

A Study on the Women Rights in Islam with Reference to Indian Constitution

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Abstract

Women have an important role in the family as well as in the society, as she plays the role of daughter, sister, wife, mother etc. Right and freedom complete the life of every individual, however it matters more in case of human beings. All the countries of world have their specific constitution or rule book, which are availing the rights to women for living the life with dignity and freedom. The present study is focused on the comparison of women rights in India with Islamic laws in major Islamic countries. In the light of literatures available on Islamic procedures, it is observed that the actual position and status of women for their rights and freedom is completely dissimilar. The study has explored the Indian constitution and other Islamic laws of diverse countries to explore the status of women in all the possible areas. The present study is carried out based on reports, records of Islamic practices and Constitution of India to find out the legal position of the women.

Keywords: Women, rights, constitution, Islamic laws.

1. Introduction:

This earth is the collective place for all organisms, where they live together to form the group or society. When same types of individuals are living in groups, it is termed as society. Men and women are two major parts of the human society, in which women are the most important as well as essential factor of the society. The women are known as first teacher of family as well as society and she also acts as a nurse for the family. Women have various roles, responsibilities and duties in the family; such as daughter, sister, wife, mother etc¹. She always delivers all their responsibilities without any expectations; however, the special caring, attention along with the special rights must be there for her. In all the terms, 'Right' is an adequate factor for any individual because it helps to strengthen the community, especially for the women². All should have rights for freedom of life and independence. Being an essential part of life, women should also have the rights for their individual life and freedom. Most of the countries have the constitutional documents which facilitates the power, rights and freedom for women, but the reality is totally different. In the light of prehistoric literatures and current reports Women have their important contribution to develop the society and community. There are some sets of laws, regulations and rules have constructed by all the societies to ensure the freedom and dignity of women³. The present study is carried out on the basis reports, judgments, legal documents specially in concern of women rights in Islamic laws as well as in Indian constitution.

Islamic religion is followed by majority of the World's population. The followers of Islam believed that Allah is the only 'GOD'. It is also believed that the holy book of Islam Quran revealed on Prophet Muhammad by the God and the wording and activities of Muhammad Sahab are collected in the Hadith⁴. According to these literatures there are five bases of Islam such as Shahada, Salah, Zakat, Sawm and Hajj⁵. There is one acceptance that Islam has two types of followers throughout the world named as Sunni and Shia⁶, the women rights and status in Islam is so complex over to the cultural significance. Based on the texts available in the Islamic book "Quran" all males and females are

¹ Korambu, S. M. (1999). Role and Empowerment of Women in the Family.

² Billava, N., & Nayak, N. S. (2016). Empowerment of women representatives in Panchayat Raj institutions: a thematic review. *Journal of Politics and Governance*, 5(4), 5-18

³ Marshall, K. (2010). Development, religion, and women's roles in contemporary societies. *The Review of Faith & International Affairs*, 8(4), 35-42.

⁴ Ali, M. M. (2015). *The religion of Islam*. Ahmadiyya Anjuman Ishaat Islam Lahore USA.

⁵ Edgar, S. (2002). The five pillars of islam in the hadith. *Studia Antiqua*, 2(1), 9.

⁶ Blanchard, C. M. (2009). Islam: Sunnis and Shiites. *Focus on Islamic*, (2006), 11-21.

spirituality equal. The responsibility to work, family and social rights have provided distinctly to both genders. In the consideration of women, Quran grants rights of marriage and consent. According to the Arabian literature, in seventh century Islam reformed the customs to prohibit the female infanticide⁷. The overall women rights in Islam are depending on the cultural traditions, social and legal environment. In some Islamic countries, significant rights and opportunities are provided to women, while other countries have various kinds of obstructions in freedom of women⁸. In Present time, female followers of Islam are much aware about their rights and freedom. They are interpreting and justifying the religious instructions given in the holy books and other Islamic texts. As per the guidance of special instructions of traditional practices women have faced social barriers of dressing, employment and marriage⁹. It was also known that women have vital role in Islamic history such as Khadijah (Muhammad's wife) to contemporary leaders in various fields, including politics, education, and activism¹⁰. The present study is structured as per following selected areas to find out the comparison of women rights in Islamic law with Indian constitution-

1.1. Rights of women in Islam:

As per the records and practices, Islam is so sensitive for women's dignity, rights, and equality¹¹. The detailed description on women rights in Islam is given in the Quran, Hadith (sayings of the Prophet Muhammad), and Islamic jurisprudence (fiqh)¹². According to the Quran (16:58-59), Islam has the provisions for life protection for all followers as well as for infants. It opposes the female infanticide¹³. Along with the life protection Islam is also known to provide the equal opportunities of education and employment for both men and women. It was documented in Quran (as Prophet Muhammad said) that seeking knowledge is obligatory for Muslim individuals (Hadith: Ibn-Majah, Sahih Muslim 157 d, Qur'an, 4:32). With reference to Quran (Qur'an, 4:3) marriage is a contract and women have the right of consent for marriage. If there is any kind of unwilful situation she can take the divorce via Khula (Quran, 2:229). It is also to notify here that at the time of marriage women offered a marriage gift named Mahar as the economic security¹⁴. As per the Qur'an, 4:7-11, the inheritance rights of financial support are also provided to the women¹⁵. In case of respect and dignity, Quran supports to women and men equally (Quran, 33:35), however rights and freedom of women may differ in other Islamic countries¹⁶. It was supposed that women have provided the equal freedom as men for worship in front of GOD (Quran, 33:35)¹⁷.

