CHAPTER-I

Introduction

Violence against women is one of the most pervasive of human rights violations which denies women equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. As a violation of human rights, violence against women causes women to be deprived of their right to fully take part in social and economic life. Moreover, it underpins many physical and mental health problems, and in some instances causes loss of life. The impact of violence is not only visible on the health and lives among women who experience violence, but also on their children, families and society as a whole. It not only restricts itself to the physical torture but at the same time psychological, sexual and economic violence too. It has sadly emerged as a global outbreak. Even though most states proscribe violence against women, the reality is that violations against women human rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets.

Statement of the Problem

The concept of human rights is based on the assumption that human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all human beings by virtue of their humanity alone. These claims are articulated and formulated in what is today understood as human rights. Now these rights have been translated into legal rights, established according to the law-creating process of societies, both national and international.

Human Rights are the rights that one has simply because one is a human being.[1] Human rights may be regarded as those fundamental and inalienable rights which are essential for life as human being. Human rights are the rights which are possessed by every human being, irrespective of his/her rationality, race, religion, sex etc. simply because he or she is a human being. Human rights are thus those rights which are inherent in our nature and without which we cannot live as human being. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. Human rights are sometime called fundamental rights or basic rights or natural rights. As fundamental rights or basic rights they are the rights which cannot, rather must not, be taken away by any legislation or any act of the government and which are often set out in a constitution. As natural rights they are seen as belonging to human being by their very nature.[2]Accordingly the only qualifying criterion to have these rights is to be a human being. Hence, human rights belong to all people, whatever their sex.

Women's rights as human rights gained international recognition for the first time in the United Nations Charter (1945). The Preamble of the United Nations Charter reaffirms "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women."[3] Since then, a series of international Covenants, Treaties and Conferences have been concluded under the UN auspices to reaffirm and elaborate women's rights. The International Bill of Rights was pioneering in providing a comprehensive list of rights. All civil-political and socio-economic-cultural rights are enshrined in the International Bill of Rights. To address women's rights exclusively some

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[1] Donnelly, J. (2005). *Universal human rights in theory and practice*. New Delhi: Manas Publications, p.10.
[2] Kapoor, S. K. (2009). *Human rights under international law and Indian law*. Allahabad: Central Law Agency, p.1.
[3] Ibid, p.12.

specific international treaties were also developed. These are, for example, the Convention on the Political Rights of Women 1953, the Convention on the Nationality of Married Women 1957, the Convention against Discrimination in Education 1960, and more importantly the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) 1979.

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is the most wide ranging international human rights treaty devoted to women. Article 1 of the Convention defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field". [4] In Article 5, CEDAW holds government responsible for taking steps to modify practices based on stereotypes about women's role as well as belief about women's inferiority. The implication of this Article is that discriminatory cultural, traditional, or religious practices may be harmful to women and girls and that government is responsible to take steps to modify or eliminate them.[5] CEDAW addresses almost all aspects of women's rights. Subsequent UN treaties, conferences, declarations and mechanisms have advanced the recognition and protection of women's human rights. Thus women have been granted many rights which are aimed at protecting from inequality based on sex.

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[4] Ibid, p-153.

[5] Dauer, S. (2003). Indivisible or invisible- Women's human rights in the public and private sphere. In Marjorie Agosin (Ed.), Women*, gender and human rights-A global perspective*. New Delhi: Rawlat Publications, p.67.

The Indian Constitution also stress on its commitment to human rights. The Indian Constitution under different Articles provides for the protection and promotion of women's rights. Article 14 of the Indian Constitution states: "The state shall not deny equality or equal protection to any person". Article 15(1**)** states: "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them". Thus 15(1**)** prohibits gender discrimination. To achieve the constitutional goal of equality, it is not enough just to treat men and women as equals. It is more important to grant certain preferential rights to women so that they can achieve equality. Article 15(3**)** of the Constitution of India provides that nothing shall prevent the state from making any special provision for women. Article 16(2) states "no citizen shall be ineligible for, or discriminated against, in respect of any employment or office under the state on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them".[6] A combined reading of these fundamental rights provides the foundation for legal equality of women.

Similarly no discrimination has been made between the sexes in the Directive Principle of State Policy. Article 39 provides for certain principles of State policy to be followed by the state in which it is mandated that the State shall in particular direct its policy towards securing – that the men and women equally have the right to an adequate means of livelihood; that there is equal pay for equal work for both men and women; that the health and strength of workers, men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. In Article 42 of the Constitution provisions for just and humane conditions of work and maternity relief

[6] Prabakaran, P. (2007). Women: Law, provisions and privileges. *Religion and Society*, *52* (1), p. 8.

has been directed to be made. In Article 44 uniform code for the citizens to be made has been directed that the state shall endeavour to secure for the citizens a Uniform Civil Code throughout the country.[7]

Some specific legislations also made to ensure women's rights in India like the Hindu marriage Act, 1955, the Dowry Prohibition Act, 1961, Medical Termination of Pregnancy Act, 1971, the Indecent Representation of Women (prohibition) Act, 1986, the Immoral Traffic (prevention) Act, 1956, the Maternity benefit Act, 1961, National commission for women Act, 1990, Protection of Women from Domestic Violence Act, 2005, etc..[8] . Further, India is signatory to all principal international Covenants and Conventions such as the Universal Declaration of Human Rights (1948), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and Declaration on the Elimination of Violence against Women (1993).

