’

‘Allah! Tab to allah hi allah tha. Allah ke siwa to koi hai hi nahi. To kya karti thi mai.’

‘mandal nahi hota to meri zindagi aise hi chali jaati, chaalaki nahi milti. Ghar me reh reh ke, ghut ghut ke mera dam aise hi nikal jaata. Yaha aane se aisi himmat mili ke mai bhade se ghar leke, apne bache ke saath akele rahti hoon aur main bahut khush hoon. Aur aise mandal khulne chahiye take akeli aurton ko apne dil halka karne ke jagah mile.’

sunwayi hoti hai, apni baat rakhne ka mauka milta hai.

Main jaise par kati parinda, lekin saari mazbooti mujhe sab mandal se mili.

Baki aurton ke tarah ghoot ke mar jaate. Bheek mangte. Jab tak pair chalta mehnat kar leti, silaai kar leti, dekh kar sikha hai. Jaise aam aurtein mar jaati hai chilli chilli ke vaise mein bhi mar jaati. mujhe laga mere maa-baap mil gaye.

Rakhte baitha ke aur ka karte. Pareshani uthate, biathake rakhte, sochte din raat. Hamare liye bahut koshis karte, hamare liye to acha hi kiye.

Pareshan ka saath dete hain. Mujhe ghar ki beti jaisa samajhte hain, is liye lad paayi. Dukh samajhte hain.

Agar mandal nahi hota to mai jail mein hoti, is liye pyaar hai in se. jaha rishtedar nahi hai waha yeh log hai. Mujhe doosro ko madad karna hai is liye bhag bhag ke mandal me aati hoon.

PROCESSES FOLLOWED

Process of Getting Maintenance

Firdous had registered her case in the WSC for getting maintenance. The court called her husband by sending him a notice. After 3 notices too he did not come so they decided to confront him in his area. After that confrontation he came to talk. He blankly refused to support her and did not want her at all. The WSC put a lot of pressure on him and demanded Rs. 2000 for 2 kids. He agreed for Rs.1000/- . No decision was taken in that meeting. He was called again the next day. Next day he did not come but his mother and sister came and fought with the WSC women. They said we will not give maintenance but wanted the children. The women put a lot of pressure on her to give maintenance as Firdous did not want to give her children to them. When no decision was taken the women went to the police station. Firdous narrated her case to the police. The police was very cooperative and sent a junior police officer to his house and got him to the police station. They made him agree to pay maintenance. After a lot of haggling Rs.1300/- was decided. Since the last 3 years he is paying me 1300/- . He does not come. Her mother in law stays in Bandra so she comes and gives the money to the WSC women and Firdous collects it from the WSC. Since then Firdous has shifted to Mumbra and comes every month to the WSC to collect her maintenance. In Mumbra she stayed with her 2 kids. She does domestic work and earns 1500/- plus she gets 1300/- from my husband.

Then her mother in law put pressure on her to give the elder daughter. To escape that constant pressure she applied in the WSC for divorce. The WSC called them to negotiate for divorce. They refused saying that if she remarries the new husband will not treat the girls properly and sexually abuse them. The case went on for 6 months. His sister and mother fought with the WSC women and insisted on taking the girls back and then giving divorce.

Her husband never came to the court inspite of being called many times. When the pressure increased he agreed and came. The women said either keep Firdous or divorce her. He said he will give divorce but will not pay maintenance. The WSC insisted on the maintenance as the kids are his responsibility. When he refused to listen they went to a *qazi* and her divorce was done.

In the entire case solving process the WSC must have had atleast 25–30 meetings in the court, in his house, at his work place. They also sent the case to State Women's Commission. This was done to make him come and talk. But they did not get any help from the Commission. They took the help of one respected person called Fazal bhai and he pressurized him to talk. But he said he will talk to the court members at his work place to which they agreed. When he refused to agree they went to the A.K Marg police station and called him there. He came there with his mother. He was never regular in his payments so the WSC women went to his house to collect money. That too he used to give in installments of 200 or 300 rupees. Then they put pressure on him and made him pay regularly.

Unless the man is formally employed, it is difficult for anyone to make him pay maintenance. In a formal employment, the court at least can issue a notice to the employer to cut part of his salary to maintain his wife. But a woman whose husband is a daily wage earner or is self-employed or has a family business finds it very difficult to get maintenance from her husband. The WSC receives cases of women from poor economic backgrounds. And needless to say her husband too is either semi or illiterate and is either unemployed or irregularly employed. In such a situation even they find it quite challenging to extract maintenance for his wife. Yet there have been several instances, where the WSC has succeeded in getting some financial succor to the litigant. A respondent of this study gets Rs. 500 from her husband every month. His second wife deposits that amount in the court and litigant collects it and signs the register. Of course in times of growing inflation, this amount is peanuts, but that is what the man is capable of providing. This is possible because the husband is scared of them and even before the litigant reaches the WSC office; his second wife reaches and gives the money.

In another case that the WSC helped women get maintenance and right to stay in the marital home, the in laws used various tactics to drive away the women. In Reshma's case, they would cut down on food and when she fell ill, she was not treated well. Every time her mother got her home, they would refuse to take her back. They would also not come to meet her, not even her husband. When her mother took up this issue, her mother in law fought with her along with 50 other women. Once when her elder sister went with Reshma to drop her, they refused to take her in. Both of them had to come back. That is the time when her mother put her case in the WSC. On making inquiry they realized that the house belongs to Reshma's mother in law's father in law. He did not want Reshma to stay there. Hence her mother in law wanted Reshma's family to buy her a house. This demand became pronounced when Reshma's mother got lots of money when her house in Bharat nagar was taken over by the builders.

In the process of counseling they told the WSC that because of space crunch they want Reshma to stay with her parents for a year and then they would take her back. The court then told them to pay maintenance of Rs. 1500 pm to her which they refused. They agreed on Rs. 1000/- . They gave this amount for some months and then they stopped. When they stopped giving maintenance Reshma's mother came again to the WSC and told them that they should either take her back or should pay maintenance. They refused so the WSC went with Reshma and dropped her to his house. His dada sasoor gave a lot abuses. But the women did not budge and left her in her house and came back. Since then she isstaying in her house. Now also they abuse her but now she talks back. She is not scared of them any more. They do not allow her mother to come and meet her but she is free to go and meet her mother. The mother and daughter meet at the bus stop. So the WSC forced the in laws to accept her, helped her get maintenance and her marital home. In the process she has also learnt to fight back. The court continues to maintain their pressure on the family. They meet her or give her a call to find out how she is.

Process Of Retrieving Belongings

When the women says that she needs her belongings, the WSC first finds out whether she has a list of those items which was made at the time of marriage. It is a system in Muslim marriages that at the time of marriage, the parties

make a list of things that they give each other. It is mostly the list of items which the bride's family gives to the bride and to her groom and to the other relatives of the groom. If the dispute occurs fairly early after marriage, then the bride's family has high chances of having the list. Otherwise the WSC goes by the mutually decided list of items between both the disputing parties. When there is no agreement, they tell the woman to go to her marital home and pick up whatever she thinks belongs to her. The court members are not in the fore front as the husband's party may accuse them of theft. But they cannot do so with the woman as it is her house and she is taking her belongings from her own house. If some of the items are remaining and have to be collected latter, then a separate note of it is made and a later date is fixed to retrieve those items. This note is also signed by both the parties.

Before the WSC goes for retrieving the belongings they inform the family about the date and time of their arrival. This is done to ensure that the family is around when they go to pick up the items. On the day of retrieval, the WSC goes first to the police station to inform the police that they are going to this person's house for the purpose of getting the woman's belongings. This is done to ensure that if the husband's party approaches the police station with the complaint of theft against the WSC or the woman concerned, the police are well aware of the activity. This ensures the safety of the court members as well as the litigant.

Before approaching the husband's house, the WSC and the woman arrange a tempo or a truck to fill the belongings in. This is done to ensure that once the belongings are retrieved the family should not spend much time searching for a vehicle. In most of the cases, the process of retrieving belongings is a very emotional moment for both the parties. For the husband it is also very embarrassing as the neighbours become witness to this situation. The woman may find certain items missing and would insist on getting that item before leaving. To make the process as quick and smooth, the truck or a tempo is previously arranged. The belongings are retrieved as per the list or as per the mutually agreed upon items. Another list of retrieved items is made and both the parties sign along with signature of witnesses. This is done to ensure that nobody accuses the WSC or the woman of stealing.

As per the Muslim law practice in India if a woman asks for divorce she does not get her belongings, her mehr or anything that she has given. All this she has to give up. WSC felt that she should not let go of her belongings. So the first step which they do before demanding divorce is to remove her belonging from her house. It is either done amicably in collaboration with the husband or if he does not cooperate then with the help of the police.

The WSC women also strategize. If they want to take the help of a lawyer for a divorce, they first go to her house to retrieve her belongings, because they know that once the case goes in the court they will not be able to do that and the woman will remain deprived of her belongings. In many instances she does not get her belongings in spite of the best efforts of the court. The in laws sometimes sell of the jewelry or break her furniture; in such instances also the women refer her to the lawyer so that the remaining stuff can be collected through the court.

Sometimes when the husband is just not willing to come and talk, then with the help of the police, the WSC arrests the member of his family and they are then made to give the litigants belongings. The case is then further pursued. In one instance the decision to collect her belongings happened in the WSC and the litigant's family went to Kanpur to collect the same. She got only half her belongings, all her jewelry and her mehr back.

The situation at the time of retrieval can get very complicated and violent. In one instance the girl wanted to have her clothes, so three women from the WSC went to her house. Before that they went to the police station and lodged an NC. They were expecting trouble so they requested that one female and one male police to accompany them. When they reached the house the girl's mother in law was not able to trace the cupboard keys. Once the keys were traced the mother in law fought over the clothes. Her husband did not let her take her clothes. He snatched the bag from her and was not letting her take good clothes. From one end he was pulling and from the other end the WSC woman was pulling the bag. There was a tug of war. The police had to intervene and the husband was made to give up on her clothes.

Sometimes a lawyers notice is enough for the man to agree to give her belongings to her. Sometimes retrieving the girls belonging is the easiest part. When the husband's side does not want to challenge the requirements of the women and want to get over the case soon, they cooperate with whatever the WSC wants them to do. In one

instance the in-laws even got all the paper work done for divorce. Their only condition was that her belongings should not be taken from their house directly, they will send it to the other son's house and from there the WSC can pick up the stuff. This is to save their face in their local community and before the neighbours.

When a woman first leaves her marital home and comes to the WSC she is usually not in a position to take a final decision. She wants to reconcile and go back but she is also worried about her future. Only when she is sure that she does not want to go back that she decides to retrieve her belongings. In some cases the decision whether or not to retrieve the belongings is easier when the women has faced immense violence. A young activist associated with the court married a man whose mother was also an activist. She was happy to have been able to marry in such a house. But when she faced problems and when she was beaten up black and blue, the entire WSC rose to support her. At least 30 women from 3 different WSCs went to her house to get her belongings. 30 women at his doorstep was enough to shame him. She feels good about the fact that her in-laws were treated with so much indignity. The satisfaction is as much over getting the belongings as it is over the shame and indignity which they experienced. It just gives a lot of emotional satisfaction to the litigant. She says, *Jis tarah se unhone torture kiya that us tarah se unki beizzati hona zaroori tha.* [the way they tortured me it was important that they face the humiliation]. She was able to get her cupboard, bed, jewelry and everything that belonged to her. She herself was in the forefront to get her stuff with her own hands. A list of retrieved belongings was made.