1.2. Rights of women in the Indian Constitution:

The Indian Constitution is adopted on 26th November 1949 but come into force officially in 26th January 1950, with the provisions of equal rights, freedom, and protection from any kind of discrimination for women. The major constitutional provisions for women are as follows:

A. Right to Equality (Article 14, 15, and 16)¹⁸:

- **Article 14** ensures equality before the law to all citizens.
- **Article 15** prohibits discrimination based on sex, among other grounds, and ensures that women are not discriminated against in matters such as employment or access to public places.
- **Article 16** ensures equal opportunity in public employment for all citizens, including women.

⁷ Tasgheer, A., & Ishfaq, M. (2021). Female Infanticide in Pre-Islamic Arab Society: A Quranic and Historical Perspective. *Al-Qawārīr*, 3(1), 1-12.

⁸ Cherif, F. M. (2010). Culture, rights, and norms: Women's rights reform in Muslim countries. *The Journal of Politics*, 72(4), 1144-1160.

⁹ Keddie, N. R. (1990). The past and present of women in the Muslim world. *Journal of World History*, 1(1), 77-108.

¹⁰ Fatima, S. (2024). The Role of Women in Social Organizations during the Prophetic Era: Contemporary Lessons for Community Development. *Al-'Ulūm Journal of Islamic Studies*, 5(2), 1-17.

¹¹ Booley, A. (2024). Unveiling Islamic Perspectives on Women's Rights in the Family: Duty, Honour, Equality and Human Dignity. *Manchester Journal of Transnational Islamic Law & Practice*, 20(2), 62-84.

¹² Ali, K. (2016). *Sexual ethics and Islam: feminist reflections on Qur'an, hadith, and jurisprudence*. Simon and Schuster.

¹³ Chaudhry, A. S. (2011). "I WANTED ONE THING AND GOD WANTED ANOTHER...": The Dilemma of the Prophetic Example and the Qur'anic Injunction on Wife-Beating. *Journal of Religious Ethics*, 39(3), 416-439.

¹⁴ Azahari, R., & Ali, H. M. (2015). Mahr as a form of economic security: a preliminary study. *arab law quarterly*, 29(3), 296-305.

¹⁵ Haque, M. F., Solihin, S. M., Ahmad, N., & Jani, M. S. (2020). Women Rights to inheritance in Muslim Family Law: an analytical study. *International Journal of Islamic Business & Management*, 4(1), 15-26.

¹⁶ Booley, A. (2024). Unveiling Islamic Perspectives on Women's Rights in the Family: Duty, Honour, Equality and Human Dignity. *Manchester Journal of Transnational Islamic Law & Practice*, 20(2), 62-84.

¹⁷ Hasan, A. G. (2006). *The rights and duties of women in Islam*. Darussalam.

¹⁸ Jyakhwo, M. (2019). Right to Equality. *Nepal Law Review*, 28(1-2), 477-484.

B. Protection of Women's Rights¹⁹:

- **Article 21** guarantees the right to live with dignity. This article also provides various protective measures for women, such as the right to be free from domestic violence.

C. Special Provisions for Women²⁰:

- **Article 15(3)** allows the state to make special provisions for women and children. This provision has been the basis for laws such as maternity benefits, affirmative action in employment, and measures to prevent child marriage.
- **Article 46** promotes the welfare of women and children and directs the state to protect them from social injustice and exploitation.

D. Directive Principles of State Policy²¹:

- **Article 39(a)** ensures the equal rights of livelihood to men and women.
- **Article 39(d)** ensures equal pay for equal work for both men and women.
- **Article 42** directs the state to ensure that humane conditions of work are provided for women, as well as maternity relief.

E. Prohibition of Traffic in Human Beings and Forced Labor²²:

- **Article 23** prohibits trafficking in human beings and forced labour, providing a legal framework for the protection of women from exploitation and trafficking.

F. Protection from Domestic Violence:

- In recent years, the Indian government has passed specific laws to protect women from domestic violence. This Domestic Violence Act, 2005, provides legal remedies for women suffering from physical, emotional, or financial abuse within marriage.²³

G. Criminal Laws Protecting Women:

- India has enacted various laws that protect women from violence, harassment, and exploitation, including the Indian Penal Code (IPC) provisions related to sexual harassment, rape, and dowry deaths (Prevention, Prohibition, and Redressal) Act, 2013.²⁴

H. Marriage and Family Laws:

- While the Indian Constitution guarantees gender equality, marriage and family laws are influenced by personal laws, which vary across different religions (Hindu, Muslim, Christian, etc.). This creates a complex legal landscape for women's rights related to marriage, divorce, and inheritance.²⁵

I. Comparison and Challenges:

- **Equality:** Both the Indian Constitution and Islamic teachings emphasize the importance of equality, but their interpretations can vary based on cultural, legal, and religious contexts.
- **Marriage and Family Laws:** In Islam, marriage is a contractual relationship with clear rights and duties for women, while in India, personal laws often determine a woman's rights in marriage, leading to discrepancies in legal protection based on religious community.
- **Social Participation:** Both Islam and the Indian Constitution guarantee women the right to education, work, and social participation, but in practice, social and cultural norms in many regions still limit women's full participation in public life.