Thus, equality of men and women constitutes one of the vital human rights concerns, finding expression in all international instruments as well as in the Indian constitution. In reality, however**,** women's rights are violated in different countries all over the world. Violence against women is one of the most systematic and prevalent human rights abuses in the world. Women are subjected to violence in a wide range of setting, including the family, the community, state custody and armed conflict. The most common forms of violence against women are- intimate partner violence; harmful traditional practices, including female genital mutilation, female infanticide and prenatal sex selection, early marriage, forced marriage, dowry related violence, crimes against women committed in the name of "honour", maltreatment of widows; femicide; sexual violence by non-partners; sexual violence and

[7] Anand, V. K. (2005). *Human rights*. Haryana: Allahabad Law Agency, p.203.
[8] Gonslaves, L. (2001). *Women and human rights*. New Delhi: A.P. H. Publishing Corporation, p.27.

harassment in the workplace and elsewhere, and trafficking of women. The Declaration on the Elimination of Violence against Women of the United Nations General Assembly (1993) defines violence as “any act of gender- based violence that results in or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether in public or private life”.

Article 2 of the Declaration on the Elimination of Violence against Women states: Violence against women shall be understood to encompass, but not be limited to, the following: a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, non-spousal violence and violence related to exploitation. b) Physical, sexual and psychological violence within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution**.** C) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

Violence against women cuts across religion, culture, race, class and geographical boundaries. India is no exception to that. But as the socio-economic fabric of the Indian society represents a multicultural and heterogeneous setting, the nature and forms of oppression and exploitation of women also differs in Indian society. Besides, a significant variation is noticed among women of different religions in respect of literacy, education, employment, social status, marriage system, participation in social and development programmes etc. Due to such variation women of all sections are not equally aware of their rights.

Muslim being generally a socio-economically backward community, the problem of such ignorance is seen more among women of Muslim community. Thus, the nature of oppression of Muslim women is a two-way process. On the one hand, they are oppressed due to the patriarchal social set up and on the other their exploitation is accentuated due to the socio-economic backwardness of the community which contributes to the sustenance of an ultra patriarchal set up. The issue of socio-economic backwardness of the Muslim community was very profoundly established after the announcement of the Report of the Sachar Committee in 2006.[9] The Committee noted with concern the low socio-economic status of Muslims, higher poverty, lower literacy and educational attainments, higher unemployment rates, lower availability of infrastructure and lower participation in decision making bodies. In this backdrop, it is obvious that the backwardness of the Muslim women will be deeper compared to their male counterparts. Besides, the socio-religious perception of the community acts as a deterrent to the progress of women.

Most of the atrocities against Muslim women are related with Muslim Personal Law like polygamy, oral divorce, property rights and so on. Apart from that, law of maintenance after divorce also seriously infringes the issue of gender equality in Muslim society. To substantiate the same, the example of Shah Bano Case[10] may be cited. Shah Bano, a Muslim divorced woman, approached the apex court for maintenance for her life from her husband. The Supreme Court in its judgement applying Criminal Procedure Code Section 125 accepted her appeal and delivered the judgement in her favour. The Muslim leadership in India objected to the judgement as it goes against the Muslim law, according to which a divorcee can get maintenance only for the 'Iddat' period (i.e., a period of

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[9] Sachar, R. (2006). *Social, economic and educational status of the Muslim community of India. A report*, Retrieved on 27th February, 2016 from http://www.minorityaffairs.gov .in /sites/upload_files/moma/files/pdfs/sachar_comm.pdf.

[10] *Mohammed Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945; 1985(2) SCC 556.

waiting for 3 months after divorce is pronounced). The Muslim leaders felt that the Supreme Court has no right to go against the Muslim law. The Government of India conceding to the opinion of the Muslim leaders enacted a bill in the Parliament in 1986, and according to this, the Muslim law on the maintenance of divorced woman was restored back. Since independence, successive Indian governments have avoided taking any legislative measure to end discrimination in such laws. Such a policy contradicts India's commitment to the Convention on the Elimination of all Forms of Discrimination against Women (1979) which upholds the principle of equality among men and women.

It is in this background, the present study is intended to explore the overall situation of the violence against Muslim women in Barak Valley of Assam. The nature, forms, causes and consequences of violence against Muslim women in Barak Valley have been investigated in the present study.

