

created explicitly as a response to the lack of representation of women and women's concerns in the AIMPLB. It released its own 'sharia nikahnama' in 2008. Although these alternative law boards have not yet achieved the prominence of the AIMPLB, their existence is a sign that the latter's rigidity, elitism and authority is under challenge.

The emergence of Muslim women-led networks can be seen both as a consequence of the failure of the women's movement to respond to their needs and as a sign of its diversification. The MWRN expects to continue to be part of the women's movement. In contrast, members of the BMMA attribute the women's movement's lack of responsiveness to the issue of Muslim women's rights to its domination by upper caste Hindu women and its failure to engage positively with religion. This leads them to believe that a separate movement led by Muslim woman is necessary.

Both the networks have, therefore, engaged creatively with religious discourses and actors as part of their advocacy strategies, challenging the assumption that religious identity and women's rights are incompatible. By doing so, they challenge the authority of male-dominated bodies such as the AIMPLB to represent the Muslim community as a whole. Both networks are actively involved in challenging the prevalent view of Muslim women as silent victims. Instead, they are re-shaping the category 'Muslim women' in order to assert their rights as citizens.

## Conclusions

- Muslim women are increasingly organizing for social change, both independently and as part of the wider women's movement.
- Two emerging women's rights networks are drawing attention to the multiple forms of disadvantage faced by women in the Muslim minority community and re-shaping the category 'Muslim women' as a means of expressing political agency.

- The BMMA and the MWRN have attempted to engage with members of the All India Muslim Personal Law Board in the past, but have largely abandoned this strategy because of a perceived lack of progress.
- Both networks have used the idea of an improved *nikahnama* (marriage contract) as a means of overcoming the limitations of Muslim personal laws, but with limited success.
- The networks are challenging the authority of the male religious elite to represent 'the Muslim community'.
- The broader women's movement is becoming increasingly diversified as members of minority groups, including Muslim and Dalit women, organize collectively both within and outside the movement.

Some implications of the findings are that:

- Members of the Indian women's movement should make more of an effort to positively engage with women from marginalized communities, including Muslim women.
- The AIMPLB should recognize the need to include more women in its own membership and leadership, and for constructive dialogue with members of Muslim women's groups.
- The AIMPLB should reformulate its model *nikahnama* (marriage contract) to safeguard women's rights, including the right to seek a divorce and protection from arbitrary divorce.
- Governments should include Muslim women's networks in discussions on the rights of religious minorities and implementation of the Sachar Committee recommendations.
- Policy makers, the media and donors should create space for women's voices to be heard in discussions of Muslim identity, rather than allowing the male religious elite to define the interests of 'the community' as a whole.



## Religions and Development Research Programme

### Mobilizing for Muslim women's rights in India

#### Introduction

Increased gender equality is more likely to result from active mobilization and broad support for social change than from specific 'women's programmes' or external intervention. Religious organizations and leaders are often seen to be either in the vanguard of such social change or obstacles, but little is known about the roles they play.

Women's movements often question religious traditions, beliefs and institutions that they see as undermining gender equality. As a result, they often face opposition by religious groups. In India, most of the contention between gender and religion has been around Muslim's women's rights.

Activists advocating improved rights for Muslim women have engaged with the ways in which Islam affects women, both by working within the women's movement and by creating a separate space for themselves. The research sought to understand how two networks of Muslim women's activists engage with religious discourses and actors: the Muslim Women's Rights Network (MWRN) and the Bharatiya Muslim Mahila Andolan (BMMA).

#### Background

Muslims constituted 13 per cent of India's population in 2001 and over the years have felt increasingly excluded and threatened.

During the colonial period, previously varied and fluid laws and practices were formalized, including separate systems of personal laws based on religious identity, in particular Muslim personal law. Many social reformers at that time were associated with Hindu or Muslim groups. Although non-sectarian women's organizations emerged, they were soon absorbed into the nationalist cause, with women's rights sidelined in the interests of the freedom struggle.

The contemporary women's movement that emerged during the 1970s has generally seen religion as a source of oppression for women. Members have challenged religion and campaigned against dowry, *sati* (immolation of a widow on her husband's funeral pyre) and Muslim personal law. The latter has been defended from state intervention by the All India Muslim Personal Law Board (AIMPLB), established for that purpose in 1973.