¹⁹ Kumar, P. (2021). Interpretation of Indian Constitution Article 21 with Special Reference to the Right to Human Dignity: An Analysis. *Indian JL & Legal Rsch.*, 2, 1.

²⁰ Ghia, U. (2020). Affirmative Action Under Article 15 (3): Reassessing The Meaning of " Special Provisions" For Women. *Nat'l L. Sch. India Rev.*, 32, 226.

²¹ Chaudhry, M. S. (1997). *Women's rights in Islam*. Adam Publishers.

²² Boruah, J., & Aryan, S. (2021). Indian Democracy in Promoting Freedom from Exploitation under Article 23 of the Indian Constitution. *The Legal Vidya*, 2(1).

²³ Das, P. K. (2011). *Protection of Women from Domestic Violence*. Universal Law Publishing.

²⁴ Kaur, S. (2018). *Beyond the Legal: A Sociological and Institutional Critique of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (Doctoral dissertation, IISERM).

²⁵ Subramanian, N. (2010). Making family and nation: Hindu marriage law in early postcolonial India. *The Journal of Asian Studies*, 69(3), 771-798.

1.3. Dignity of Women in Islam:

The dignity of male and female in Islam is a fundamental human right. Based on views of Prophet Muhammad, it was stated that all the human beings, regardless of gender. The detailed information about the dignity and equality for women is as follows: -

A. Inherent Dignity:

The Qur'an explicitly affirms the dignity of all human beings. In Surah Al-Isra (17:70), Allah states that men and women have equal rights with dignity.²⁶

a. Spiritual Equality:

Islam recognizes the spiritual equality of men and women before God. Both have the same potential for spiritual advancement and are equally accountable for their deeds. The Qur'an says: the Muslim men and women must be obedient as Quran (Quran, 33:35). This quote hypothesized that both male and female both are equally entitled to God's reward for their faith and actions.²⁷

b. Right to Live with Dignity:

Women are given the right to live a life, free from violence. As per the Islamic practices the women should be treated with kindness, respect, and fairness by their husbands, fathers, and society. The Prophet Muhammad also proposed his views that all should treat the women with dignity and honour.²⁸

1.4. Dignity of Women in Indian Constitution:

The dignity and respect of women is well placed in the Indian Constitution with social as well as constitutional status-

a. Constitutional Protection:

- **Article 21** of the Indian Constitution guarantees the right for the protection and liberty for all citizens, which has been interpreted by courts to include the right to live with dignity. The well-known famous **Vishaka case vs State of Rajasthan** (1997), the Hon'ble Supreme Court emphasized that the right to dignity also means freedom from sexual harassment at the workplace.²⁹

- In the case of **Maneka Gandhi vs Union of India** (1978), the interpretation of Article 21 is extended by Hon'ble Supreme Court that dignity is a core aspect of life and personal liberty, covering physical, emotional, and mental integrity.³⁰

b. Social and Cultural Perspectives:

- Dignity, in many traditional Indian cultures, is associated with a woman's honor, particularly in the context of her role in family and community. Women's dignity is often seen as linked to her behaviour, modesty, and adherence to cultural expectations.³¹

- However, this connection between women's dignity and cultural norms has led to practices such as honor-based violence or honor killings, where women's actions or perceived transgressions are punished to preserve the family's honor. These practices undermine the very dignity of women and contradict constitutional protections.

c. Violence Against Women:

- Most of the violence against women is family violence, sexual harassment, and trafficking are significant violations of women's dignity. Indian constitution has special provision of protection act 2005 for the domestic violence and Prohibition, redressal act-2013 against sexual harassment at workplace.³²

²⁶ Ebrahimi, M., & Yusoff, K. (2017). Islamic identity, ethical principles and human values. *European Journal of Multidisciplinary Studies Articles*, 2.

²⁷ Nasr, S. H. (2013). *Islamic spirituality: foundations*. Routledge.

²⁸ Saifudin, N. N. (2022). The best of you are those who are best to their women." How did it get twisted?—A study of the bureaucratisation of Islam and women's development.

²⁹ Kant, P. (2025). Human Rights under the Indian Constitution: A Comprehensive Legal Analysis. *Available at SSRN 5289013*.

³⁰ Anuhashitha, C. (2025). The Right To Life Under Article 21: Mandating Prison Reforms To Ensure Dignity, Healthcare, And Rehabilitation.

³¹ Keni, T. (2025). Collective Honour and Personal Dignity: Implications for Well-Being from an Indian Perspective. In *Building a Resilient and Responsible World: Psychological Perspectives from India* (pp. 65-85). Singapore: Springer Nature Singapore.

³² SINGH, S. (2021). *A Legal Study of Women's Right and Sexual Harassment of Women workplace (Prevention, Prohibition and redressal) act 2013* (Doctoral dissertation).