Review of Literature

For the past two or three decades, studies on gender inequality by social scientists, women activists and feminists not only throughout the world but also in India have become very common. These studies are multidimensional in nature. Within the broad field of women studies study of Muslim women in India has come to occupy an important place. The studies carried out on Muslim women in India though not numerous still they defy exact classification. Even the writers on Indian Muslim women come from different backgrounds like social scientists, politicians, religious leaders, Quranic scholars (theologists), journalists, ordinary house wives and active feminists etc.

In the following pages a few of the available research studies on Muslim women are reviewed.

Status of Muslim women in North India (Roy, 1979)[11] is a comparative study of Muslim women in two big Indian cities- Lucknow and Delhi- having deep cultural heritage of Muslims. The study is based on the data collected during 1970-72. In total 300 families of Sayyads, Shaikhs, Mughals and Pathans were investigated. For collection of data an interview guide was used.

The chief aim of the work is to bring into light the extent and quality of changes which have occurred in the Muslim families within three generations and its effects on status of women. The author has critically examined the status of contemporary Muslim women in the context of their mothers and grandmothers' status.

After studying and analyzing the facts gathered the author concludes that with the change in social climate the attitude of Muslim men changed and they wanted the women to participate in more areas of social life prohibited to them so far. Regarding Purdah, she says that the Muslim women of today are in purdah but not the same kind of purdah as practised before by the grandmothers. Education has rapidly spread among the Muslim women of the present generation, yet it has not succeeded in drastically altering the Islamic pattern of life in so far as it concerns the general life style of women.

This study can be cited as an example in the sociological literature so far as the study on Muslim women is concerned. It has covered more or less all important aspects of women life which are helpful in understanding Muslim women closely.

However, Shibani Ray's work suffers from some problems and deficiencies. It may be said in the first instance that the work is not

[11] Roy, S. (1979). *Status of Muslim women in North India.* Delhi: B. R. Publishing Corporation.

methodologically sound .Because the study has covered only urban Muslim of two small pockets of two big cities. In Delhi the researcher has taken Muslim living around Jama Masjid only ignoring large portions of people living in other parts of the city. Secondly, she has not included the rural Muslim women who are more victims of purdah and denied educational and economic freedom.

Further, she has confined her study to families in the income range of rupees 400-1000 from the urban areas of Delhi and Lucknow, and can at best be called a study of a section of Muslim women in Northern India- as the title seems to indicate.

Human Rights of Muslim Women (Answari 2000)[12] discusses how Muslim women in India are being deprived of their human rights and points out several sources of their deprivation. On the socio-cultural field the Muslim women are being assigned lower status than their male counterpart. Law has not provided equal rights to Muslim women. Under the Muslim Personal Law women are not being provided with equal status to their male counterpart and therefore, initiatives are being made to reform the Muslim Personal Law. But it is sidelined by the secular outlook of the Indian nation and the chauvinist attitude of Hindus who demands for a uniformity of law throughout the country. On the other hand, the orthodox Muslims also make all efforts to retain even those features of Muslim Personal Law which is against the Islamic norm of justice and women's rights.

The author argues that in terms of literacy and education, healthcare, public employment and economic status Muslim community's low achievements is still lower for their women and it is

[12] Answari, A. I. (2000). Human rights of Muslim women in India. In Mehertaj Begum (Ed.), *Human rights of Muslim women in India-Issues and perspective*. New Delhi: APH Publishing House.

because of these reasons that Muslim women are incapable of securing their rights. Further during the communal riots and terrorist activities, women become the victim of rape and torture by the police authorities.

Dowry among Indian Muslims: Ideal and Practices (Waheed, 2009)[13] finds that Muslims women too are victims of dowry practices, facing much harassment, if not bide-burning. Indian Muslims do not absolutely follow Islamic ideals in their social life. Their customs, traditions and social institutions are, indeed, more 'Indian' than 'Islamic'. The practice of dowry is not a new phenomenon among them, having been in existence for centuries. It is mostly prevalent in south Indian states such as Karnataka, Kerala, Tamil Nadu, Andhra Pradesh and also in some parts of Bengal and Bihar.

Crime against Women- A Regional Analysis (Tahir 2000)[14] has made a systematic discussion about crime against women in the Mewat Region of Haryana. She divided the crime against women into cognizible and non- cognizible crimes. She further divided cognizable crimes into major cognizable and minor cognizable.

Crime like dowry death, rape, kidnapping, abduction and murder are included under major cognizable crime. Crimes like dowry death occurs very rarely in the Mewat region because the majority of the population are Muslims who are free to divorce and remarry on any pretext before a child is born. Rape cases also occur seldom due to the following two reasons. It is very rare to see a boy or girl unmarried above the age of 20 years. Secondly the social set up in the village is such that no one can marry within the village and each person irrespective of age

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[13] Waheed, A. (2009). Dowry among Indian Muslims: Ideals and practices. *Indian Journal of Gender Studies, 16,* (1), pp.47-73.