A critical turning point in the history of the women's movement concerned the question of Muslim personal law: it came in the 1980s during the landmark Shah Bano case (Box 1). During this episode, the movement had to tread carefully between the rhetoric of the Hindu Right and of Muslim conservative groups to argue for Muslim women's rights. The former used the case to promote the adoption of a Uniform Civil Code and to denigrate Muslims for being traditionalist and unwilling to become fully integrated into Indian

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### Further information

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<http://www.religionsanddevelopment.org/index.php?section=47>

See also Nida Kirmani (2011) Re-thinking the promotion of women's rights through Islam in India. *IDS Bulletin*, 42(1), pp 56-66, and Sylvia Vatuk (2008) Islamic feminism in India: Indian Muslim women activists and the reform of Muslim personal law, *Modern Asian Studies*, 42(2-3), pp 489-518.

A study of Indian Muslim women's efforts to realize their rights suggests that

- The Indian women's movement should continue to positively engage with and include women from marginalized communities, including Muslim and Dalit women.
- The All India Muslim Personal Law Board's model *nikahnama* (marriage contract) should be improved to safeguard women's rights, including protection from arbitrary divorce.
- Governments should include Muslim women's networks in discussions of the rights of religious minorities and implementation of the Sachar Committee recommendations.
- Policy makers, the media and donors should create space for Muslim women's diverse voices to be heard, rather than assuming that the male-dominated religious elite represents 'the community' as a whole.



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society, while the latter were determined to protect Muslim personal law. Despite their view of the latter as detrimental to women's rights, the women's movement found itself reluctant to argue for a Uniform Civil Code because of its co-option by Hindu organizations far from committed to gender equality

### Box 1: The Shah Bano case

The Shah Bano controversy, which came to national attention in 1984, marked a pivotal moment in discussions of women's rights, the rights of religious minorities and the relationship of both with the Indian state. The case centred on a 62-year old Muslim woman, Shah Bano, who in 1978 filed a case claiming maintenance from her ex-husband. She was granted a small amount of maintenance by the Indore magistrate's court, which was later marginally increased by the Madhya Pradesh High Court.

This decision was disputed by her husband on the grounds that it was a violation of Muslim personal law. The Supreme Court ruled in Shah Bano's favour, arguing that she was entitled to maintenance payments under the Criminal Procedure Code as well as, controversially, under *shari'a*. Furthermore, its judgment called for the abolition of separate personal laws and the creation of a Uniform Civil Code. This prompted protests by bodies such as the All India Muslim Personal Law Board, which argued that the government could not interfere in *shari'a* law governing family matters.

In the aftermath of this case, the women's movement remained uncomfortable with issues of gender inequality and religious identity. Although it fought for Muslim women's rights throughout the 1980s and 1990s, few Muslim women were present within the leadership of the movement and no reforms of Muslim personal law were achieved. Muslim women-led NGOs are a new phenomenon, which began to emerge during the 1990s and have been little studied.

### Aims of the study

The research documented the emergence of the MWRN and the BMMA, through extensive interviews with members of both networks, the All India Muslim Personal Law Board (AIMPLB) and other women's organizations in Mumbai, New Delhi, Lucknow and Kolkata, mainly conducted in late 2008.

It focused on whether and how the MWRN and the BMMA engage with religious discourses and

actors, in particular as part of their strategies to secure women's matrimonial rights. It explored the use by women's rights advocates of the *nikahnama*, or Muslim marriage contract, as a means of securing women's rights within the current legal framework. The study also examined the perceived effectiveness of the strategies adopted by members of both networks to lobby the AIMPLB in order to gain its support for women's rights. Finally, the research analysed how members of both networks position themselves vis-à-vis the wider women's movement.

### Findings

Groups that focus on advocating for Muslim women's rights have emerged in many parts of India since the 1990s in the context of the more general widening of democratic space and some have joined to form networks, such as the MWRN and the BMMA. Their emergence also reflects the changing nature of the women's movement. This has become more institutionalized in the last two decades, but is also increasingly diversified, as women belonging to marginalized communities have organized to address the multiple ways in which they are discriminated against, based on gender, caste, religion and class.

### Box 2: The Muslim Women's Rights Network

One of the first of the contemporary Muslim women's groups to emerge was Awaaz-e-Niswan (AeN), which was founded in 1987 in Mumbai. Based in working class, Muslim-majority areas of the city, the organization provides services to women, including literacy and computer classes, marital counselling and support in cases of domestic violence. It also organizes advocacy campaigns to promote inter-community harmony and raise awareness about such issues as violence against women and police excesses.