1.5. Honor of Women in Islam:

Honour in Islam is closely linked to personal integrity, modesty, and the protection of one's reputation. The concept of honour is strongly upheld within the family and society, but it is also important to note that honour is not tied to gender alone; both men and women are to be respected and protected.³³

a. Modesty and Chastity:

The Islamic traditions and knowledge have faith in the modesty for all individuals, with the understanding that modest behaviour reflects a person's honour and self-respect. The Quran encouraged the women not to display and guard their private parts (Qur'an, 24:31).

b. Protection from Harm:

Islam stresses the protection of women's honour from harm, be it through physical violence, defamation, or exploitation. The Qur'an prohibits any form of injustice, including false accusations of immorality (e.g., slander and defamation), which can harm a woman's reputation (Qur'an, 24:4). The honour of women, therefore, is seen as integral to the integrity of the family and the broader community.^{34, 35}

1.5. Honor of Women in Indian Constitution:

Honor is another crucial concept tied to women's status, often linked to societal expectations, family reputation, and personal conduct.

a. Honor and Gender Norms:

- In many Indian communities, women's honour is closely linked to their marital fidelity, and adherence to societal roles as wives and mothers. This perception of honour can often limit women's freedom and rights, as any perceived violation of these norms can lead to stigma, discrimination, and even violence.³⁶
- Honor killings, although illegal, continue to be reported in some parts of India. In such cases, women are killed by their families or communities for "bringing shame" due to actions such as inter-caste or inter-religious marriages, or the desire for a romantic relationship outside the arranged marriage system.³⁷

b. Legal Protections Against Honor Crimes:

While **honour killings** are prohibited under Indian law, the enforcement of laws can sometimes be weak in rural or conservative areas. The IPC and other legal provisions provide the protection against such crimes, and the Prevention of Atrocities Act (1989) addresses violence against women in caste-based contexts, but challenges remain in ensuring these laws are effectively implemented.³⁸

1.6. Status of Women in Islam:

Islam grants women the same spiritual worth as men, with no discrimination before God. In Surah Al-Ahzab (33:35), both men and women are supposed as equal in terms of their religious practices. This suggests that women, like men, are entitled to spiritual and moral dignity.³⁹ This was revolutionary in the 7th century when the Qur'an was revealed, as it granted women the legal right to inherit property and manage their wealth independently of male guardians. (Quran, 4:7).

The Quran is also providing the rights to women to keep their mahr (dowry), which is considered as the essential but conditional gift of husband to wife. Women in Islam have the right to choose their spouse. Forced marriage is forbidden in Islam (Qur'an, 4:3).⁴⁰

³³ Bond, J. (2012). Honor as property. *Colum. J. Gender & L.*, 23, 202.

³⁴ Mohammad, F., & Lee, R. (2015). Evidentiary Standards for Sexual Offenses in Islam. *Pakistan Journal of Criminology*, 7(1), 29-43.

³⁵ Booley, A. (2024). Unveiling Islamic Perspectives on Women's Rights in the Family: Duty, Honour, Equality and Human Dignity. *Manchester Journal of Transnational Islamic Law & Practice*, 20(2).

³⁶ Banerjee, S. (2006). Armed masculinity, Hindu nationalism and female political participation in India: Heroic mothers, chaste wives and celibate warriors. *International Feminist Journal of Politics*, 8(1), 62-83.

³⁷ Rajpal, G. S., & Upmanyu, R. (2025). Consanguinity of Caste Prejudices With Honor Killing. In *Global Law, Human Rights, and Intersections With Honor Killing* (pp. 313-330). IGI Global Scientific Publishing.

³⁸ Garimella, S. R. (2016). Caste-Based Violence: The Indeterminacy in the Law. *Journal of the Indian Law Institute*, 234-259.

³⁹ Rahim, S. A., Rahim, R. F. A., Panatik, S. A., & Muhammad, S. N. (2022, March). Gender Equality From Islamic Perspective. In *2nd World Conference on Gender Studies (WCGS 2021)* (pp. 1-7). Atlantis Press.

⁴⁰ Duvander, A. Z. (2014). How long should parental leave be? Attitudes to gender equality, family, and work as determinants of women's and men's parental leave in Sweden. *Journal of Family Issues*, 35(7), 909-926.

a. Right to Education:

Islam places a significant emphasis on education for both men and women. As per the Hadith, Ibn Majah “Seeking knowledge is obligatory for every Muslim”. This signifies that women have the right to learn and pursue education in all fields.⁴¹

b. Work and Public Life:

As per the Islamic history and practice the women are free to work and participate in public life. They have their rights to earn via businesses, and engage in social, political, and economic activities. The famous example of Khadijah bint Khuwaylid, the Prophet Muhammad’s wife, who was a successful business-woman, illustrates that Islam supports women’s economic independence.⁴²

c. Inheritance Rights:

Women in Islam have the right to inherit property from their parents, husbands, and relatives. The Qur'an have instructions to avail the inheritance for women, ensuring they are financially supported (Qur'an, 4:7). While the inheritance share for women may be half of that of men in some cases (e.g., when a woman inherits from her father), this is based on the understanding that men are typically responsible for the financial support of their families, while women have the autonomy to manage their inherited wealth.⁴³

1.7. Status of Women in Indian Constitution:

The status of women in India is multifaceted, shaped by the legal framework, education, economic participation, and social norms.

a. Legal Status:

Women’s legal status has evolved significantly over time through constitutional provisions and reforms. Key laws have been enacted to protect women’s rights and promote gender equality, including Right to Equality (Article 14, 15); The Hindu Succession Act (1956); The Dowry Prohibition Act (1961); The Protection of Women from Domestic Violence Act (2005).⁴⁴

b. Status in Education:

Women’s literacy rates in India have improved over time, but significant disparities are remaining. In the light of report of National Statistical Office (NSO) data, the literacy rate of women is still lower than men, while rural areas are facing greater challenges. However, in urban areas, the gender gap in education is narrowing, and more women are entering higher education and specialized fields.⁴⁵

c. Status in Employment:

Women's participation in the labour force is still lower than men’s, with many women facing barriers such as gender-based discrimination, unfavourable working environmental conditions, unequal wages, and the burden of unpaid domestic work.⁴⁶ However, India has seen an increase in women’s involvement in various sectors, including politics, business, and entertainment, and there has been progress with government policies promoting gender equality in employment, such as affirmative action and gender quotas in local governance.⁴⁷

d. Social Norms and Challenges:

- **Caste and Class System:** Women’s status is often further influenced by caste, class, and religion, with marginalized groups such as Dalit women or tribal women facing compounded discrimination and violence.⁴⁸

⁴¹ Abukari, A. (2014). Education of women in Islam: A critical Islamic interpretation of the Quran. *Religious Education*, 109(1), 4-23.

⁴² Orakzai, S. B. (2014). The rights of women in Islam: The question of ‘public’ and ‘private’ spheres for women’s rights and empowerment in Muslim societies. *Journal of Human Rights in the Commonwealth*, 2(1).

⁴³ Khan, I., Abdullah, M. F., Rahman, N. N. A., Nor, M. R. B. M., & Yusoff, M. Y. Z. B. M. (2016). The right of women in property sharing in Bangladesh: Can the Islamic inheritance system eliminate discrimination?. *SpringerPlus*, 5(1), 1695.

⁴⁴ Bhaurao, P. K. (2025). *Women and The Indian Constitution*. Addition Publishing House.

⁴⁵ Swargiary, K. (2024). State-Wise Literacy Rates in India: Analyzing Regional Disparities, Gender Gaps, and Policy Impacts. *Gender Gaps, and Policy Impacts (July 01, 2024)*.

⁴⁶ Costagliola, A. (2021). Labor participation and gender inequalities in India: Traditional gender norms in India and the decline in the Labor Force Participation Rate (LFPR). *The Indian Journal of Labour Economics*, 64(3), 531-542.

⁴⁷ Cooke, F. L. (2010). Women's participation in employment in Asia: a comparative analysis of China, India, Japan and South Korea. *The international journal of human resource management*, 21(12), 2249-2270.

⁴⁸ Sharma, B., & Geetha, K. A. (2021). Casteing gender: Intersectional oppression of Dalit women. *Journal of International Women’s Studies*, 22(10), 1-7.

- **Patriarchal Structures:** Patriarchy remains deeply ingrained in many parts of Indian society, with women often expected to adhere to traditional roles of homemakers. These norms impact women's economic independence, mobility, and social standing.⁴⁹
- **Rural vs. Urban Divide:** Women in rural areas, especially from economically disadvantaged backgrounds, often have lower status and face more barriers to education, healthcare, and legal rights compared to women in urban centres.⁵⁰

e. Recent Developments in Improving the Status of Women:

Several reforms and policies have aimed at improving the dignity, honour, and status of women in India:

- **Beti Bachao Beti Padhao Scheme (2015):** A government initiative focused on improving the status of girls through education, awareness, and action against female feticide.⁵¹
- **Swachh Bharat Abhiyan (2014):** Focuses on sanitation and the construction of toilets, which directly impacts the dignity and health of women, especially in rural areas.⁵²
- **Economic Empowerment:** Programs promoting women's entrepreneurship, such as Stand-Up India and the Pradhan Mantri Mudra Yojana, aim to enhance women's economic participation.⁵³
- **Judicial Interventions:** The Indian judiciary has played an important role in promoting women's dignity and rights, with progressive rulings on issues such as sexual harassment (Vishaka Guidelines) and women's participation in religious rituals and places of worship.⁵⁴

f. Challenges and Interpretations:

While Islam guarantees dignity, honour, and high status for women, cultural practices and regional interpretations often shape how these rights are realized. Patriarchal practices in some Muslim-majority societies may limit women's freedom, such as gender-based violence, forced marriages, or limited access to education and employment.

1.8. General Principles of Divorce in Islam:

Divorce is seen as an unfortunate solution to marital problems, only allowed after all efforts at mediation, communication, and reconciliation has failed. As per Hadith, Sahih Muslim, divorce is the worse act for Allah. This highlights the importance of preserving the marriage if possible.⁵⁵

Types of Divorce: There are several types of divorce in Islam, each with its own procedures and implications:

- Talaq (Divorce Initiated by the Husband):** This is a common type of divorce in Islam, where the husband initiated the divorce to his wife. The process is mentioned in the Qur'an and is typically done over three menstrual cycles, allowing for reconciliation during this period. The waiting period, or *iddah*, is a key part of talaq, ensuring that the woman is not pregnant and allowing time for reflection.⁵⁶
- Khula (Divorce Initiated by the Wife):** A woman can seek a divorce through khula if she is unhappy in the marriage. In this process, the mahr (dower) returned by the women. The Qur'an permits a woman to seek divorce if the marriage is not fulfilling and if the husband is not fulfilling his duties. In Surah Al-Baqarah (2:229), it states: "*Then either keep [her] in an acceptable manner or release [her] with kindness...*" (Qur'an, 2:229). This emphasizes that the divorce process should be respectful and just.⁵⁷

⁴⁹ Nayak, B. S., & Sinha, G. (2025). Patriarchal family, gendered society and capitalist state in India. *Impact of Patriarchy and Gender Stereotypes on Working Women: Exploring its Past, Present and Future*, 39-50.