Process of Reconciliation

The WSC since the time it was formed has been accused of breaking homes. *Yeh log to talaak dilane wali aurtein hai.* Much care has been taken to shake off this perception and now after many years, the WSC has gained acceptance from the larger community. They also feel that divorce should be the last option. All efforts must be made to keep the family intact. For them it is important that people live with their families. They also mention it that the couple must at least spend 6 months before the divorce can actually happen in the WSC.

There are reasons for this too. The woman has sometimes very little support from her maternal family. The maternal home is too small to accommodate her and her children. It is ironical that the same house becomes alien to her after marriage. She is treated like a stranger. The brother then marries and has his own family. The space crunch combined with patriarchy leaves the woman with very little choice. Unless it is life threatening the woman will herself try her best to adjust to the family. The WSC members have also observed that this scenario has also changed over the last decade. More and more litigants get support from their parents and as a result they are not willing to put up with violence or harassment for a long time. Hence within a very short time, the woman approaches the WSC for legal aid. The WSC as per their rule tries their best for reconciliation.

The WSC sometimes has to maintain objectivity when one of their members has a problem within the family. There is a rule that in such a situation, the concerned member, whose family member has filed a case in the WSC, will not speak nor will she handle that case. Naseem's daughter in law who is 12th pass used to run away from the house. She was not able to adjust within the family. Small fights would take place and that would anger her and she would go away. The WSC did not allow the member of the court, her mother in law to sit for the proceedings especially when she had to share her side of the story. But her daughter in law did not trust that the WSC will support her since her mother in law is a very senior member. Even after the WSC members assured her and did not let her mother in law sit for the meeting, she did not really share anything. In fact she was given an assurance that whenever she has any issue she can call up to the member's home anytime. Still the next time she had a fight, she went away to her marital home without informing the WSC. She did mention that *tum log sab unke to hai.* [you all are with her]. Although the family has adjusted with each other, the lack of trust which the daughter in law exhibited in the WSC because of her mother in laws membership in the court, makes one wonder how long would the reconciliation last.

Process for Divorce

When a woman first registers her case for divorce, they explain to her that getting divorce is not the first option and that they will speak to her husband to know his side of the story and if possible try for reconciliation first.

The woman sometimes does not want to stay with her husbands as they are tired of the harassment. The man sometimes remarries and has children from the other wife. The first wife then does not want to stay in the marriage.

It goes without saying that divorce is easy if it is mutually agreed upon. But when it is wanted by one party and contested by the other then the process is delayed. As per the Muslim law when the wife demands divorce it is called *khula* and if she demands *khula* she has to forego *mehr* or give up some part of her demand. When a man initiates the demand for divorce he has to pay maintenance to her for future for her as well as for the children and he must also pay the *mehr* if he has not done it at the time of marriage. The Muslim men take advantage of this clause and refuse to give divorce to her when she demands it. They will not support her, will continue the violence and also not give divorce. And this they declare with impunity in the WSC in the process of counseling. The WSC then approaches the *darul qaza* and explain the situation to the chief *qazi*. He sends three notices to the man to come and talk to the *qazi*. If the man turns up in the first meeting the *qazi* listens to his side and takes a decision. But if he does not turn then after 3 notices, the *qazi* annuls her marriage. He issues a letter to the man and the marriage is terminated. This process is called the *faskh-e-nikaah*.

When a woman approaches the WSC with a plea for divorce, they first assess whether any reconciliation is possible. Their aim is to prevent the family break up. There are many reasons for that. The girl who is married off has many siblings behind her and usually has a brother who is either married or is of a marriageable age. The city of Mumbai is famous for its space crunch. With patriarchal values still intact the married girl wanting to come back to her home is not welcome. She is usually accompanied by a couple of children of her own. For instance in Shamima's case after she registered her case in the WSC, they called her husband. When he did not respond to their notice, they went to his house. Her in-laws lied saying that he is not around when actually he would be hiding in the house. While her mother in law and sister in law troubled her, her parents refused to take her back saying that their house is not an orphanage. When she threatened to kill herself if she is forced to go, they relented. Her husband in the meetings would promise to look after her and the child but he did not. The day he was supposed to come and take her to his house, he did not come at all. Later he called the court saying that he wants to divorce her and take the child. Shamima knew that he would take away the child and not divorce her. She also knew that although she needs her belonging back, he had already sold half of it. He was anyway not maintaining her. She discussed her assessment in the WSC meetings and finally decided that she wants nothing but divorce from him. For helping her get divorce, they took her to the *qazi*. The *qazi* sent two notices to her husband. He did not respond to that so she paid Rs. 750/- to the *qazi* and got a divorce. They said they need to meet the husband and see who is at fault. She was very keen that she gets a divorce as he would visit other women and was not supporting her or her child. The court members accompanied her to the *qazi* at least 2–3 times.

They also visited her in-laws 2–3 times. In the joint meeting they realized that the litigant did all the work in the house and yet did not get enough to eat. They blamed their son for not taking care of his wife and hence they felt it was not their responsibility to maintain her. They tried to explain to the in-laws but they did not listen and in fact started abusing her. The WSC then was convinced that divorce is the only way out.

The first visit to the *qazi* is paid by the litigant along with the WSC women. The litigants travails are narrated to him and his support elicited for her divorce. The *qazi* then sends a notice to the husband calling him to come and tell his side of the story. If he does not come then another notice and then yet another is sent. If the man just does not respond then the *qazi* annuls her marriage and gives her a certificate. In one instance the *qazi* sent the notices to the husband not just at his house in Mumbai but in his village in Gujarat and his workplace in Dubai. The notices were received by his relatives. This was done to ensure that he does not deny receiving any notice. If the man comes for the meeting, then even the *qazi* tries for reconciliation. The presence of the court helps as they give inputs on their efforts at reconciliation. They speak to him on her behalf and advocate for her divorce. When the *qazi* realizes that the WSC has done enough to save the marriage and if his own experience shows that the man is beyond redemption, then he issues the certificate of annulment. The WSC refers their cases to the *darul qaza* which is within the city of Mumbai. In one instance the court called the *qazi* in their office and the divorce was done. So there is flexibility as to where the marriage can be terminated.

There is also another kind of flexibility while dealing with the *qazi*. In Shahnaz's daughter's case the notices from the *qazi*'s office were hand delivered by Shahnaz herself, not just once but thrice. And this was done by Shahnaz alone as the WSC did not have time to accompany her for all the visits. They spoke to the *qazi* on the phone and sent Shahnaz ahead for further action. This indicates that the litigant is not cut off from the process but is actually a part of it. She steers it herself and is an active collaborator.

In Shahnaz's case we also see how one set of law can be utilized for implementing another set of law. In this case one is a secular law and the other is a personal law. Her daughter faced so much violence that a case of 498A was registered against her husband and the family. They were keen on doing a settlement so that they can get rid of the case. The WSC took this opportunity to negotiate for a divorce. Her daughter was just not keen on going back. She was sure she will be killed if another attempt at reconciliation is done. So they told him that the case will be taken up only if the divorce is done and she gets her belongings back. The court helped her marriage annulled through the *qazi* while the case of 498A was still pending in the court. The women thereafter suggested to her that the case should be terminated only if they give all her belongings back. They gave her back her belongings but they still have 2 tolas of gold with them. The WSC is not in a hurry to withdraw her case. They are planning to insist on the remaining gold and a lump sum maintenance for her when the 498 A comes up for hearing and they will insist on a settlement.

In Zarina's case, the divorce happened in the WSC itself without the *qazi*. The WSC made the papers and took his sign and it was over. All the processes happened in the WSC and all the expenses were borne by the WSC. But it was not so easy. In spite of calling him often to the office, when he did not turn up, the court complained to the police and he was put behind bars. While in the lock up he allowed the court to take her belongings. But for divorce he took 2 years. He would agree to give them back out. Zarina got her mehr of 1100/- but did not get her iddat maintenance. She was happy that at least she was free from him.

In Nazneen's case the WSC did try for reconciliation. The girl faced sexual violence from husband and her life was completely in control of *daadi saas*. Her husband said his grandmother is his God. His grandmother decided what she would wear, what she would eat. She did not let her breast feed her child as she wanted to take it away from her. She also hit the child with a belt and fed him tea instead of milk. She also did not let Nazneen meet her parents. She wanted her husband to stay separately or have a divorce. Her husband refused to stay separately and also did not agree for a divorce. He would say, *sadaunga, budi banaunga lekin talaak nahi doonga*. [I will make you rot, make you grow old but never divorce you]. All her problems were stated before the *qazi*, even the sexual harassment ones. Even before the *qazi* her husband used sexually abusive language. 2–3 meetings were held with the *qazi* in the WSC itself. After all attempts failed to make the husband see sense, the divorce happened in the WSC itself. She got her mehr back and did not claim for maintenance either for herself or the child.

In Naazma's case too the WSC tried for reconciliation. Naazma was married at the age of 13 and obviously had no idea about marriage. In fact she had no idea that she was getting married till they put henna on her hands. Her parents did not let her study. Her in-laws married her for the dowry. They started troubling her immediately after marriage. She was not given food to eat. At one point of time she went without food for 10 days. She was forcibly made to abort her child when in fact she did not even know that she is pregnant. In the joint meetings they complained about everything that she did in the house. She gets up late, the rice gets burnt. Based on these allegations, the violence started immediately after marriage. In the WSC meetings they kept on insisting that they do not want her. The WSC would assure them that she will learn and manage after some time. They would send her back but their abuse continued. After 5–6 joint meetings the same decision was taken that she should go back but they never improved. After 5–6 meetings she went back 2–3 times and then the abortion was done. After that she did not go. After wards the WSC set a final date for the final decision. She wanted to stay but they wanted divorce. The entire process was over in 20–25 days when the court finally helped her get divorce. For the divorce the court members went to the *qazi*. At the time of signing the document his family and the WSC members were all there. Till the end she did not want to sign but they insisted and it happened.

For a woman proof of divorce is essential for a second marriage. In case where the divorce is oral and unilateral, a woman has no proof and while the man goes ahead and remarries [he can do it even without divorce] a woman can't till she has all proofs. In Parveen's case, her second would-be husband had to bribe a qazi to get her divorce papers done as she was orally divorced by her first husband and she had no proof of it. While registering her second nikaah in the court she did not inform the court that she is a divorcee.

Even before the final process of divorce is initiated, the WSC gets her belonging back. That is an easier process than divorce and within the limits of what the court can do easily. Sometimes there is a gap between the retrieval of belonging and final divorce. This is also the time for the couple to rethink and re-mull over their decisions. For instance in Nafees's case her husband showed keenness in salvaging the marriage but when Nafees demanded a separate household he was not willing to. He too was under pressure as his mother threatened not to give him property worth 14 lakhs. When it finally appeared to Nafees that there is now no possibility of preserving the marriage, she requested the court to initiate divorce proceedings. In the intervening 8–9 months, Nafees continued to visit them and listen to stories of other battered women. She also did voluntary work in the court and got a much better understanding of the problems of other women. She was hoping that things would look up but they didn't.