[14] Tahir, M. (2000). Crime against women- A regional analysis. In Mehertaj Begum (Ed.), *Human rights in India: Issues and perspective*. New Delhi: APH Publishing House.

or caste has to treat everyone as brother. Kidnapping, abduction and murder cases are also very rare because of the high density of close-knit homogeneous population.

Minor-cognizable crimes include eve-teasing, molestation (before marriage) and harassment by husbands. The former two cases are very rare in smaller villages with homogeneous population.

Harassment by husbands and in-laws has been further divided into four, viz.,

i) Harassment in dowry related cases.
ii) Domestic violence and wife battering.
iii) Molestation of married women.
iv) Harassment of women if they are barren or without a male child.

Author has found these four types of harassment as very common in the Mewat region.

Under non-cognizible crimes author has included exploitation of female labour, lack of financial independence, educational deprivation of women, and lack of health care. It has been found that non-cognizible crimes are very rampant in the region.

Women in Muslim Personal Law (Singh, 1992)[15] analyses the status of Muslim Women in the light of their personal laws. The study was conducted in Delhi and Lucknow- the two important centers of Islamic Culture in India. The study reveals that the constitution of India being a secular one, doesn't allow the state to interfere with any religious faith and all citizens are free to professed personal laws. As a result, social legislation has not moved with the time in India. After the partition, in order to maintain their identity, the Muslim minority

[15] Singh, A. (1992). *Women in Muslim personal law*. Jaipur: Rawat Publications.

opposed any reform in their personal laws in the most vocal term. In other Islamic countries, the Islamic renaissance and its improved idea of women status based on a true interpretation of the secret text is going hand in hand with modern nationalism, its dynamics and its victories, its social and political reconstruction to accord to women her rightful place in the new city of Islam. While discussing various sources of Islamic Law, the author maintains that Muslim personal law in India can be reform according to the time and circumstances.

While focusing the status of Muslim women in the light of Muslim personal law, the author points out that in the male dominated set up, the women are oppressed as it is and among the women community in Indian society, the Muslim women are consider the most oppressed. They are found to be suffering from an oppression which works in two ways:

i) that they are women, hence subordinate
ii) that they belong to Muslim community which itself is backward and holds a subordinate status in the Indian system.

This view persist because of the widely prevalent purdah system among Muslims, lack of enthusiasm towards women education, the fewer number of Muslim working women ,the large family norms etc. all these factors together block the possible path of progress of Muslim women.

Liberation of Muslim Women (Ahmad 2001)[16] reveals that Indian Muslim women are not in favour of exercising the freedom given to them fourteen centuries ago. The Hindu high caste concept of endurance as the highest virtue of a woman has so completely overtaken the minds of the Muslim women that they would rather die than obtain a divorce. They have also imbibed the Hindu ideal of life long association with one man only. So even if the husband is incompatible or marries for the

[16] Ahmed, N. (2001). *Liberation of Muslim women.* Delhi: Kalpaz Publications.

second time, and the wife has the right to seek a divorce, she will normally not do so.

However, today although the majority of muslin women have remain unchanged in their personal attitude toward their religion, a small minority of women has began to question the relationship between the accepted teaching of Islam and the demands of the modern world. Education inevitably is undermining the characteristic attitude of fatalism toward religion and life.

Women and Human Rights (Gonsalves, 2001)[17] describes the lack of attention to the human rights of women and indicates a range of issues where equal rights for women are still denied. It highlights the fact that women tend to suffer human rights anuses in a gender specific way had often been ignored. There was a reluctant on many fronts to treat women rights as human rights. There is little information available about human rights. The little information that does exist is largely confined to academic publication that does not reach a wide audience. The author, therefore, emphasizes the need of available information on human rights of women Further, it reveals that court, the institution i.e., is suppose to enforce the laws equitably, is in involved in discriminatory behaviour. One areas of discrimination is in family law. In most marital conflicts, the emphasis is on reconciliation and the woman is pressured to go back to her husband and adjust like a 'good wife'.

Development and Social Justice- A Case of Minorities (Peer, 1997)[18] reveals that Muslim women in India are the most depressed and are lagging behind in every sphere, viz., education, employment and

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[17] Gonsalves, L. (2001). *Women and human rights*. New Delhi: APH publishing Corporation.

[18] Peer, M. (1997). Development and social justice-A case of minorities. In Bindeshwar Pathak (Ed.), *Social justice and development of weaker sections*. New Delhi: Inter- India Publications.

politics compared to their sisters in other communities. He says that male domination, indifferent attitude of the *ulemas* and the practice of *purdah* are impeding their progress.

H.Y. Siddiqui (1987) in his study ‘‘Muslim Women in Transition –A Social Profile”[19] sought to attempt an objective inquiry in respect of status of Muslim women i.e, their present level of religious orthodoxy, its nature and extent, and related impact on the life style of Muslim women, the Purdah practice and the related problems, particularly its impact on social participation of women, their educational level and employment prospects etc.. The study also attempted to assess the opportunities available for women and response of Muslim women to avail these opportunities, and their participation in decision making within family.