⁵⁰ Logan, T. K., Stevenson, E., Evans, L., & Leukefeld, C. (2004). Rural and urban women's perceptions of barriers to health, mental health, and criminal justice services: Implications for victim services. *Violence and victims*, 19(1), 37.

⁵¹ Sudhakar, G. J. (2018, January). Conditions of Girl Child with Special Reference To Beti Bachao Beti Padhao Scheme. In *Proceedings of the Indian History Congress* (Vol. 79, pp. 875-882). Indian History Congress.

⁵² Dash, A. K., & Dash, R. K. (2021). Environmental and sustainability campaigns: a case study of India's Swachh Bharat Abhiyan (2014–2019). *Journal of Communication Management*, 25(4), 385-400.

⁵³ Satsangi, N. S., Raghuwanshi, S., Hasan, A., Sushma, R., Tare, U., Khan, D., ... & Singhal, A. (2025). Fostering Entrepreneurship and MSME Development through Targeted Interventions: Lessons from India's Experience with MUDRA, Stand-up India, and Startup India. *International Journal of Economics and Financial Issues*, 15(2), 59.

⁵⁴ Saini, V. S. V. (2024). Role of the judiciary in advancing women's rights under the Indian Constitution. *Motherhood International Journal of Research & Innovation*, 1(01), 39-45.

⁵⁵ Lamrabet, A. (2018). The Principles of Divorce in the Qur'ān. In *Women and Men in the Qur'ān* (pp. 85-104). Cham: Springer International Publishing.

⁵⁶ Bani, L. M., & Pate, H. A. (2015). Dissolution of marriage (divorce) under Islamic law. *JL Pol'y & Globalization*, 42, 138.

⁵⁷ Ullah, R., Afzal, M., & Ul Huda, N. (2025). Khula (Divorce At The Instance Of Wife) In Pakistan: A Critical Examination Of The Law And Practice. *Research Consortium Archive*, 3(2), 618-633.

c. **Faskh** (Annulment of Marriage): A faskh can be granted by a religious court if the marriage is deemed invalid or if there is a breach of contractual obligations (e.g., the husband failing to provide for his wife, or issues such as abuse or non-consummation of marriage).⁵⁸

d. **Mubarat** (Mutual Divorce): This is a divorce by mutual agreement between husband and wife, where both parties agree to end the marriage without any further legal complications. This type of divorce often takes place when both parties agree that they cannot continue the marriage.⁵⁹

e. The Waiting Period (Iddah):

After a divorce, the woman is required to observe a waiting period, called iddah, before she can remarry. The length of the iddah depends on the circumstances, such as whether the woman is pregnant or menstruating. This iddah waiting period is to ensure there is no confusion about paternity in the case of pregnancy and to give both parties time for reflection.⁶⁰

- **For a non-pregnant woman:** The waiting period is typically three menstrual cycles.
- **For a pregnant woman:** The waiting period lasts until the child is born.
- **For a widow:** The iddah period is four months and ten days.

f. Financial and Social Rights of Women after Divorce:

Islamic divorce laws prioritize the financial rights and protection of women in the case of divorce, aiming to ensure they are not left destitute or vulnerable.

g. **Mahr (Dower):** At the time of marriage, the husband gives the wife a mahr, which is her property. Even if the marriage ends in divorce, the wife retains the right to this dower. If the divorce is initiated by the husband (talaq), the wife is still entitled to the full mahr, even if the marriage was brief.⁶¹

h. **Maintenance:** If the wife is in her iddah period following a talaq, the husband is obligated to continue providing for her maintenance, including food, clothing, and shelter. After the iddah period, she is entitled to financial support if she is breastfeeding children or in need of support due to other circumstances.⁶²

i. **Child guardianship:** The custody of children is a major concern in Islamic divorce, and Islam stresses the welfare of children. As per the observed reports of Islam young children handed over to mother, however the financial responsibilities taken care by father. However, custody arrangements can change as children grow older, and the best interests of the child are always prioritized.⁶³

j. Rights of Women to Initiate Divorce (Khula):

Islam acknowledges that not all marriages are healthy or fulfilling for women. If a woman feels that her marriage is untenable, she has the right to seek a khula (divorce initiated by the wife). The Khula is initiated by the wife if she finds that she cannot continue in the marriage for various reasons (e.g., neglect, abuse, incompatibility). The wife may have to return her mahr (dower) to the husband, but otherwise, she is not required to justify her decision to the court.⁶⁴ This emphasizes the importance of allowing divorce in cases where the marriage has broken down beyond repair.⁶⁵

k. Divorce and Women's Dignity in Islam:

While divorce in Islam is allowed, it is governed by principles of justice, kindness, and respect.

The Prophet's Example: The Prophet Muhammad's actions demonstrated a compassionate approach to divorce. When his own marriages ended, he treated the women with respect and provided for them after divorce. His practice

58 Shah, K. (2025). Validity of faskh (Judicial annulment) of Nikah (Islamic marriage) due to 'Shiqaq' (Marital discord) and its 21st century application. *Australian Journal of Islamic Studies*, 10(1), 41-65.