Her divorce happened with the help of the *qazi*. She also wanted her *mehr*, *iddat* amount and compensation for all the abuse. The latter she realized would be futile to chase as they would not give. The *qazi* helped her get her *mehr* of Rs. 10,000 and *iddat* amount of Rs. 5500/-. It took the *qazi* 2–3 hours to convince her husband that it is her right to receive *mehr* and *iddat*. He wanted more time to arrange and was also haggling over the amount. Nafees very confidently told him that he is not here to negotiate the price of vegetables; she said she wants all settlement to be done that day itself so she does not have to face him again ever. The whole process took a week's time and the *qazi* did not charge anything from her as 'yeh to hamari apni hai.' [she is our own]. After divorce too her mother in law troubled her and even tried to hit her. She again complained to the WSC. The women warned her that they would take legal action if she is troubled any more. The problems stopped thereafter.

In Khatija's case the *qazi* sent three notices to her husband and he did not respond to even one nor did he go and meet him. After three notices, the *qazi* gave out a public notice in the newspaper about the annulment of her marriage and also gave her certificate of annulment.

Getting divorce from *darul qaza* is easy if the man acts stubborn and refuses to negotiate. Even before going to the *darul qaza* the WSC tried their best to negotiate with Khatija's husband but he refused to comply. All this also adds to the efforts of the *qazi* who then realizes that a divorce is better for the women. Naaz had put her case in HLC and the counseling with her husband went on for 6 months. Naaz's husband was not maintaining her or her children and was not even staying with her. Her husband told the WSC that he is not maintaining her because he does not have the money. He wanted to come and stay in her house to which Naaz agreed but she demanded maintenance for the last 2 years when he was not supporting her. When he refused she demanded divorce. To which he added the condition that he will divorce only if her brothers ask him to. He just refused to give way and created hurdles at all solutions. Naaz knew that her brothers will never agree to a divorce so she requested the WSC to help her get divorce. That time Naaz had registered her case with the HLC. When the Committee was not able to negotiate with her husband, they referred her case to WSC for divorce. The WSC took her to *Darul Qaza* and after their process of 3 notices, the divorce was done. The *qazi* sent him a notice at which he came to talk to the *qazi*. The *qazi* listened to both the parties. Her husband did not respond to the notices from the *qazi* immediately. So while Naaz would go on the appointed day to meet the *qazi* he would not turn up. Because of his irresponsible behavior the *qazi* also realized that she is right and he is wrong. They asked Naaz if she was willing to forgive her husband if he apologizes, she refused and said that she just does not want to stay with him. The *qazi* said he cannot force her to stay in the *nikaah*, so her *khula* was done in the office of the *qazi* and in the presence of the WSC. Also around the same time her brothers would call the *qazi* and told him that what he is doing is wrong and that if her husband is not willing she cannot get divorce. The *qazi* thus realized that her brothers are the real culprits and they are keeping her husband away from the *qazi*.

Kulsum's divorce happened in her absence and in the presence of her family. She had approached the WSC for a divorce. So they sent three notices to her husband and called him for a joint meeting but he never came. He told Kulsum that they would talk if she withdrew the case from the police station. They refused. He was scared that they will put him behind bars if he comes for the meeting. The WSC head went personally in his house to call him. He met them there and after a lot of discussion and debate, the husband said that he will do what she wants. He agreed for a divorce as Kulsum's father did not want his daughter to get harassed any more.

Since both the parties were keen on a divorce, the arrangement done was that both the parties will sign the divorce papers without face to face interaction. The papers were prepared by Kulsum's father in consultation with a *qazi*. Kulsum signed the papers and then those papers were sent to the husband's side. 5 members of her family and the WSC members went to his house and got it signed. He was not intending to give her *mehr* so he lied that he has already paid. They immediately called Kulsum to check if she has received it and she denied. When he was caught he agreed to pay but again lied about the amount. While his father said the amount is Rs. 786/- he said it is 10,000/-. The WSC confronted him on this also and asked him to pay immediately. She had received some jewelry from them. The amount of this jewelry was deducted from the *mehr* and given back to Kulsum. Although her father was not keen on getting the belongings back, they insisted that he should not let go off anything. He should give it to the poor but not leave it with them. In all, she got Rs. 19000/- which included her jewelry as well as the *mehr*. In that one meeting her belongings was also removed. When they took away the belongings there was nothing left in their house. In all 2 meetings were held, one to negotiate the terms and conditions and the other for implementation.

Property Matter Process

In Zulekha's case the WSC helped her get her property back. Zulekha had a troubled marriage. About 10 years back the WSC had counseled her and had warned her husband to refrain from using violence. Since then she has been a regular at the court. She had a small house which she wanted to sell. She went to one family within her locality, she received part of the money from the buyer but she gave away all the original papers to them. The other party took advantage of her poor mental health, accused her of taking back all the money that she had given to them. As a result of this accusation, she lost her property as well as the rest of the money. She approached the court in a state of crisis as she had no place to stay. The court had many meetings with the other party, with the local men's committee and with the builder. They jointly approached the police to help Zulekha. When the issue was not going anywhere, the WSC advised Zulekha to go to the police station and insist that they help her get her house or the money back. This pressure tactic on the police worked and they immediately put the family behind bars for robbing Zulekha. After many meetings, the other party agreed to give all the money back to her. The agreement was made in the WSC. To solve this case, one meeting was held in society, at least 5–6 times in the WSC and one meeting in the local Ekta Committee. The court found this case very challenging and were able to help her through a partnership with multiple stakeholders.

Mumtaz has been married for now close to 25 years. She spent a lot of money to repair and renovate the house which belonged to her father in law and his 8 sons which included her husband. She borrowed money from a money lender and worked very hard to pay it off. Her son also started to earn money and supported his mother to pay off the loan. When the loan was paid off by her, her brother-in-law asked her to leave the house, so that it could be sold off. She refused to vacate as she had no other place to go and she had spent her own money to repair the house. When the violence and abuses increased she approached the WSC and filed a case for her right over the property. The WSC had a series of counseling sessions with her husband and the family but the situation deteriorated. So the WSC decided to put the case in the formal court. The case got resolved through the formal court.

ASSOCIATION WITH WSC POST-SUPPORT

Many women especially those who live close to the court locality become active members of the court. In fact they become the best workers as they have gone through the trauma and can best identify with the woman who is facing stress. To emotionally and financially support the women post-divorce or separation, the supporting organization

had formed the Saheli Group. This objective of this group was to offer emotional and livelihood support to single women. This Group worked in conjunction with the WSC and offered help to those women who needed support after their divorce. Both the groups had an organic link as both were formed by the same supporting organization with women activists from the same communities. The legal support was given by the WSC and the emotional and post-divorce financial support was given by the Saheli group. Many women joined this group after receiving legal aid from the court, or even while their cases were still on.

Women narrate that after divorce her confidence increased and she started coming to the court regularly. Zarina says that while earlier she would not leave her house or the mohalla, she now has the confidence to come alone to the court office and has even started doing domestic work to support herself. She later got trained in crochet work and phenyl making. She later did a para-nurses course and is now earning Rs. 6000/- per month. She got this confidence from the court as well as her association with the Saheli group. The group met regularly and shared their problems with each other. She had picnics and outings which helped them build bonds with each other. They also referred needy women to different Trusts and organizations for educational support to their children.

The women after having resolved their case may not always become a member of the WSC. But they do an important function of referral. It is not uncommon to see ex-litigants coming to the court with another distressed woman so that she is able to avail of the help from the court. In case of remarriage too the women approaches the court for helping her navigate in a new relationship. In one instance the women was advised by the court to have a registered marriage and her mehr amount was fixed at one lakh. This high amount of mehr was fixed because of the presence of the WSC.

Even when the woman shifts to another city or village, she feels comfortable to call the court women and share her problems. They become part of the family. For instance in the case of Parveen, her second husband took her to the village while she was pregnant and although he promised he did not get her back. She was nearing delivery time and yet her husband did not show any inclination to get her back. When she started feeling stressed about this she called the court member from another city and shared her anxieties with her. The court member spoke to her in-laws here and insisted that Parveen be got back from Kolkata and if she is not got back and if something happens to her, they would be responsible. A challenge like this worked and her father-in-law told his son to bring her back.

Mumtaz has been a very active member of court since the last 5–6 years. She handles cases and even does visits. There was a phase in the court when the other members had become very irregular. That time she handled the court independently. While coming to the court she has also learnt Hindi and Urdu and now understands a little bit of English also. She compares her case with that of others and realizes that she is lucky that she has a roof over her head and she is staying in her own house.

Once the woman is comfortable with the court and her expectations are fulfilled, there develops a bond between them. Post-divorce or after fulfillment of her expectations from the court, they still remain in touch and the woman approaches the court if she needs more support. For instance, in Parveen's case, the person whom she married after her first divorce was very friendly with court members. He willingly met the court as well as the activists from the supporting organization. But after the marriage, he stops Parveen from meeting the court.

At the time of her second marriage, the court insisted that he puts 50,000 in the bank in her name to which he retorted by saying that court weighs money more than love. So when court insists on securing the financial rights of the woman they suddenly turn villains in his eye. He also blackmailed her by saying that if she did not marry him, he will commit suicide. At this instance too, Parveen visited the police station along with the court member and lodged an NC to secure herself. The court continues to play an important role in a litigants' life long after her formal expectation from them are fulfilled.

CHALLENGES BEFORE THE WSC

Getting Hold of the Men

The WSC call the men for the meeting by sending him a notice. Some men respond immediately and come, while some ignore the notice. When they ignore then the WSC sends a second and then a third notice. If he does not respond to that, then they give him a call and speak to him or his family personally and call them to the office. There are times when the family and friends of the husband have shielded him, made provisions for him to run away when they see court women coming or put plastic over his wares if the women go to his work place to trace him. The court feels helpless if the man is just not willing to talk and that is one of the challenges the court faces.

Making Him See Sense

The next biggest challenge has been to make the man agree to his faults and make amends. He is just not willing to accept that there is a problem. There have been instances, much to the relief of the court that the man agrees to all the terms and conditions. But after reaching home he does not stick to his promise and reverts back to his old ways. In one instance the husband would readily come to the court whenever called and would readily agree to everything that was decided but would never follow it. He would agree to get ration in the house, but the litigant would call the court and complain that he has not done anything, when the court women would pay visit they would see that there is nothing to eat and children are crying of hunger. She would cook plain rice and feed the children and go hungry herself.

Facing Abuses And Threats Of Physical Harm

Women who are active in handling the cases have to listen to the abusive language of the litigant's husband. The favorite abuse is that the court women are prostitutes. The other is that all women in the court are either unmarried, divorced or widowed so they are out to keep all women divorced and single. It is also dangerous at times as some men threaten the court women of dire consequences, of sending local criminals and beating up their sons or husbands. In such cases the court women never go alone but in a group so that they are safe.