His findings were-1) the socio economic background did show a positive association with educational level of women.2) urban women had better access to educational and health facilities and exhibited greater change in their social attitude and practices.3) religious orthodoxy was not increasing nor it could be taken as an important cause of women’s lack of access to developmental facilities i.e., education and health.

Status of Muslim Women in India (Menon, 1981) [20] focuses attention on the role of education in raising the social status of Muslim women in Kerala. Her analysis of data showed that in every major institutional sphere education has contributed to raise the status of Muslim women .i.e., those who are highly educated have higher status and vice-versa. Parent’s income and respondents education were found to be related. The actual reason for the low level of education among the

[19] Siddiqui, Y. H. (1987). *Muslim women in transition- A social profile*. New Delhi: Harnam Publications.
[20] Menon, I. (1981). *Status of Muslim women in India*. New Delhi: Uppal Publishing House.

respondents seems to be lack of meaningful role for educated women in the Muslim community. The practice of seclusion (Purdah) is another reason for low level of education. As a result majority of Muslim girls are compelled to discontinue there education after puberty. Early marriage is another reason. Majority of Muslim women think that it is men's responsibility to work and maintain the family. This is because women are not expected to perform any meaningful economic role outside the home. Education which is necessary for this is not considered to be very essential for them. As in the field of employment Muslim women do not think that politics is a legitimate field of activity for them. Majority of the respondents do not approve of Muslim women's active participation in politics.

Thus, the work of Indu Menon is highly explorative in the context of Muslim women of Kerala. The results of her work, however, do not have much applicability for the Muslim women in other parts of the country. The study to some extent has tries to observe the rural/ urban variations, though the study has not reported any significant differences in either educational achievement or class composition.

Unequal Citizens- A Study of Muslim Women in India (Hasan and Menon, 2004)[21] is an empirical work carried out in 12 states, spread over 40 districts in India. It surveyed 9,541 Muslim and Hindu Women respondents- 80% Muslim and 20% Hindu; and 60% urban and 40% rural. The study focuses on several aspects of Muslim women's lives- work, education, marriage, mobility, decision making, domestic violence and so on. The important findings of the study are- close to 60% of Muslim women report themselves to be illiterate while the school enrolment rate for Muslim girls is 40.66%. The overwhelming majority of

[21] Hasan, Z & Menon, R. (2004). *Unequal citizens- A study of Muslim women in India.* New Delhi: Oxford University Press.

women reported themselves as not working. Among social groups, Muslim and upper caste women participate the least, as compared to SCs (30%) and OBC (22%). According to the study 60% of Muslim and 55% of Hindu women are married by the age of 17. Over 50% of respondents said they were consulted about all decisions regarding household and consumption expenditure, marriage and birth and death ceremonies. The significant community difference is that Muslim women report greater consultation. Regarding mobility a greater percentage (75%) of Muslim women than Hindu women (69%) reported needing permission to work.

Regarding exposure to domestic abuse the study reported that approximately 20% respondents had experienced verbal and physical abuse in the marital home, over 80% of it at the hands of their husbands.

Muslim Women's Perception in Delhi on the Religio- Cultural and Non- Cultural Indicators Associated with Status (Nasir, 2009)"[22] is an empirical work aims to investigate Muslim women's perception on the religio- cultural indicators (inheritance of property, Mehr system, dowry continuation) and non-cultural indicators (education and paid work participation) associated with their status enhancement. In this study, 500 ever –married Muslim women of Delhi were interviewed. The result of the study suggests that Muslim women perceive that education (98%) and paid-work participation (87%) play huge roles in enhancement of status. However, Muslim women still have low percentage in paid-work participation, and descriptive interviews by the author with them suggest that it is considered only an option to serve the family in financial crisis only. Its role in raising the status is still not being explored by them.

[22] Nasir, R. (2009). Muslim women's perception in Delhi on the religio-cultural and non-cultural indicators associated with status. *Man in India, 89* (1-2), pp-142-149.

Muslim women do not perceive religio-cultural indicators as an enhancement of women's status in contemporary times.

Gender Apartheid, Cultural Relativism, and Women Human Rights in Muslim Societies (Afkhami, 2003)[23] addresses women's human rights within the diverse communities of the Muslim world. For a Muslim women living under a fundamental regime, certain central human rights questions are constantly at issue: why cannot a Muslim women have the right to determine and organize her own life? What gives another person, simply by virtue of being born a man, the right to intervene in women's life? Why is it that a Muslim cleric has the right to place a woman within preordained, prescribed boundaries? Afkhami rejects the notion that he derives this authority from God, from a text or tradition. Further, she argues that the relativist discourse on human rights, essentially a Western approach entailing the concept of universal rights, has been manipulated by Islamists to appear as a form of cultural imperialism. By arguing that universal rights do not exist- that rights derive only from the body of Islamic experts and cannot be imposed by external notions or movements- Islamic societies have been able to perpetuate the oppression of women.