59 Mahapatra, M., & Kalra, P. P. K. (2021). Critical Analysis of Divorce by Mutual Consent. *Issue 4 Int'l JL Mgmt. & Human.*, 4, 351.

60 Razali, M., Hadigunawan, N., & Jamil, A. N. (2020). Analysis of Islamic Legal Rulings Relating to Women Activities During Waiting Period (Iddah) of Revocable Divorce (Talaq Rajâ€™™ ie) According to Muslim Jurists. *Jurnal Islam Dan Masyarakat Kontemporer*, 21(1), 276-286.

61 ur Rehman, M. B. (2025). An Analytical Study of Mahr with Reference to the Prophet's Wives (Azwāj al-Muṭahharāt). *AL-HAYAT Research Journal (AHRJ)*, 2(2), 103-110.

62 Farque, M. O. (2024). Muslim Wife's Right to Maintenance in Bangladesh: Analysed Through the Lenses of Shari'ah and Judicial Decisions. Available at SSRN 5113239.

63 Adil, M. A. M., & Saidon, R. (2017). Religion as a determinant of child welfare in custody cases in Malaysia and classical Islamic law: A comparative overview. *ICR Journal*, 8(1), 35-46.

64 Ullah, R., Afzal, M., & Ul Huda, N. (2025). Khula (Divorce At The Instance Of Wife) In Pakistan: A Critical Examination Of The Law And Practice. *Research Consortium Archive*, 3(2), 618-633.

65 Hakim, N., & Habibullah, D. K. (2025). The Prophet's Way of Resolving Divorce. *The Indonesian Journal of Islamic Law and Civil Law*, 6(1), 27-44.

shows that divorce should be done with kindness and fairness, and women should not be shamed or mistreated for seeking it.⁶⁶

Avoiding Abuse: Islamic divorce laws are designed to protect women from abuse, including emotional and physical harm. Men are discouraged from using divorce as a tool for control or revenge. For example, the Prophet Muhammad said, “*Do not hit your wife*” (Hadith, Sahih Bukhari), reflecting the importance of treating women with dignity even during the process of divorce.⁶⁷

l. Misconceptions and Cultural Practices:

The Islamic law provides for women’s rights in divorce, in some societies, cultural practices may distort or overshadow the religious teachings. In some regions, women may face social stigma, discrimination, or even financial hardship after divorce, which is contrary to Islamic principles. These practices often reflect local traditions rather than Islamic law.⁶⁸

The halala process in Islamic practices refers to a practice that allows a woman to remarry her first husband after a final divorce, but under a very specific condition. It involves her marrying another man, consummating that marriage, and then getting divorced by him. This process is rooted in Islamic jurisprudence but is highly controversial in modern times.⁶⁹ Halala comes into play if the woman wishes to remarry her first husband after this irrevocable divorce. In this process, she must marry to another man (referred to as the halala husband), and should have physical relations with him, and then get divorced by him (whether voluntarily or otherwise). After the second marriage is terminated (through divorce or the husband’s death), the woman can then legally remarry her first husband. The matter of halala is a subject of discussions, debate and controversy in India.

m. The Purpose of Halala

The purpose of halala was to prevent a man from divorcing his wife impulsively and then quickly remarrying her. The woman must go through a genuine marriage and divorce before she can remarry her first husband.

n. Controversy and Criticism

- **Halala** has been highly controversial in the modern times. There are number of cases reported to force the women into marrying other person just to fulfil the conditions of halala.
- Critics argue that this practice can be exploitative and can result in significant emotional and social harm to women.
- Some Islamic scholars and countries have condemned or banned the practice, arguing that it goes against the spirit of justice and fairness in marriage.⁷⁰

o. Legal Status

- In most of the Islam following countries, the practice of halala has been restricted or even made illegal because it is unsocial and a form of exploitation.
- In some regions, halala is still practiced, but it remains a controversial and sensitive topic within Islamic legal and social discussions.
- India has a secular legal system through its constitution. However, Muslim personal law, based on Sharia, is applied to matters related to marriage, divorce, and other Islamic family issues.
- The practice of talaq (divorce) and halala are part of Islamic jurisprudence, but they are not explicitly recognized or endorsed by Indian law outside of personal religious practices.
- Halala is not a legally recognized practice under Indian civil law. It is a concept in Muslim personal law (i.e., under Sharia law). However, Indian law does not sanction or regulate such practices, and the judiciary has taken steps to address concerns around it.
- Given the criticism of halala and its potential for exploitation, there have been calls for legal reform within the Muslim community and the Indian legal system.

66 Hakim, N., & Habibullah, D. K. (2025). The Prophet’s Way of Resolving Divorce. The Indonesian Journal of Islamic Law and Civil Law, 6(1), 27-44.

67 Chaudhry, S. (2011). Effectiveness of Directive Principles of State Policy. Available at SSRN 1758849.

68 Douki, S., Zineb, S. B., Nacef, F., & Halbreich, U. (2007). Women's mental health in the Muslim world: Cultural, religious, and social issues. Journal of affective disorders, 102(1-3), 177-189.

69 Omar, S. (2007). Dissolution of marriage: practices, laws and Islamic teachings. Policy Perspectives, 91-117.

70 Al-Sharmani, M. (2018). Marriage in Islamic interpretive tradition: Revisiting the legal and the ethical. Journal of Islamic Ethics, 2(1-2), 76-96.