The WSC women and the litigant herself are sometimes at risk of physical harm by the man. In one instance anti-social elements of Kurla would gather behind the court whenever they visited the litigants' husband's area. In Mehrunnisa's case too there was a possibility of physical harm to her. For solving Mehrunnisa's case the court women went to Allahabad. In Allahabad they stayed in Mehrunnisa's aunt's house. When they left her house her husband came there to look for her and the WSC member. They stayed in a stranger's house because they knew that he will come. He told her aunt that if she is hiding in the house he will find her, cut her and throw her in the canal.

The biggest challenge before the WSC was in Naaz's case. She had a roof yet she did not have it, she had income but did not have it, she had husband yet did not have him. She was entitled to all three yet she had to struggle for it. Her brothers refuse to give her share of the property. She married out of her own choice which her brothers did not approve off and hence refused to let her stay in the house if she remained married to her husband. The challenge before the WSC was to help her get her share in the property, help her stay in her house with her husband. While Naaz showed exceptional confidence, her husband was not able to withstand all the pressures. To help her achieve her objectives, both the court under study collaborated with each other. Heads of both the WSCs would meet her brothers and they would also hold joint meetings with her husband to help him gain confidence to take on her brothers.

Religion of the Activist

The other challenge has been religion of the women. In one instance, in HLC the activist is a Hindu and the litigant is a Muslim. The litigant, her family as well as the husband's family did not have the confidence in her ability to handle a Muslim case. The husband especially gets an opportunity to run down the court or refuse to listen to their

advice by saying that all that is being suggested is not Islamic and hence he need not follow it. The court activist then has to convince him that she has received training in Muslim personal law and she knows more than any maulana does. They also say that if he is not convinced than he can speak to the trainer herself. She also narrates passages from the Quran along with verse numbers to convince him. Since they have been working in the area for the last 7 years they have been able to build up their credibility.

Religion of the Litigant

As Khatija was a convert to Islam the WSC faced some difficulties in getting her divorce. Based on the lessons of a previous experience, the court introduced Khatija to the *qazi* as Khatija and not Cristi, her previous name. In spite of that the *qazi* said that since she has gone back to her parents, it will be difficult to get her divorce. The court women told the *qazi* that although she has gone back to her mother, she has not given up Islam and she continues to be a Muslim and is bringing up her daughter as a Muslim. The *qazi* was also reprimanded by the WSC when they asked if this is the image of Islam that we want others to carry. The woman married a Muslim man thinking him to be a good human being and if we create troubles for her, what will she think of Islam? This argument convinced the *qazi* and he took steps to annul her marriage. But this was not acceptable to the local committee who questioned this method of divorce. Her husband was a member of Ekta Committee. The WSC confronted the Committee and said that they knew about Islam as much as they knew and this divorce has been done by the Mufti and hence it is a valid way to terminate the marriage. The court told them on her behalf that she gave him a chance when he remarried not just once but second time too and yet continued with his violence. The court would also reprimand the local committee members that women who convert to Islam are treated so shabbily not just by their husbands but also by the larger community. In the process the religion gets a bad name. This convinced them and they supported the court thereafter.

Absence of Important Documents

In one instance the women did not have her divorce papers. The paper work was done by the husband's side but the woman did not keep a copy of it with her, nor did the in-laws give it to her. The court ensures that both the parties have original copies of the document and the WSC would keep one in the office for its own record. In one instance since the divorce papers were not there with the women, she had problems at the time of her second marriage. Her in laws insisted on seeing the divorce papers. Her would-be second husband bribed a *qazi* to get false divorce paper done. And in the court, the couple did not inform the court at all that she is a divorcee.

Merry-Go-Round

In some cases, after many meetings and discussions and arguments, the WSC along with the couple would arrive at a decision. But at the end of meeting, the husband would disagree and go back on his promise which he made just a few minutes earlier. Meeting after meeting the same process would get repeated and everybody would feel frustrated at the end of it.

Lack Of Follow-Up

After registration of the case, the litigant sometimes just does not turn up. There do not call up the court office nor do they come back to check if any follow-up has been done or not. There are times when the court also does not do a proper follow-up. If a litigant does not come after registration or does not call for even a month after registration, the courts also do not make calls to the litigant to find out the reasons for her lack of interest. It is only after a review that it was decided that if a litigant does not call or come even after a month of registration then the court must call up to find out the reasons for her not coming again to the court.

Too Much Of Expectation From Court

When a woman approaches the court for help she expects her problem to be solved as quickly as possible. She has no patience for procedures and exerts pressure on the members to leave all work aside and only concentrate on her problem. She probably does not realize that she would never have the privilege to exert pressure on formal court, or police or her local *panchayat* or *jamaat*. When she sees women managing the court she feels empowered and wants immediate results. The court then explains to her about the procedures that need to be followed and the probable time that might lapse till her case is solved. Many women understand and continue but some do drop out and go to other agencies for help.

Leadership Transitions

The WSC have been working for more than a decade and it is natural that the leadership of these courts changes hands. The leadership is changed based on the elections held every 2 years. The transition from one leader to the other takes some time. The members also take time to adjust to a new leader. Sometimes the entire team is replaced by new people who take some time to adjust to their responsibilities. In this transitional phase some litigants do suffer as they do not get the right kind of guidance and support.

Change Of Office

The WSC do not have an office of their own. They keep changing it after every 11 or 22 months. Although the office of both the courts has been in the same locality, the area keeps changing. In the midst of this shifting there are instances of loss of cases. Litigants are sometimes not able to locate the office, sometimes the court members are not available on phone and at such times there is a gap in follow-up of cases.

Subjudice

There are times when a woman has gone to the court and has been unsuccessful in solving her case. While the case is still in the court, she approaches the WSC. In such instances the court is not able to help her immediately as the matter is subjudice. The court at such times takes legal opinion to determine its next course of action. In such instances the women feels that the WSC is not efficient and is not doing enough.

Difference In The Status Of Litigant And The WSC

Members

If the woman belongs to the middle or higher class, after registration of their cases in the WSC they don't come as they don't have confidence that the court which comprises of poor illiterate women will be able to solve their case. They expect to see an educated, middle class lawyer. When they don't see that they assume that the court will not be able to solve her case. They believe that if they don't spend good money on a lawyer, they will not succeed in getting justice.

CHAPTER 6

KEY FINDINGS, RECOMMENDATIONS AND CONCLUSION

MAJOR FINDINGS

The Women's Shariat Court managed by Muslim women offer decentralized support system for women at the community level. They are not just recipients of services but are contributors to the well-being of the society. They are a group of lawyers and judges without the degree and provide justice to women in vulnerable conditions. The Study has thrown up many interesting facts about women's initiative in providing legal aid. Given below are some important findings:

Problems Faced By Women

This Study throws light on the problems faced by women. Domestic violence tops the list of atrocities which women face. The heinous ways in which a man inflicts violence on the women makes us wonder what development and progress are we talking about. As stated earlier 57% of the cases studied have faced violence from their husbands. Women have also complained about lack of financial, emotional and moral support from their husbands. They are married off at an early age and do not have any idea about their marriage partners. After marriage the husband continues to remain a son first and a husband later. She gets no support from him. In a new family she is lost and even experiences stress which impacts her mental and physical health.

Drug addiction, alcoholism, gambling are some of the vices which inflict the men in this Study. Unemployment, irregular employment coupled with the above addictions does not in any way help the litigant to lead a dignified life. Men have not been able to shoulder their familial responsibility as a result the family life suffers considerably and the burden of managing it falls squarely on the women.

Legal Aid By Community Women

Legal aid is a professionalized, technical and a much evolved work. It is not akin to offering scholarship or medical aid. It requires understanding of law; codified and uncodified and also undertaking steps to bring those written laws closer to women. It requires first understanding and then communicating those to the women who wants to use it for her benefit. And all this is being done by women who are semi-literate and poor. The Study shatters the myth that only educated professionals can offer counseling and legal aid. It has taken a lot of effort on the part of WSCs to first unlearn their ideologies, learn new ones and assert it in an environment which is still hooked on to outmoded thinking patterns.

These groups are more mobile, accessible and hands on. The formal court will not move out of its premises to implement the laws, it can only pass judgments based on a written set of laws. The court has to depend on other agencies like the police to help it in implementing its judgments. The help offered by the WSCs is a combination of legal, social and emotional support. It is based on the needs expressed by the women and not some piece of legislation written down in black and white. Person gains precedence over procedures. Procedures facilitate and promote the procurement of the legal rights of women and not hamper it. People are not made to fit in law but laws

made to fit into the needs expressed by people especially women who are socially vulnerable. WSCs facilitate this process. They demystify law for themselves as well as for women who approaches them.

This process of legal aid is facilitated by the fact that women who offer legal aid are themselves victims. The emotional involvement is high. There is a high level of empathy and concern for the litigant as the distance between them is not much. They belong to the same social, economic and cultural milieu, are physically closer and available, but they have the knowledge and connections which inspire confidence in the litigant. They know law, they know lawyers, and they know *qazis*. They do not just do referral to these institutions but are active partners and main steerer of the legal aid process. The litigant also is a steerer, she knows she has a role to play. She is not just a recipient but an active partner. For e.g. shahnaz's mother herself carried the *qazis* notice to her son in law. She has a say in every turn that the case takes. In fact she has an opportunity to turn around the case.

Absence Of Codified Law

In the context of it being a Muslim women's group, it becomes even more relevant to mention that the women have no codified law to follow. The *shariah* is uncodified with no written law to guide the group. What exists as *shariah* is patriarchal and does not support women's rights. In this context the WSCs interpret the law from the point of view of the litigant. The training by the supporting organization is helpful in not just knowing the *shariah* but also offer a critique to it. Does the *shariah* treat the Muslim women as equal, does it ensure her rights as a women and as a human being. Does it address her vulnerability? Is it fair to her given her social, cultural, economic susceptibility and defenselessness? *Shariah* so far has been interpreted by Muslim clergy and have been very unfair, unjust and inequitable to women. WSCs because of the training received have been able to do what so far has been done by Muslim male clergy. Thus absence of law has come across as a big hindrance in accessing justice.

Procedures And Strategies Followed By The WSC

The first very important activity which is essential for unburdening the litigant is listening. The WSC members listen to her tales of woe and despair and her stories of hardships, anguish and wretchedness. This unburdening is the first big step because that establishes her rapport and relationship with the WSC members. It also helps her clear the cobwebs in her mind.

Due to training and capacity building the WSCs work professionally by taking in the application form filled in from the litigant. A proper procedure is also followed which gives the litigant a feeling of safety. It assures her that the WSC is professional and that they mean business. A notice is sent to the husband which also conveys that the litigant is special to them and that the person giving trouble to her will not be spared and will be made accountable.

In the course of counseling the rules followed show a definite desired bias towards the women. Her vulnerabilities are addressed and comfort levels are established and reinforced. Quick decisions and instant action is taken which gives a feeling of movement and progress. Because of their knowledge of Muslim law they also are able to converse with the *qazis* which inspires confidence in the litigant. Qazis and maulanas inspire awe and reverence in the women. They feel scared to confront them. But the WSC women, defying all conventions debate and argue with him and quote the Quran to establish the legal rights of the litigant. The knowledge displayed unnerves the *qazi* and makes him accept their arguments. The *qazi* cannot challenge that argument as it would show him in poor light as one opposing the Quran.