From the above works, it is clear that all the writers and scholars on Muslim women are agree with the point that Muslim women are the most deprived sections of Indian society and have explored several reasons for that. However, except Answari (2000), none has taken into account the fact that violation and discrimination against women is certainly a violation of women's human rights and can be studied from human rights perspective. Even Answari's work was limited to certain

[23] Afkhami, M. (2003). Gender apartheid, cultural relativism, and women's human rights in Muslim societies. In Marjorie Agosin (Ed.), *Women, gender and human rights-A global perspective*. New Delhi: Rawlat Publications, pp- 234-245.

aspects only and has discarded certain other factors like awareness of legal rights among Muslim women. Most of the works on Muslim women are devoted on the socio-economic condition of Muslim women in India. Thus, there is relatively little research on violence against Muslim women in India. The present study is intended to understand the overall situation of violence against Muslim women in Barak valley.

Theoretical Perspectives of Violence against Women

Violence is a form of aggressive behaviour with significant detrimental effects on the individual's personality and the way he/she adapt psychologically and socially. No wonder, then, that this behaviour has been the subject of many theories in an attempt to understand the causes, symptoms and effects of violence. Violence against women has been the subject of study by women's studies, feminists and gender studies scholars coming from different disciplines, viz., psychology, sociology and social work etc.. Theories are important tools to approach the research topic. They do not only provide a certain kind of perspective but they also give the researcher the chance to systematically analyse the research question. Some of the theories related to violence against women are highlighted in the following paragraphs.

Feminist Theory: Giving much stress to gender and power, the theory states that violence reflects the unequal power of men and women in the society and which is reflected in the personal relationships. The patriarchal structure of the society plays a dominant role in all most al the social institutions including the family.

Psycho-Pathological Theory-The psycho-pathological theory focuses on the personality characteristics of offenders and victims as chief determinants of violence. This model includes analysis that links mental illness (i.e., a small number of mentally ill persons are violent),

alcohol (i.e., what one does under the influence of alcohol and other drugs) and other intra-individual phenomena to acts of violence. This theory gives two different explanations. According to one, the causes of violence against women arise from the offender's psychological problems (like depressive impulsiveness, uncontrolled emotions, etc.). According to the other, violence against women arises out of psychological problem of victims.[24]

Socio-Psychological Theories- The socio-psychological theory assumes that violence can best be understood by careful examination of the external environmental factors that exercise impact on an individual offender. This theory also examines the types of everyday interactions (say, stressful situations or family interactional patterns) which are precursors of violence. Theories such as the Frustration- Aggression Theory, the Perversion Theory and the Self-Attitude Theory approach violence against women from a socio-psychological level of analysis.[25] These theories are discussed below-

Frustration- Aggression Theory- This theory first stated in 1939 by John Dollard. It explains the process by which the aggression is directed to the source of frustration. The aggressive drive is an innate drive. It helps explain individual violence because the individual is the focus of high personal involvement and of high frustration in the family. Whenever something interferes with an individual's attempt to reach some goal or end, he/she feels frustrated and frustration in turn leads to some form of aggression. After taking various criticisms into account, this theory was modified. Today it is recognized that an actual display of aggression may be inhibited by either internalized norms of external controls, even though the impulse for aggression may be strong following

[24] Misra, P. (2007). *Domestic violence against women.* New Delhi: Deep & Deep Publications Pvt. Ltd, pp.234-235.
[25] Ahuja, R. (1998). *Violence against women.* New Delhi: Rawat Publications, p.201.

some frustrating experience. It is also recognized that frustration can be cumulative and they can remain active over a long period of time and aggressive actions are not an automatic consequence of frustration, and their occurrence depends upon numerous factors.[26]

Perversion Theory-The psychoanalysts explain violence on the basis of the Theory of Perversion and the Theory of symptom Formation. They don't regard perverts as constitutionally inferior people but maintain that perversion develops from instincts. According to this theory, perversion essentially means persistence in the adult of infantile instincts and behaviour at the expose of adult behaviour. In the pervert, infantile traits fail to undergo the normal process of integration during puberty but are not converted into neurotic symptoms. Violence can be the product of strong inborn drives or of pathological experiences in infancy or early childhood. In the latter cases, childhood conceptions of the relations between the sexes as being aggressive and sadistic and the idea of pleasure as a negative process, essentially achieved by relief from a state of "unpleasure" are carried into adulthood.[27]

Self Attitude Theory-This theory maintains that in a society, a culture, or a group that values violence, persons of low self-esteem may seek to bolster their image in the eyes of others and themselves by carrying out violence acts. It explains the propensity to violence of those for whom society makes it difficult to achieve an adequate level of self-esteem.[28]

Socio- Cultural Theories- These theories highlight macro level analyses of violence perpetrated against the household members in a family. These theories state domestic violence in terms of socially