- Some activists have pushed for the banning of halala, while others have urged the government to pass a law that specifically addresses this issue, like the way triple talaq was criminalized.
- The Islamic Law regulatory board of India has not taken a firm opinion against halala, although the practice is not universally followed across all Muslim communities in India.

p. Recent Court Rulings and Developments:

- Triple Talaq Judgment (2017): In August 2017, the Supreme Court of India declared triple talaq (instant divorce by pronouncing "talaq" three times) unconstitutional, calling it arbitrary and discriminatory to Muslim women.⁷¹
- Muslim Women (Protection of Rights on Marriage) Act, 2019: This Act was passed to make triple talaq a criminal offense, further limiting its use. However, this law did not address halala directly.⁷²
- Halala and Legal Scrutiny: Although the practice of halala itself was not directly challenged by the Supreme Court, the 2017 triple talaq judgment and subsequent laws highlighted the judiciary's concerns about practices that could harm or exploit women.
- The hon'ble Supreme Court of India stated in 2021 that it would examine whether the practice of halala violates the rights of women under the Indian Constitution.⁷³

q. Public and Social Debate:

- There is a significant social and legal debate about halala in India. Many legal scholars, women's rights organizations, and activists have criticized it, arguing that it is exploitative and discriminatory against women. Critics also argue that it is against human dignity and undermines the rights of women to choose their partners freely.⁷⁴
- Progressive Muslim groups and individuals have been advocating for reform within the community to end practices like halala, calling for more gender-equitable interpretations of Islamic law.
- Many Muslim women's groups in India have demanded reforms to address this issue and to ensure that halala is not used to coerce or exploit women.

r. Recent Reforms and Movements

There are some remarkable movements have reported for women's rights in Islamic countries:

- **Saudi Arabia:** Saudi Arabia has undergone significant reforms in recent years, such as allowing women to drive, participate in sports, and travel more freely. However, women still face significant restrictions in terms of their legal rights and social freedoms.⁷⁵
- **Iran:** In Iran, women have played a significant role in protests and movements, demanding the actual dignity with the freedom to remove the hijab. Despite harsh crackdowns by the government, women continue to advocate for greater personal and political freedoms.⁷⁶
- **Afghanistan:** The women's rights have been severely restricted and encroached under the governance of Taliban, including bans on education for girls beyond a certain age, restrictions on employment, and forced dress codes. However, international pressure and internal resistance continue to challenge these regressive policies.⁷⁷

While the practice may have had its roots in preventing misuse of divorce, it remains a contentious issue and has led to significant debates over its ethics and legal implications.

1.9. Conclusion

The women rights in Islamic Sharia ruled countries are decided by a combination of religious interpretations, local customs, and political frameworks. These religious implications in Islamic countries were acted as the obstructions in

71 Punwani, J. (2018). Triple Talaq Judgment and After. IMAGE, 305, 305-316.

72 Nasla, K., & Ambily, P. (2020). Muslim Women [protection of rights on marriage] Act, 2019: A critical analysis.

73 Alam, M. S., & Moniruzzaman, M. (2023). The Right to Freedom of Religion in the Indian Constitution: A Critical Review from Muslims' Perspective. Journal of Muslim Minority Affairs, 43(1-2), 218-239.

74 Kausar, S. (2025). Unveiling the Islamic Law and Practice of Nikah Halala in India: Challenging Misconceptions and Advocating Reforms in Muslim Personal Law.

75 Rizvi, L. J., & Hussain, Z. (2022). Empowering woman through legal reforms-evidence from Saudi Arabian context. International Journal of Law and Management, 64(2), 137-149.

76 Afary, J., & Anderson, K. B. (2023). Woman, life, freedom: The origins of the uprising in Iran. Dissent, 70(1), 82-98.

77 Danish, T. (2025). Pashtunwali and Talibanism: Key Drivers Behind the Taliban's Ban on Girls' Education. Available at SSRN 5107728.

women equality as well as personal freedom. The legal reforms will be helpful to women for living life with dignity, freedom, honor and security. As per the reports available in respect to Islam; Women are granted spiritual equality, the right to own property, the right to education, and the right to choose their spouse. However, the actual situation and status of women is totally different.

In Islam, divorce is permitted but discouraged, and is meant to be a last resort after attempts at reconciliation. Both the Quran and Hadith emphasize fairness, justice, and compassion in the process. Women are granted significant rights within the divorce process, including the right to seek divorce (khula), maintain their property (mahr), and be supported financially during the waiting period (iddah). The major objective of this is to keep the dignity and rights of both parties, particularly the woman, ensuring she is not left vulnerable or exploited.

The rights of women in both Islam and the Indian Constitution affirm equality and protection, but challenges persist due to cultural interpretations, legal variations, and societal norms. While the Indian Constitution offers a secular legal framework, Islamic law provides spiritual and moral guidance that can sometimes be at odds with contemporary gender equality issues in different countries. Both systems aim to protect women's dignity, but practical implementation and interpretation can differ. Overall comparative study of women rights in Indian constitution with Islamic countries reveals that Indian constitution provides provision for women rights, dignity, equality, honour, freedom and protection etc. as compare to the Islamic countries. On the basis of present studies, it is suggested to reform Islamic rules and should be replaced by the uniform civil code of legal procedures.

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