The WSCs have been doing which even the courts have not been able to do. Getting the husband to talk and negotiate by visiting his house at odd times, even following him to the public toilet, putting pressure on the *qazis* and questioning their encouragement and support to oral unilateral divorce by the husband-are all the strategies used by the WSC. The biggest support that a litigant gets is to have someone speak to her tormentors on her behalf. In a social system where even the maternal family does not support its own members, here are a group of strangers who are fighting on her behalf. This is very encouraging and the litigant gets a renewed energy to fight for her rights. The sense of solidarity is rewarding for both the parties. The WSC members also feel encouraged by the fact that

they are needed by a vulnerable woman and that their counseling is of help to her. There is also ventilation of their own frustration when they lash out at her husband and pressurize him to fulfill his responsibility.

The WSCs success lies in the fact that it has been successfully pressurizing the man to pay maintenance to his wife. From amongst the case studies in this research, there are 3 instances where the husband has been paying monthly maintenance to his wife through the WSC regularly since the last 2–3 years. Very complicated property matters have been resolved either on their own or with the help of the WSC lawyer. The WSC has utilized the services of various stake holders to resolve that issue. For Zulekhas case, the police, local committee members, builder were roped in to help her get her property.

But in spite of their best efforts the WSC was not able to help Naeema get maintenance from her husband. Her husband remarried and abandoned her with 5 children. Her refused to divorce her, refused to let her work outside and refused to maintain her. To top it all he was extremely violent with her. The intervention by WSC ensured that the violence stopped and she was free to work outside to support herself and her children. But the WSC was not able to help her get maintenance. The activists which were active in the WSC at the time of Naeema's case probably did not have enough experience to further pressurize her husband although they did try their best. What do the courts do if a man does not pay maintenance? Very little except follow some more procedures to arrest him and put him behind bars. The woman anyway does not get maintenance. Even in Sabera's case the WSC was not successful in helping her get access to her house. Sometimes the WSC is just not equipped to handle complicated and long winding cases. There is a need to assess the reasons for their inability to do so. Thorough review and evaluation is necessary of each case so that bottlenecks can be removed and the WSC is able to help her in a better way. The supporting organization must also take efforts to monitor and review the cases received by the WSC so that the complications are addressed and possibilities of better networking and alliances can be thought off for better services to the battered women.

The support which has been extensively described in the previous pages has been possible because the WSCs are based in the communities and are not bound by excessive procedures. Their mandate is to support the women who come to them for help. They are not physically bound like the court. They can move around the city, even go to another city and gather support for the litigant. This mobility is essentially the reason why the WSCs have been successful in their cases. If sending a notice to the man does not get him to talk, the WSC goes to his house, to his workplace and even follows him to the public toilet. If the police do not listen to the litigant, the WSC goes to the police station in full force and demand an explanation. They even visit the *qazi*'s office and the Family Court if required. Another reason for their success is their successful partnership with other stakeholders like the police, courts, lawyers, *qazis*, *jamaats*, government offices and other civil society groups. These institutions are mobilized to help the litigant.

RECOMMENDATIONS TO WSCs

The WSCs are playing a crucial role in providing legal aid to distressed women. Like any other institution it has tremendous scope for upgrading its functioning. Given below are some important recommendations for the WSCs to incorporate:

Countering Patriarchal Values Within

The WSCs have not been able to shed off the patriarchal values completely. The senior members of the WSC sometimes are not able to see the actions of women in the light of her own experiences. There is a tendency to counsel her to 'adjust.' The woman is expected to give another chance to the man to improve. The reason for the WSC's reluctance to immediately agree to a divorce can be understood if one realizes the pressures which they faced when they first started working. They were tormented by comments like 'yeh log talaak dilane wali aurten hai,' 'ghar tod़u aurtein hai.' WSCs are meant to break homes, they encourage women to take divorce, and they are anti-men and anti-marriage.

There is also an increasing trend of young married women seeking an early divorce. As mentioned in the analysis earlier, women, a decade back, came with their cases to the WSC after at least 5–6 years of abuse and violence. Only when it crossed all limits that she would seek help. That scenario has changed now. Women are not willing to adjust and want their share of independence, peace and happiness. As a result within a year of marriage young women are approaching the WSC citing adjustment problems. They are keen on setting up their independent homes with their husbands as their main grouse is with the extended marital family which includes mother in law, father in law, sister in law or brother in law. They believe that their husband would listen to her and be with her if he stays away from his family.

The WSC members must also be aware of the social change that is happening in the larger society. Women are not the same anymore. While it was a given that women tolerated violence and abuse for a very long time before they could even think of approaching anyone for help, it is not the same now. Young girls are becoming more independent in their thinking and are not so willing to put up with adjustments beyond their current capacity. They would like to see themselves leading an independent home with less and less possibilities of daily squabbles. It is this change in attitude of young women towards their own life and towards the relationship with their spouse that must be appreciated while they carry out counseling.

The members must also not be defensive about helping women get divorced. Because the WSCs are alleged to be comprising of women who break homes, the members of the WSC become defensive and always make it a point to communicate that they are not here to divorce the couple. While there are compulsions and pressures from the community, it would be better to say that the WSC's first effort is towards reconciliation but if it fails, it does not fight shy of helping women get divorce. If a woman wants divorce then it is the responsibility of the WSC to help her get one without stretching the efforts towards reconciliation beyond a certain limit.

Informality

The limitation of the WSC is that it needs to be more formal in its approach. The documentation should also be done properly. All decisions taken in the WSC must be written down, signed and sealed by both the parties and this documentation must be done formally and there should be a format for that. If the proceedings in the WSC are formally documented then it can be produced before the court and can be relied upon as a formal legal document. The advantage itself sometimes becomes the disadvantage. The informality which is the boon of the WSC intervention becomes a bane because it is then not taken seriously. The group must establish its credibility and professionalism by making it more formal and business like.

Focus On Emotional Ventilation

The WSC should realize that it is important for the litigant to get back, to express, to ventilate and empty herself out. And all this she wants to do in front of her husband or in-laws, or whoever is troubling her. It is not just about getting a divorce or her belongings, it is also about letting him know that she can get back to him and make him repent for his actions. Parveen says she wanted to say a lot to her in-laws, about all the trouble they gave her, about all the pain and hurt that they have caused to her. But for the WSC it was a task at hand which had to be finished and move over to the next case. In her case, her in-laws were willing to give her belongings back to her but they asked her to collect it from her brother-in-laws place so that their neighbours do not witness it. The WSC agreed to this arrangement because for them it was important that she gets her stuff back. But for Parveen it was more than just that. She wanted them to also go through the humiliation which she went through in the privacy of her home. *Apni building mein izzatdar banke rabte hai*. By getting the belongings from that house would mean that their dignity which they so closely guard gets tarnished. The WSC must understand this emotional, psychological need of the women.

Capacity Increment

The WSCs must never let go of constant training and up gradation of skills. Sensitization of new entrants and refresher courses for the senior activists must be an ongoing programme. New members become part of the WSC

but not necessarily part of the training. This aspect must not be ignored. It is the responsibility of the supporting organization as well as the senior activists of the WSC to arrange regular training programme for its group. There is also a lot of scope to improve the documentation process which is dependent on availability of literate persons in the group. If such a person leaves or becomes irregular then the documentation suffers.

Preparing Young Minds

The WSC apart from litigation must also regularly conduct training programmes for young girls. They should be given information about their rights in the house and within law. She must be prepared for her marital life and equipped with confidence and information. If she is in trouble she will at least know where to go. This information and confidence building measures will also help her to ask questions to her parents. The young Muslim girls suffer from the disadvantage of lack of education. Parents put emphasis on religious education, which has its place, but what will empower a girl is the knowledge about her rights, even within the religion.

Alliance Building With Other Ngos

The WSCs must establish their credibility with other NGOs also. They have taken special efforts to do so with the police and with institutions like Women's Commission, Minority Commission. But they have not done so with organizations. The reason partly could be the non-acceptance shown by these organizations towards the WSC work of case intervention. The organizations are not sure if a semi-literate woman is capable of providing legal support to a distressed woman. These organizations must know that the women in the WSC are training and follow the procedures which are required for a legal intervention. Muslim women are approaching the NGOs all over the city. These NGOs should know that a group like this exists which knows Muslim laws and procedures and can work effectively. Although the established NGOs can be accused of class bias, the onus to establish its own credibility lies with the WSC. Till they do not do that it will be difficult for them to make others take them seriously. A better networking with NGOs is required for better outreach towards Muslim women needing legal aid. The WSCs must also work in close coordination with other community based organizations like youth groups, local committees, local government functionaries for outreach and networking.

Alliance Building With Other State Institutions

The WSCs also do not have adequate networking and alliance with free legal aid cell of the courts. Although the functioning of these cells is pathetic, the WSC can collaborate with them. It is a harsh reality that women cannot afford the lawyers and in such a scenario availing the services of the free legal aid cell. There already exists a loose network of NGOs working with the free legal aid cell. The WSC should join this network. The WSCs in order to strengthen their work must make active attempts to collaborate with various state agencies like the Municipal Corporation, Mohalla Committee, Minority Commission, Human Rights Commission and other such agencies for better outreach and intervention. Such collaborations with state will help in giving organized support to the litigant. Working closely with the state would also give more confidence to the litigant.

Avoid Over Dependence On Lawyers

When the litigant is in haste or when the husband in spite of the notices does not come for the meeting, or sends a notice through his lawyer, the WSCs instead of pursuing the case on its own, promptly refer it to the lawyer. This also indicates lack of confidence in the abilities of the people who are managing the WSC at that point of time and also reflects a tendency to hand over the case when it becomes a little tough to deal with. Slowly this passing on of the cases to the lawyer reduces the importance of the WSC as they reduce themselves to a referral agency only doing the job of an agent. This defeats the very purpose for which the WSC has been formed. As Veena, lawyer associated earlier with the WSCs puts it, the women who have not been through a formal training of law have their 'own notions of justice' which should not get lost. In fact she says that they should not be trained too much. WSCs have come to play an important role in pre-litigation, litigation and post-litigation processes and that should not get

diluted due to excessive dependence on the lawyer. Over a period of time the WSCs have considerably reduced their dependence on lawyers and now take their help only when required.

RECOMMENDATIONS TO NGOs

Organizations are sometimes called the fifth estate, busy raising consciousness of ordinary people for achieving justice, peace and thus development. Women's organizations have contributed at all levels of society, especially focusing on empowerment of women at the grassroots. Although the focus could have been sharper on the excluded communities like the Muslims, it has done admirable work in reaching out to women *per se* who as a group are the most excluded. Many instances have been discussed earlier where women's organizations have set up legal aid cells, *nyaya panchayats, mahila panchayats* for helping women have access to legal aid and guidance. While the process is evolving and developing the women's organizations have also evolved the process of strengthening the legal aid processes. The study throws up some recommendations which the women's organizations who are involved in legal aid work can implement it in their own work.