In 1999, some members of AeN joined with other organizations to begin the Muslim Women's Rights Network, which has remained a loose network of groups and individuals spread out across the country. It is open to women of all religious communities, although it focuses on linking individuals and groups working on issues affecting Muslim women. These include issues related to Muslim personal law and women's matrimonial rights. Members also advocate for rights related to the expression of women's sexuality, which has been criticized by Muslim women's rights advocates not affiliated with the network.

### Box 3: The Bharatiya Muslim Mahila Andolan

The Bharatiya Muslim Mahila Andolan, which is Hindi for 'The Indian Muslim Women's Movement,' was formed in 2005 by organizations working with Muslim women across India, many of which had previously been members of the MWRN. It also includes a large number of individual members, according to its organizers 10,000 at the time of the fieldwork. These are spread mainly across the states of Maharashtra, Gujarat and Uttar Pradesh, which are also the states in which the founding members are based. Although the BMMA also advocates on the issue of matrimonial rights and for a reform of Muslim personal law, this is not its only focus – it aims to improve the socio-economic status of the Muslim community as a whole and to encourage women to adopt leadership roles.

The networks have adopted different approaches in their advocacy for Muslim women's rights.

- Members of the MWRN work on securing rights for Muslim women from a liberal-secular 'human rights perspective' rather than a religion-based perspective. This, they argue, does not mean that they oppose religion, and they do tackle religious arguments if these are used to oppose women's rights.
- Unlike the MWRN, which is tolerant but not celebratory of religion, the BMMA actively engages with Islamic texts as part of its strategy. Members of the BMMA argue that, because religion is intrinsic to the identities of the majority of Muslim women, it must inform their visions and strategies. By advocating a progressive understanding of Islam, they aim to work within a framework that is acceptable in the Muslim community as a whole. Because they argue for an approach that combines religious and secular symbolism and strategies, they can be broadly categorized as 'Muslim feminist'.

Despite their differences, the networks adopt similar approaches. They both work to educate women about their options, including the Special Marriages Act, which is intended for those marrying across religious boundaries but is open to all women, and which exempts women from the strictures of personal law. In addition, both advocate changes in Muslim personal law, although their emphasis differs, with the MWRN advocating a 'gender justice law' applicable to all and the BMMA stressing the need for changes to Muslim personal law.

Both, along with other individuals and organizations, have promoted the *nikahnama* (marriage contract) as a means of correcting the weaknesses of Muslim personal law (see Box 4). This campaign has taken place at the local level, through community education and the performance of individual marriage ceremonies. In addition, in order to reach a wider audience, it has taken place at the national level through lobbying for the AIMPLB to publish its own *nikahnama*.

### Box 4: The Muslim *nikahnama* or marriage contract

Every Muslim marriage involves a *nikahnama*, a contractual agreement signed by both parties. In India, it usually includes basic details of the bride and groom, as well as the signatures of two male witnesses. It can include additional stipulations by both parties, although in most cases it does not.

A 'model *nikahnama*' was put forward by the non-sectarian All India Women's Conference in the late 1930s. Since the 1980s, several individuals and women's organizations have promoted the use of a *nikahnama* to protect and expand women's ability to claim their rights within an Islamic framework. Most of the 'model *nikahnamas*' include provisions to

- protect women from arbitrary divorce
- give women the right to divorce, to claim their *mehr* (an obligatory gift given by a husband to his wife) and to maintenance
- prohibit polygamy.

Although use of the *nikahnama* does not pose radical challenges to male-dominated power structures and it has not been widely used to date, members of the networks believe that the campaign to promote its use has been successful in raising awareness within the Muslim community on the issue of women's rights and has helped to consolidate the networks.

The AIMPLB eventually produced a model *nikahnama* in 2005. However, it was regarded by most women activists as disappointing. Many members of the networks have become frustrated with the Board's perceived unwillingness to deal with their concerns, religious conservatism, lack of legal powers and male dominance. Some have stopped trying to influence it, although others continue to engage with it and the *ulema* more generally.

In addition, the right of the AIMPLB to speak on behalf of all Muslims has been challenged by the establishment of other Muslim law boards, including an All India Muslim Women's Personal Law Board (AIMWPLB) in 2005. The latter was