[26] Ibid, p.203.
[27] Ibid, p.205.
[28] Ibid, p.206.

structured inequality, socio-cultural attitudes and norms regarding anti-social behaviour and interpersonal relations. It includes various sub theories like: Structural–Functional Theory, Resource Theory, Patriarchal Theory, Social Learning Theory and Exchange theory. These theories are discussed below-

Structural–Functional Theory-According to this theory, social groups differ in respect to their typical levels of stress, deprivation and frustration and in the resources at their disposal to deal with these stresses. It explains that those individuals would be more violent who combine high stress with low resources. This theory thus explains an individual's action in terms of the way it is shaped or determined by social forces of one kind or other.[29]

Resource Theory- The Resource Theory of violence assumes that all social systems (including the family) rest to some degree on force or the threat of force. The more resources—social, personal, and economic—a person can command, the more force that individual can muster. However, according to William Goode (1971), the more resources a person actually has, the less that person will actually use force in an open manner. Thus, a husband who wants to be the dominant person in the family, but has little education, has a job low in prestige and income, and lacks interpersonal skills may choose to use violence to maintain the dominant position.

Patriarchal Theory- Patriarchy Theory developed in 1979 by Dobash and Dobash argues that patriarchy leads to subordination of women and contributes to a historical pattern of systematic violence directed against them. Feminists also establish a link between patriarchy as a social system and violence against women. The brutalization of an individual woman (particularly in the family) by an individual man is not

[29] Ibid, pp.207-208.

an individual and family problem but the manifestation of the historically and cross culturally existing male domination on women. Social sanction of wife abuse is a reflection of patriarchal norms, which support male dominance in marriage. Men are predisposed for earning livelihood for the family and held centres of power, resources, property etc., whereas women being busy with bearing and nursing children became dependent on men. This resulted in unequal distribution of power relation in the family. So aggressiveness, male dominance and female subordination are cherished in society, said Dobash and Dobash.[30]

Social Learning Theory- Social learning theory suggests that individuals learn how to behave through both the experience of and exposure to violence. This theory holds that those who witness violence between parents or who themselves experience abuse as children are likely to resort to violence in adulthood.

Exchange theory- The key assumption of Exchange Theory of violence is that human interaction is guided by the pursuit of rewards and the avoidance of punishment and costs. Simply stated, individuals will use force and violence in their relationships with intimates and family members if they believe that the rewards of force and violence outweigh the costs of such behaviour.

From the above analysis of the various scientific theories related to violence against women, it is clear that no single theory can fully explain the causes for perpetration of violence against women. Rather than a single factor theory, a multifactor theoretical approach or an integrated approach would explain causes of all types of violence against women.

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[30] Aggarwal, A. (2005). "Feel good" women? Domestic violence perspective. In K. Uma Devi (Ed.), *Violence against women: Human rights perspective.* New Delhi: Serial Publications, p.153.

Operational definition of Violence against Women- In the present study the definition of violence against women is used as it is in the Declaration on the Elimination of Violence against Women of the United Nations General Assembly (1993). It defines violence as "any act of gender- based violence that results in or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether in public or private life".

Objectives of the Study: The main objectives of the study are outlined below-

1) To analyze the existing legal framework that deals with the rights of women, both international and national.

2) To study the socio-economic profile of women under study.

3) To study the nature and forms of violence against Muslim women in Barak Valley.

4) To find out the causes and consequences of violence against Muslim women in Barak Valley.

5) To assess the awareness, knowledge and perception of Muslim women regarding socio-legal and constitutional protective measures.

Research Questions:

The present study focuses on the following research questions:

a) Is the existing legal framework of women's rights in India sufficient for protecting the rights of Muslim women?

b) What is the nature and forms of violence against Muslim women in Barak Valley?

c) What are the causes and consequences of violence against Muslim women in Barak Valley?

d) How far the Muslim women in Barak valley are aware about the existing legal and constitutional safeguards?

Significance/Importance of the Study

The concept of human rights is very important for human life and human society. Human rights are necessary for the overall development of every individual. Violence against women in any form is a violation of women's human rights. The present study intends to understand the overall situation of violence against Muslim women in Barak Valley of Assam. This, in turn, will enable us to understand the status of human rights of Muslim women. So far as non Muslim women are concerned, many works of sociological interest are easily available. But it is still rare to find systematic and comprehensive literature on Muslim women. This is why the Muslim women are not on the knowledge map of the common man and hence such an exploration related to the status of Muslim women needs to get its due share of attention by the social scientists. The present study is a venture in the direction. The study will be helpful in finding the causes of violence against Muslim women. It will be able to suggest the remedies to policy makers and social scientists who can educate society about the human rights status of Muslim women. Further the study will be helpful in understanding the awareness level of Muslim women regarding legal and constitutional measures made to protect women from violence. In sum, the present study is important and useful because it will be:

i) Helpful in the building of hypothesis for the future researchers.

ii) A source of secondary data.

iii) Helpful in presenting the real scenario related to the violence against Muslim women from human rights perspective.