Break The Project Mould

Organizations supporting community based groups must keep in mind that there is a tendency on their part to attempt to fit community leaders into the NGO mould. For e.g. organizations follow the timing which is 10 am to 6 pm. But community leaders like Khatoon, Gulshan, Fatima and Begum cannot refuse a woman who comes to them at 10 pm with a battered skull. She has to be taken to the police station, to the hospital or her husband has to be reprimanded for the dirty work that he has done. This cannot be done between 10 am and 6 pm. The question thus raised is who should fit into whose mould? Should the NGOs impose their procedures on the community based organization or should it try and fit their schedule as per the requirements of the community? Professionally trained social workers must shed a lot of baggage. They must intensely believe in the capacities of women and constantly goad, challenge as well as support them to improve their conditions. They must be prepared to be flexible, adaptive and be comfortable with a diluted professionalism. But be ready to be surprised with innovation, hard work, grit and determination of the grassroots women.

There is a need to discuss the strategies used by NGOs as they start working in the communities. Most of them co-opt the community leadership and turn them into NGO staff. This in some way negatively impacts the commitment of the community leaders towards the community. Their loyalties shift from the community to the NGO. This needs to be avoided as that weakens the community processes. It is vital and crucial to decentralize the NGOs and bring them closer to women at the community level. This will alter the ways in which traditional organizations have been working. It will make them more sensitive to community culture, processes and people's lives. Their rules, regulations, procedures must then evolve based on their setting and environment.

Physical Setting

Community empowerment cannot happen from NGO offices which are cut off from the people. The NGOs must base themselves in the physical community setting surrounded by the people who need to be empowered. This builds an instant rapport with people, services are accessible at hand. Even if the NGO is not able to establish its administrative office in the community, it must atleast have a field office where women can come easily. A centre within the community can be a physical space for women to unwind, sit and chat, have cultural programmes along with receiving other services. It is a place which they can call their own.

Operationalize Ideals

How do we make ideals like feminism, secularism, democracy real to women at the community level? Excessive theorizing and abstract conceptualization are difficult to be understood by many educated professionals. How do we make these principles real to women who have not had the privilege of formal education? These values must

have a touch and feel quality to it. It must mean something concrete to her and not an abstract ideal, cut off from reality, cut off from her daily life. How do we operationalize feminism and other ideals? Their texture changes when they have to be incorporated by women who are semi-literate, illiterate and who have no academic notion of these concepts. Training plays an important part in this process of enlivening these values and making them real for everyone. Games, exercises, case studies, quizzes and other creative methods must be employed to drive these basic values into the consciousness of the women in the community. These activities help them to operationalize and articulate their own understanding of feminism.

Address Community Concerns

NGOs must address the immediate concerns of community. Water, sanitation, educational, livelihood support helps them gain acceptance which once done can facilitate in undertaking more political work like legal aid or political participation. Conversely NGOs must have a larger aim of moving towards more political work. This road must begin with charitable, developmental work and eventually move on to rights based, mass based and non-party political work. How can she participate in the functioning of state structures like the police, judiciary, corporations, and government bodies? How do we increase the interface between her and the governance? How do we turn them into active partners in the democratic functioning of the society? Active participation by women in all spheres of public life including participation in political processes and taking leadership of the community must be the ultimate aim of the organizations

When NGOs encourage women to take up civic issues in the community it is easier for women to do so. Women fear community backlash if purely women's issues are taken up. Taking up issues of concern of the larger community helps them gain respect and recognition which in turn boosts their sense of self, increases confidence, does wonders to their battered ego and restores their confidence in themselves and their capabilities. It helps them to justify their foray into the public life to their family and community. To be able to see herself as independent of her family and community takes time and supporting organization must give her that time. This is because women are not trained to think for themselves first. How do we challenge them in rejecting their own boundaries which have been formed due to lack of education and exposure? It is process oriented work which will take time but will show results eventually.

Consistent Support

The WSCs under study have been able to consistently perform good work in the community is because of the consistent support from various supporting organizations. They have played a vital role in their nurturance and survival. This kind of regular organizational support is necessary to keep the community groups alive, active and contributing. Women appreciate knowledge, information even as they crave for basic needs. Regular training and input programmes give renewed energy to women to question the unjust social practices. It is a myth that poor women only need services which satisfy her basic needs. They need that but they are also appreciative of knowledge which they gain through regular training programme. The organisations need to constantly upgrade their skills with continuous training. As new members join in they must learn the principles and values which have been guiding their work. They must also support WSCs to strengthen their administration, documentation, filing, accounting systems and legal compliances.

Adequate Remuneration and Mutual support

Can we think of any service which is free? All professionals like doctors, lawyers, teachers, social workers, MPs, MLAs, Corporators have a salary. Nobody works for free. Given the nature of their services and the passionate way in which they work they should be paid for their contribution. The activists also face immense financial difficulties in their own lives and yet they work selflessly. The reason for working without money is that they gain on other grounds. They get an opportunity to move out of their homes, get to meet new people, travel around the city when they never even got out of their homes, even go to other cities. They get confidence, their self-esteem improves, and

this makes them work even without money. But the fact remains that the supporting organization must ensure that women at the grassroots are paid for their work.

It has also helped that the WSCs are members of the BMMA and hence they also have joint activities and programmes. It is through association with these larger national groups that they have been able to link their local concerns with the larger concerns of the city, state and the country.

The leadership of these WSCs has been exceptionally committed and passionate about their work. They have defied family pressures, negotiated with their near and dear ones, challenged community norms and have thus emerged as leaders of their groups as well as of their community. Their leadership has been nurtured by the supporting organizations who have given them a lot of exposure, training and inputs and have mentored them to become public figures. They have exhibited readiness and capacity to learn, give directions without being authoritative, shared joys and sorrows of fellow activists and always kept themselves open to healthy criticism.

Support Community Based Lawyers

There must be proliferation of well-trained WSCs in all physical communities so that women have access to legal services within the community. Local women must be given training and opportunity to act as counselors and legal aid givers. They must be linked up with local police stations and legal machinery so that each physical community through her has access to justice delivery systems. To thus develop local counselors and lawyers is the first job of the NGOs working towards legal empowerment of women.

Lawyers On The Roll

To aid and assist the efforts of the community based lawyers, the NGOs must employ the services of the practicing lawyers so that the court end of the work is taken care of. These lawyers must also conduct regular training and capacity building of the community based workers. The NGO can thus be a platform where professional and para professional lawyers can come together to bring justice closer to marginalized women. The expenses of both the set of lawyers must be borne by the organization. A small fee can be taken from the litigant. The supporting organization must undertake continuous evaluation and monitoring to assess the arrangement between the lawyers and WSC. Joint coordination meeting must be held on regular basis for easy and smooth functioning of the arrangement. They should be able to do the counseling, legal guidance, joint meetings with women's family, negotiating with the husband, retrieval of belongings from his house, negotiating maintenance amount, negotiating terms of divorce etc.

Registration

The MSM and SMM are registered under the Society Registration Act. The HLC is a project of Jagruti Kendra. The registration under an Act lends legal validity to the WSCs. It is like any other NGO registered under the Public Trust Act or the Society Registration Act. But since the WSCs are undertaking legal aid work, it would strengthen them if they are also recognized by the State Women's Commission. The recognition could be in the form of a certificate from the Commission which helps them to effectively deal with the litigant. It will help them access the police stations across the city, and increase their bargaining power with litigant's family.

RECOMMENDATIONS TO THE FORMAL LEGAL SYSTEM

The legal system can be accessed and harnessed effectively only by those who know the legal jargon. Even educated people get lost in its maze of procedural requirements. The whole system appears very intimidating to women who are poor, illiterate and socially vulnerable. Lawyers, litigants and social workers who have contributed to the data in this study have given the following recommendations for humanizing the functioning of the legal system.

Need Sensitive Lawyers

It has also been experienced that lawyers are at times not comfortable with an out-of-court setting. They change their stance once they realize how much their services are required even out of the court. The first instance of a well-known lawyer abandoning the WSC was experienced in 1997 itself. She not only started to charge more but also took anti-women positions which made the WSC very uncomfortable to work with her. For many years after that the WSC functioned without the support of a lawyer. For court interventions, the WSC either referred the women to another organization or referred her to another lawyer or to the Women's Commission. It was only when WRAG offered the services of a lawyer that the WSC felt supported. The relationship not only helped the litigant but also the activists as they learned not only the theory but also the practical ways in which a lawyer operationalizes the legal jargon to suit the interests of the vulnerable women. The WSCs over a period of time have evolved a pattern and the relationship between them is established. But this relationship must be reviewed from time to time to avoid pitfalls that occur when any process is set in a groove. Currently as and when required the WSC takes support from a few lawyer friends on a case to case basis.

Hasten The Process Of Justice Delivery

The Family Court was established with the express objective to create favourable environment for women facing marital difficulties. As the experiences of scores of litigants show that it has failed in its objective. It follows the same complicated and cumbersome procedures of a regular court. The procedure, given in details in previous chapter, drains the litigant as well as her family. At times more than three months are gone without even a single hearing. This complaint against the system is not new. Legal luminaries and experts have time and again expressed this concern. It is a mockery of justice that the system and the state have done nothing to rectify it. The specific recommendations include setting up more courts in smaller towns and cities. More lawyers and judges are required. The system must also identify areas where processes can be cut down, unnecessary paper work can be avoided, and gaps between hearings are not extended beyond ones patience.

Make The System Mobile

Along with the lawyers and the judges even the counselors are building bound. There is no way the system works outside the court premises. The court takes the help of the police to implement its orders. Given the overworked police force especially in cities like Mumbai, there is a delay there also. Even the decisions taken before the counselor are not implemented sometimes and the counselors do not work outside the system. They cannot do it because there are 7 family courts and only 2 counselors. The state must appoint more counselors who should be more mobile, agile and are willing to move out of the system on the streets and lanes and by lanes to bring the justice delivery process closer to the people who need it. While some of us say that the WSC is like a court, Rubina has an interesting take. She advises the court that if it is not able to give support, they should change their style of functioning and work like a WSC. They should make both the parties sit in front of each other and take quick decisions. *Court bhi WSC ke jaisa hona chahiya, phata phat hone wala kaam.* It should not be that litigants get date after date and time just flies by.

Reduce Commercialization Of Basic Services

Legal aid for justice is a basic need of an individual as well as a society. Anarchy reigns when justice eludes a society. If a person sees no possibility of addressing grievances through legal channels, then the roads are open for using illegal channels. To avoid this pitfall the legal services must not be expensive. Even the most poor and marginalized must know that justice is not dependent on loads of cash. There must be some regulation over the fees charged by independent lawyers just as there is a demand to reduce school and hospital fees. Otherwise litigants like Sabera will continue to say, *court mein jane ke liye apne pass paisa nahi, aur mujhe maloom hai ki paise bina court ka khel hota nahi hai.*

Liaising With Structures Outside The Court

The courts and lawyers must liaise with the outside world for better implementation of their orders. Only employing the services of a police is not enough. NGOs, civil society groups, sect councils, WSCs, youth committees must be roped in to help the courts in reaching justice to the litigant. Sometimes litigants who are migrants, poor or have lost important documents feel ill-equipped to engage the court as the procedures there are heavily dependent on documentary evidence. In such instances the bodies mentioned above can play an important role in preparing the litigant to fulfill the requirements of the court. Vulnerable groups, especially women don't feel confident of approaching the court because of its intimidating character and sometimes because of lack of support. Civil society groups, if they enjoy the confidence of the court, can play the role of providing support to vulnerable individuals. The court can appoint court commissioners to see that the orders are followed. These Court Commissioners can collaborate with the WSCs which will also give legitimacy to the work done by the WSC. The report of the WSC will then be considered valid and legal. The court must accept that there are others outside its system who are capable and willing to lend a helping hand. The court must learn to collaborate and work as a team with other stakeholders in the society.

Sensitization Of Lawyers Especially Those Working For Muslim Women

Since the Muslim personal law is not fully codified, many lawyers are not comfortable or are aware of the operationalization of this law. Muslim women activists must reach out to young lawyers and train them in the draft law prepared by Muslim women.

Activation Of Alternative Structures

With a lot of fanfare bodies like *Lok Adalat*, *Mahila Samakhya*, *Parivarik Mahila LOK Adalat*, which were considered panacea for the ills of the legal system, were launched. They were considered good attempts by the legal system to rectify its own shortfalls. These bodies must be reviewed to analyze the reasons for their failures and must be revived.

RECOMMENDATIONS TO THE STATE

Reduction in domestic violence and harassment

How do we as a society reduce domestic violence? In spite of all the efforts by so many stake holders in the society, violence within the four walls of the family remains unabated. Neighbourhood councils, community centers, WSCs, community based NGOs must act as pressure groups to prevent domestic abuse. Mohalla Samitis, WSC, galli groups must be formed to remain alert about any incidence of violence. Decentralization of community and state efforts must happen. Preventive and educative services at the grass roots are essential to mitigate violence within family.

Give Teeth To Government Bodies

The data indicates that the quasi-government institutions like the State Women's Commission have had an uneven record of advocating women's cause. The systems and procedures of the Commission have not been adequately developed and sustained. When the Commission was headed by a dynamic commissioner the WSCs felt supported and even in the absence of a lawyer they were able to handle the case very effectively. Subsequently with her transfer, the Commission became redundant and was ineffective in providing any help to the WSC. The suggestion is that there must be a common minimum programme or agenda before the Commission which must get implemented irrespective of who is the Commissioner. An important state body meant for women cannot be personality dependent. It also cannot be that the Commission remains rudderless for a long time. The Commission must also have its district representative so that its office is accessible to women in each district.

Remedying Systemic Faults In Education System

The state machinery must be geared up to tackle increasing incidence of alcoholism, gambling and drug abuse. These are directly linked to the violence that women face within the families. These social evils are rampant in Muslim ghettos where unemployment and lack of education has made the youth of the community rudderless and directionless. Better, efficient and non-corrupt policing would to a large extent curb this menace and would have some positive bearing on the reduction of violence against women. The education system must pay special attention to inculcating positive pro-women attitudes within young boys and youth. All schools and colleges must have special classes, awareness programmes and youth activities where the problem of domestic violence is addressed.

Listen To The Voices Of Muslim Women

The community especially the political and religious leadership has shown an aversion to discussing the issue of reforms in Muslim personal law. The state, especially the national and state minority commission and the various departments formed for the betterment of the minority community, must create space for Muslim women to unhesitatingly discuss her concerns. It must also take courage and discuss the issue of codification of Muslim law with all sections of the Muslim society.

Monitoring Of Extra Judicial Bodies

The state must develop mechanisms by which there is monitoring of *shariah* courts and caste *panchayats*. Right now they appear to be completely on their own without any state control. The state must ensure that no decisions are taken by these bodies which are anti-Constitutional or violate the rights of women. Further, the state must recognize those bodies like WSCs which abide by the Constitutional principles and they should be made partners in justice disbursal.

Better Policing And Administration

The data collected shows that the women do not trust the police. This is a situation of grave concern as the police are meant for the protection of the most vulnerable. The women are also scared to go to the police station which again indicates that our police force does not inspire the confidence of a battered woman. There have been instances with the litigants interviewed for this Study where the police have supported the husband in spite of the evidence provided by the WSC of his violence and abuse. Corruption which involves joining hands with the abuser undermines the confidence of the violated women. The first suggestion would be to cleanse the image of the police force. And this can be done only by supporting the women who approaches them for help. The police must also be well connected and aligned with local organizations who can work with them to help the women. All stake holders like the civil society groups and government institutions must work in coordination with the police and the police must take effort to develop a data bank of support groups.

The Muslim women are mostly always told by the police that they cannot do much to help them if she complains of oral divorce or if her husband has remarried. An oft-repeated comment of the police is '*hum kya kar sakte, aap mein to yeh hota hai.*' [what can we do, it works in your community]. While the police cannot interfere or amend any legal difficulty faced by the women, he/ she can show empathy and refer her to an appropriate institution for further help. By appearing helpless before an already helpless woman does nothing to boost her confidence.

Support To Wscs

The state must take cognizance of the contribution of such community based organizations and must extend support to them. Such community based groups are autonomous groups that have emerged as a response to a social problem. They complement the work of the state and reduce its burden by doing what the state is supposed to do. Their work is responsible for the reduction in social tensions and stress. They act as safety valves and offer immediate help to the most distressed. Hence it is the responsibility of the state to support them in the following ways:

- ◆ Support administrative expenses of running the counseling centre
- ◆ Give them place in government run institutional settings for office space
- ◆ Support the staff who are involved in counseling and legal aid work
- ◆ Offer support to conduct training programmes for their lawyers

There are existing schemes for such groups in programmes like the Women and Child Development Programme. But the amount allocated is not enough and the procedures are too tedious for a community based group to follow and implement. Special efforts by state to reach out to such groups would help them immensely.

Absence of codified law

For the Muslim women, the WSCs have played a crucial role as they provide an alternative to the religious councils. It is important that Muslim women have more choices as they are in a very difficult situation. The Muslim law is partly codified and partly left to the interpretation of lawyers and *qazis* and the various *shariah* bodies that exist. BMMA has already prepared 'The Muslim Family Law' which must be taken up by the state as a law supported by women and introduce it in the Parliament. In addition there are multiple implementing agencies outside the court which have a mandate to function. In the absence of the WSC the Muslim women had either the choice of going to the lawyer and wait for justice to happen or approach the *jamaats*, *qazis* who may be steeped in patriarchal values so much that they do not provide justice to women who is the most vulnerable section in the Muslim society. With the Muslim women NGOs, WSCs and committees existing a Muslim women has a choice where there are almost 100% chance of her getting justice. The 'almost' is to take care of human error which is applicable to all other bodies claiming to be working for women's cause.

Alternative to patriarchal system

The WSCs also play a role of challenging the *qazis* who so far have been unfettered in their harsh judgments towards women. Today there is some body to question them. This was evident in Imrana's case when a fatwa against her was challenged by the masses of Muslim women across the country. Imrana was raped by her father-in-law. To add to the humiliation a fatwa was issued declaring her marriage to her husband as annulled. The fatwa invited the wrath of Muslim women across the country. They were out on the streets in rallies and morchas to condemn not just this particular fatwa but also to raise objections to the politics and existence of issuing fatwas which treat women like chattels. In Mumbai the WSCs under Study have also challenged the *qazis* who have sent divorce notices to the women on behalf of the husband. The woman gets no chance to even know what went wrong as her marriage gets terminated abruptly. The activists have confronted such *qazis* and have made them withdraw their illegal and inhuman acts and insisted on having arbitration before any decision is taken.

The researcher very strongly feels that such WSCs can play a very crucial role even in the case of a Hindu woman. All out of court processes where a Hindu woman needs help can be done by the WSC. They can also keep a check on her lawyer who many times sacrifice the interest of her/his client and join hands with the opposite party for monetary gains. A Hindu woman is more vulnerable as she cannot have access to any extra judicial bodies especially for divorce.

WSCs as alternative bodies for justice delivery

The study once again throws up an important question about the status of the extra judicial bodies. This issue needs to be explored from all angles. To begin with, the current judicial system is a legacy of the British rule. As explored in depth in the first chapter the British founded various institutions in our country when they realized that they have long term economic and political stake in the country. For the first time the judicial system with its elaborate codified laws and lengthy procedures was established across the country. Before them the Mughals also attempted an elaborate system of governance but this was confined mainly to the northern part of the country. The British

with their rule converted a vast and ancient civilization into a nation state with their pan-Indian, well entrenched presence. They set up educational institutions to create a workforce, a bureaucracy to govern and a judicial system to provide legal aid. This legacy which we have inherited as a nation is mammoth, unwieldy, centralized and gives more importance to procedures than people. This humongous system was imposed on a set of people who were gradually turned into poor assetless farmers unaware of the larger socio political changes happening across the country. Moreover in decentralized small kingdoms prior to the establishment of the British system of governance, even justice delivery was decentralized and confined to the village/ caste *panchayats* and to the king and the decisions were taken based not on a set of written laws but on age-old customs and traditions. It is beyond the purview of this study to analyze the pros and the cons of earlier system especially from a feminist perspective, but suffice it to say that the masses by and large had justice, good or bad, at their door steps. The British centralized this system by setting up special courts, with specialized people having specialized knowledge. Justice was no longer about going to the village *panchayat* or to the king. It involved paying a handsome amount to one person who will convince another person about the litigant's innocence. Justice became the property of a few elite privileged to have specialized knowledge. This alienation continued after independence to this date. Delayed justice is equal to denying it and it has been more than true for scores whose matters are still pending in various courts.

To counter this bleak scenario, the society itself has thrown up local groups and committees which attempt at justice disbursal and the WSCs of this Study must be seen in this larger context. The other aspect which is important is the aspect of the WSCs managed by Muslim women and giving legal aid to largely Muslim women. Given the delay encountered in the country's legal system, coupled with the fact that Muslim women has to encounter patriarchal judgments from its religious bodies, the WSCs run by Muslim women offer a platform which she can approach for justice. The WSCs offer legal guidance and legal aid in a community which does not want to even acknowledge law reform as an issue. It is too controversial for community leaders to discuss and find solutions. The WSCs offer legal aid and guidance in a set up where the Muslim matrimonial law is not fully codified. In this context the Muslim women have taken the initiative and filled up a vacuum created by the larger legal system and the vacuum within the community.

Status of extra judicial bodies

Given these inadequacies of the system, what should be the status of extra judicial bodies? Here we will need to distinguish between bodies which believe in and harness Constitutional values like equality, justice, democracy and believe in the overarching validity of the Indian Constitution and those who do not. Anybody or institution or group, which does not accept the above are beyond the scope of this study.

Groups which believe in the overall validity of the Constitution and play an extra judicial role in justice delivery merit our attention. Civil society groups which include NGOs, WSCs, and human rights groups have been playing a crucial role in justice delivery. The author strongly opines that the contribution of these groups must be acknowledged and they must be recognized by legal system.