Methodology and Study Area

The study has been conducted in Barak Valley of Assam, comprising three districts- Cachar, Karimganj and Hailakandi. The study is exploratory and descriptive in nature. In order to study the issue of violence against Muslim women in Barak Valley, both primary and secondary data have been collected. For the purpose of collecting primary data for the study, a total of 75 Muslim women victims of violence (25 reported cases from each district) of Barak Valley have been interviewed using the interview schedule. Name and address of the victims have been collected from the Family Court, District Courts and NGOs working for women. Thus, District Level Committee for Crime Involving Women, Cachar; Wodwichee (an NGO working for women), Hailakandi; District Women Cell, Karimganj; and District Courts of Cachar, Karimganj and Hailakandi had been contacted for this purpose. Research concerning women's experiences of violence is considered 'sensitive' because it has the potential to bring up memories that are emotionally disturbing and painful. Thus, all efforts were made to ensure a caring and empathetic relationship for each woman to feel safe and supported during the interview process.

The Ethical and Safety Recommendations developed by the World Health Organization was followed in this respect (WHO, 2001).[31]

[31] World Health Organization (2001). Putting women first: Ethical and safety recommendations for research on violence against women, Retrieved from http://www.who.int/gender/violence/womenfirtseng.pdf.

Apart from this, case studies of five women victims of violence have been conducted to supplement the quantitative descriptions.

Books, journals, newspaper reports and various other reports pertaining to the violence against women, authentic texts of Muslim law, English translation of the holy Quran, and different books and articles on the Shah Bano Case or related to Muslim Personal Law constituted the secondary data.

Limitations of the Study

Research on violence against women is hampered by the social sensitivity of the issues. Several studies around the world and in India have collected data on violence against women from the 1990 onwards and most of them have underlined a variety of constraints leading to underestimates of this menace. There are several social constraints on doing research on violence against women.

In the present study, an honest attempt has been made to gather the data that can depict the true scenario of the issue looking at its various magnitudes. However, due to the sensitivity and confidentiality of the issue, the agencies that were approached for gathering the fast hand information were very much reluctant to provide the same. Besides data are not maintained in proper order and also these are not made available to the researchers very easily, mainly due to their lack of time to locate the records.

In a remote area like Barak Valley where the Muslim society is still generally conservative, the attitude of the respondents stood on the way of collecting information. They were often found unwilling to disclose their experiences. As a result it took time delaying the data collection process. Hence, the researcher faced much difficulty to convince and oblige women victims to provide the information

correctly. Further, the family members of few of the victims were also suspicious on the researcher. However, it was assured to the respondents and their family members that the study is purely academic and secrecy and confidentiality will be maintained properly. Taking all these as challenge the researcher tried to give a holistic view of the problem.

Chapterisation: The present study has been divided into five chapters:

Chapter-I

Introduction- This is an introductory chapter. It consists of the statement of the problem, review of literature, theoretical perspectives of the study, operational definition of violence against women, objectives of the study, research questions, significance of the study, methodology and limitations of the study. A brief description of each chapter is also presented in this chapter.

Chapter-II

Human Rights and Women: International and National Instruments

This Chapter has been divided in two parts. In Part- A, an attempt has been made to study the United Nation's efforts in laying down the standards for protection of rights of women. Various rights conferred to women by various international conventions and declarations as human rights are discussed in details. Part-B deals with the rights of women in India. In this part, rights and privileges of women conferred by the Indian Constitution are discussed. Besides various legislations relating to women for the protection and promotion of their rights are discussed and analysed in details.

Chapter -III

Muslim Personal Law in India and Women: A Critical Analysis- In this chapter, an attempt has been made to study the origin and development of Muslim Personal Law in India and the status and rights of women in Muslim Personal Law. In addition, the movement for change in the Muslim Personal Law since independence and the issue of Shah Banu Case and the subsequent demand for a Uniform Civil Code have also been discussed in this chapter.

Chapter-IV

Violence against Muslim Women in Barak Valley: A Holistic Perspective from an Empirical Study

This chapter is the core of the study. It deals with the socio-economic profile of the respondents, explores the nature, forms, causes and consequences of violence against Muslim women in Barak Valley on the basis of primary data. For the convenience of presentation, this chapter has been divided into five sections: Section 1- Profile of the study area i.e., Barak Valley and the Socio-economic profile of the respondents. Section II- Nature and Forms of Violence against Muslim Women in Barak Valley. Section III- Causes and Consequences of Violence against Muslim Women in Barak Valley. Section IV- Awareness and Perception of Muslim Women regarding the Socio-legal and Constitutional Protective Measures. Section V- Case Studies of the Victims.

Chapter-V

Major findings, Conclusions and Recommendations -This chapter presents the major findings, conclusion and recommendations**.**