The WSCs must maintain their autonomy vis-à-vis the courts as they have evolved out of the civil society in response to the disadvantages of the courts. If they align themselves with it then its advantages will be lost and it will be saddled with the disadvantages of the court system. Its advantage is its informality, accessibility, personal touch and non-entanglement with technicalities and procedures. The focus is on getting the job done and not get entangled in the process. It is this advantage of being outside the system that has produced good results and that autonomy must be maintained. If aligned then the disadvantages of the larger system will slowly engulf the new arrangement and the women's courts will adopt all those aspects of the formal courts against which it had emerged in the first place.

The sole objective of these groups must be to support the women in getting justice. In case of a Muslim woman, the groups must stand with the litigant as she negotiates with the *qazi*, the courts or the *jamaats*. All processes that occur in these settings must be made valid in the court of law, provided they are documented and presented properly. The lawyer of the litigant must ensure that the work done by the groups is presented to support her fight in the

court of law. The groups on their part must ensure that their paper work and other processes are documented and are available for the litigant whenever required. In other words, by maintaining their autonomy and by working within the overall framework of Constitutional values, these groups which including the WSCs under study play a complimentary role, complimentary to the processes of the formal legal system. It does not merely supplement but as an independent body, representing the organized might of ordinary citizens, it complements the court structures. Both the formal courts and civil society groups complement each other to support the litigant and both work within the overall framework of the Constitution. Just as these groups acknowledge the overall validity of the courts, the courts too much acknowledge the validity of the groups and treat them as equal partners in justice delivery. Just as WSCs and NGOs employ the services of a lawyer to handle the court end of the litigation, the courts too must seek the help of the out-of-court structures to facilitate its legal aid process.

The *jamaat* or sect councils, religious courts or caste *panchayats* too do provide legal aid. One of the main accusations against these groups is that they profess anti-Constitutional values and some of them do not even want to acknowledge the overall validity of the Constitution. These groups must be regulated and monitored for their anti-constitutional positions and especially for their anti-women stands. As far as monitoring and regulating the *jamaats* or religious courts is concerned, there is one difficulty which is that the Muslim law is not codified. The Shariat Application Act of 1937 establishes the supremacy of the *shariah* over the customary practices but the text of the Act does not lay down the provisions of the *shariah*. Legal luminaries like Fyzee, Mulla, Tyebji, Ameer Ali have given their own versions of the *shariah* which are at variance from each other. There is just too much of diversity which lends itself unamenable to uniformity. The Muslim community too is divided into sects and sub-sects and *jamaats* within sub-sects and all of them have their own version of the *shariah*. The lawyers too refer to different legal experts while they fight the case of the litigant. As a result oppression, harassment and humiliation are belted out as a religious injunction. So the question is against what yardstick will the groups be judged? Each has their uncodified sect law to justify their decision. The solution lies in codification of Muslim law so that a uniform law for the entire Muslim community exists.

The WSCs are most successful if the other stake holders in the society are also sensitive to the women's cause. The police, government bodies, judiciary, other civil society groups, the families, neighbours, immediate relatives all must ensure that they support the weak and the vulnerable. The job of the WSC becomes difficult if any of the above do not work in alignment with them.

RECOMMENDATIONS TO THE MUSLIM COMMUNITY

Discuss concerns of Muslim women with an open mind

There is a resistance within the community to discuss the legal issues of Muslim women. It is deemed controversial and is placed beyond the discussion of the ordinary Muslims. The community is completely averse to even acknowledging the discrimination within the Muslim personal law. This inhibition must be shed first and the difficulties of the women must be heard patiently. An ostrich like approach would not help anyone. Muslim women are not secondary members of the community. And their issues are issues of the community which must be listened to and solutions found. Muslim women must take the initiative to keep the issue alive and work towards its long term solution.

Increasing assertion of Muslim women

In other Islamic/Muslim countries, Muslim women are re-reading and re-interpreting the religious scriptures from a women's perspective. This trend is evident in India too and must be encouraged as that would ensure that the religious rights of Muslim women reach her.

Use of model Nikaahnama

To protect the matrimonial rights of the Muslim women, the *nikaahnama* formulated and used by the Muslim women in the community must be made more visible. The codification of Muslim law is a long drawn process but

till such time this *nikaaahnama* which prohibits polygamy and makes arbitration mandatory before divorce must be publicized for securing the matrimonial rights of Muslim women.

Education of the community

The community has begun to shed its inhibitions towards education, not as much as it should but the process has begun. This surge to educate itself is dampened by excruciating poverty of the community; as a result parents desperate to educate their wards are not able to do so. Education of girls and the boys is mandatory for development of the community. Exposure to the larger world, to other cultures and groups, to constitutional values, along with mainstream education is essential for the larger integration of the community.

Girls education

Early marriage of girls is a bane. The entire process of growth and development comes to a halt. Education of the girls is mandatory till she is a graduate at least. Education of boys too is mandatory as one observes that for reasons of poverty and lack of opportunities later, boys are not motivated to take up education. But there is no way out.

Girls mobility

Linked to girl's education is her need for mobility. The Muslim parents must shed their inhibition and send their girls to far off educational institutions if required. Economic opportunities must be grabbed and not shunned just because one is a Muslim woman. Parents must support their girls for economic empowerment.

Addressing issues of poverty and destitution

There is tremendous poverty and destitution within the community. The community leaders with resources must concentrate on building community centers which can house government development initiatives like health centers, balwadis, anganwadis. The special prayer time on Fridays can be used to give out messages which boost the social, economic and educational status of the community. For eg. Friday congregation can be used for announcing various government schemes meant for school and college students, for women and children. Notice boards of masjids can put up these announcements in writing. Masjids can also house balwadis, anganwadis and health centres just as it is done in the churches. Instructions must be given out to men to shun violence against women. Right now instructions on their social behavior are given out only to women.

Inculcating humane values

Certain sections of the society irrespective of their religion are untouched by humane values. Women are not given food to eat, they are sexually abused, violence of the worse kind is perpetuated on her, husband has sex with another woman in front of his wife and son – these and much worse absurdities and inhumanity is observed. Absolute assertion of power for abuse and violence and inhumanity is observed. How do we address this malfunction in human attitude and behaviour? Our state machinery, institutions associated with education, religion and family as an institution have a combined role to play to make human beings more human.

Conclusion

Grassroots women's organizations, community based organizations, WSCs, nyaya panchayats have emerged from the society in response to the needs of the women. The formal legal structure with its historical legacy had left a vacuum which was filled in by these groups. Each society generates its own needs and those needs have to be fulfilled. If those are not fulfilled by the state then the society will fulfill it.

These emergent groups cannot and should not be wished away as they fulfill a big responsibility of providing justice to women who for many centuries have borne and continues to bear the brunt of patriarchy.

The state and the NGO community must make efforts to develop the capacities of these groups through regular training and support. These groups play a complementary role to the formal legal system. Without diluting their autonomy these groups must be made to work in a way that complements the working of the legal system.

The legal system must also shed its arrogance and treat these groups with the respect that they deserve. They are after all closer to the people and understand their needs more closely. They are also closer to other stakeholders within the society. The legal system must treat these groups as an equal and important part of the justice delivery system and treat their services as complementary and not supplementary to their own work.

Finally the state must encourage, facilitate and monitor this arrangement between the formal and informal systems of justice delivery and devise methods by which they can work in an atmosphere that makes justice accessible to the most excluded sections of the society.

GLOSSARY

Aga khani: A sub-sect in the Shia sect of the Muslim community who are followers of Aga Khan, Imam of the Nizari branch of Ismailis

Anganwadi: Integrated Child Development Centre run by the state

AurtonkiShariatAdalat: Women's Shariat Court **BMMA:** Bharatiya Muslim MahilaAndolan **Balwadi:** Pre-school

Bohras: A sub-sect of the Shia sect of the Muslim community who are the followers of the Syedna.

Bhabhi: Brother's wife

Caste panchayats: Collective of people belonging to a particular caste

Corporators: Nagar Sevak, locally elected representative of people

Chawl: A settlement with many rooms on each floor and a common toilet

Daadisaas: Husband's grandmother

DarulQaza: Abode of judges. An office where Muslim qazis or judges sit for giving judgements

Dissolution of Muslim Marriage Act, 1939: Act passed in British India which gave the right of divorce to Muslim women.

Faskh-e-Nikaah: Annulment of marriage **Galli:** Lane

Gutkha: Addictive substance available in small pouches considered to be very unhealthy and dangerous

Hadis: A story of a particular occurrence in the life of the Prophet Mohammed.

Iddat: The number of days a divorced or widowed woman must wait before she can remarry.

Jamaat: A collection of people of a particular sub-community within the Muslims who take important decisions of the community life.

JhopadpatiPanchayat: A committee comprising of important members of the locality which handles civic issues within the community

Jethani: Husband's elder brother's wife **JK:** Jagruti Kendra

Khula: A method of divorce in Islamic jurisprudence where the demand for divorce is initiated by the woman.

Khulanama: A document on which the terms of khula are mentioned and agreed upon by both the parties.

Mandal: Collective of people **Mahilamandals:** Collective of women

MahilaDakshataSamiti: A Committee formed by the police in collaboration with women's organization to tackle incidences of violence against women.

Mohalla: Locality

Mohalla Committee Movement Trust: Committee of local police and citizens for peace building and conflict resolution

Masjid: Place of worship of the Muslims

Mahilapanchayat: Collective of women which provides legal aid

MahilaSurakshaNivaran Kendra: Centre offering counseling to women in police station

Maulana:a Muslim man revered for his religious learning or piety.

Mehr: Dower, amount paid by the groom to the bride at the time of marriage

MLA: Member of Legislative Assembly MP: Member of Parliament

Mohalla committee: Committee comprising of police and citizens to tackle issues of governance and policing.

MSM: Mahila Shakti Mandal

Mijazikhuda: A belief that if anybody has to be worship after God it is the husband.

Mufti: a Muslim legal expert who is empowered to give rulings on religious matters.

NyayaPanchayat, NyayaAdalat: A collective which gives legal aid and assistance

Nikaahnama: A document which contains terms and conditions of a Nikaah

Nikaah: Islamic marriage considered to be a socio-religious contract

Naqaab: veil

Para nurse: Person who is not a professional nurse but has gained enough knowledge through short term course to provide basic medical aid

Para lawyer: Person who is not a professional lawyer but has gained enough knowledge through a short term course to offer legal aid

Pavti: Receipt

Panchayat/Panch: Collection of people, mainly 5 or more to take decisions

Qazi: Judge

Quran: Holy book of the Muslims

Sect: Group within the Muslim community

Shariat Application Act of 1937: Act passed in British India for facilitating the implementation of shariah on the Muslim community

Shariah: Islamic law

Shia and Sunni: Sects within the Muslim community SMM: SamjhautaMahilaMandal

Talaak: A method of divorce in Islamic jurisprudence which is initiated by man

Talaaknama: A document which lays down the terms of divorce

Tiffin: A service provided wherein cooked food is sold to families and individuals.

Toll naka: Entry point into the city

WRAG: Women's Research and Action Group

Wakf: Real estate or property to support religious or charitable institutions.

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