

STATUS OF WOMEN IN ISLAM: A CRITICAL STUDY WITH SPECIAL REFERENCE TO THE INTERPRETATION OF RELIGIOUS TEXTS IN THE SOCIETY OF KASHMIR

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ABSTRACT

This paper aims to critically evaluate the interpretation of religious texts concerning women's rights. With the help of case studies in Kashmir, the researcher examines how religious texts are interpreted and applied in the everyday lives of women. The case studies of Saima, Iffat, and Salima, three highly qualified women, highlight how misinterpretations of Islamic teachings, combined with cultural practices, lead to systemic injustices to women. The study reveals significant differences between the ethics presented in religious texts and the actual experiences of women, particularly in the context of marriage, divorce, and financial rights. The findings highlight the need for a re-examination of religious interpretations and legal reforms to ensure gender justice in Muslim-majority societies, particularly in Kashmir.

Keywords: Women's Rights, Interpretation, Misconceptions, Misinterpretation, Religious Texts, Gender Discrimination, Islam

I. INTRODUCTION

The status and rights of women in Islam have been the subject of extensive debate, leading to various interpretations and applications in different societies. When examining this issue, two fundamental questions will guide this study: first, whether the primary teachings of Islam themselves discriminate against women, and second, whether the discrimination faced by women in Muslim societies arises from cultural, legal, and patriarchal misinterpretations rather than from Islam itself. Islam upholds the dignity, value, and rights of women, placing them on an equal footing with men and, in some instances, even granting them a position of greater significance. Islam introduced rights that were revolutionary at the time of its revelation, including the right to inherit property, own and manage wealth independently, seek education, work, and receive fair treatment in marriage and divorce. The Qur'an provides comprehensive guidelines on male-female relationships by defining their roles, rights, and responsibilities in family and social structures. However, beyond defining roles, the Qur'an also highlights the individuality of both genders, recognizing them as independent beings with

their own identities, psychological attributes, and spiritual worth. The Qur'anic concept of justice (Adl)¹ as

reflected in my verse stresses not only equity between men and women but also equal moral accountability. These verses highlight that both men and women hold equal value in the eyes of God. Likewise, human worth is based on piety rather than gender or lineage: "Indeed, the noblest of you in the sight of God is the most righteous of you" (Qur'an 49:13).

Despite this, gender roles in many Muslim societies, including Kashmir, are dictated by interpretations that often disregard the Qur'anic emphasis on justice and equality. Islam values a dual-sex model in which men and women are given equally valuable but different roles. The misinterpretation of this concept has often resulted in female subjugation.

The principle of Musawwah (equality) is a foundational aspect of Islamic justice, affirming equal spiritual accountability (al-Qur'an 33:35), shared human origin (al-Qur'an 4:1), equal reward for righteous deeds (al-Qur'an 16:97), and universal human dignity (al-Qur'an 49:13). The Qur'anic concept of Wilayah (mutual guardianship) provides another fundamental principle for understanding gender dynamics in Islam. As stated,

"Men and women are protectors of one another. They enjoin what is just and forbid what is evil, they observe regular prayers, practice regular charity, and obey God and His Messenger. On them will God pour His mercy, for God is Exalted in power and wise." (al-Qur'an 9:71)

This verse highlights the Qur'anic vision of gender relations, where men and women are equal partners in fostering social, political, and religious harmony. Neither gender is inherently superior to the other, nor is one accountable to the other in a hierarchical sense. Instead, both are responsible for upholding justice and morality. However, to foster healthy and enduring human relationships, the Qur'an emphasizes a set of core ethical values that must be upheld. These include Taqwa (piety or God-consciousness), Khayr (goodness), Birr (righteousness), Ihsan (excellence in conduct), Haqq (truth and justice), Adl (fairness and cooperation), Sabr (perseverance), Shukr (gratitude), and Afu (forgiveness) (Zainab, 2007, 42). These values are repeatedly emphasized in the Qur'an (al-Qur'an 2:177; 16:90; 49:13; 2:153; 14:7; 24:22). The transformative power of 'Afw which has the role of restoring things, healing, and creating harmony within family life, is highlighted by Zainab Alwani (2007, 42), who considers forgiveness as a central element of the Qur'anic model for the development of compassionate and stable family relations.

In the early period of Islam, the interpretation of the Qur'an tended to be more inclusive, providing ample space for women. Women in early Islamic society played active roles in religious, political, and economic affairs. They were educators, scholars, business owners, and even warriors. Women contributed to the transmission of Hadith, led religious discussions, and participated in governance (Abu Shuqqah, 1997, 34). Yet, as Duderija (2020, 179) notes, the interpretations of the Qur'anic verses have always been understood as diverse and sometimes controversial due to the complexity of understanding sacred texts in different socio-cultural contexts. Despite these Qur'anic principles, many classical and popular exegeses have read some verses on gender roles, focusing on and legitimizing patriarchal authority over mutual responsibility. These interpretations, influenced by prevailing socio-political structures, have contributed to the widespread notion that women must remain subservient to male authority. The lack of access to religious education, along with cultural

¹ All Qur'anic translations in this paper are taken from Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, new edition (Al-Madinah al-Munawwarah: King Fahd Complex for the Printing of the Holy Qur'an, 1411 AH/1990 CE): Al-Qur'an 57:25; Al-Qur'an 49:13; 3:195

biases, has further marginalized women's rights in Muslim societies. (Wadud, 1999, p. 23; Barlas, 2002, p. p. 15; Mir-Hosseini, 2000, 50)

In the context of Kashmir, these interpretations intersect with customs and family practices, producing specific forms of discrimination and violence against women (Dabla, 2000, 2007; Rashid, 2022). Many Kashmiri women understand Islam through orally transmitted teachings which highlighted on their duties rather than on the rights they have been given by the texts. This ultimately led to acceptance of gender norms that actually contradict Qur'an and Hadith. Verses related to marital duties, divorce, obedience, qiwamah are usually interpreted in a way that justify male authority and to suppress the women.

This study therefore examines how religious texts are interpreted and applied in the society of Kashmir through case studies, interviews, and field observations. By comparing the religious texts with the lived realities of women in Kashmir, this study highlights how patriarchal practices which are embedded in culture are actually reinforced through selective interpretation which ultimately shapes women's marriage experience, financial rights and access to justice.

• METHODOLOGY

In this study, a qualitative research methodology is applied to explore the position of women in Islam, with a particular emphasis on how religious texts are interpreted and applied within the society of Kashmir. In textual analysis a close reading of Qur'anic verses regarding marriage, mehr, Qiwamah, divorce and polygamy was conducted. The research integrates a textual analysis of Qur'anic verses and Hadith with case studies and fieldwork, which includes semi-structured interviews and participant observation. Case narratives, such as those of Saima, Salima, and Iffat, illustrate the disparity between Islamic ideals and the realities encountered in daily life. The data were thematically analysed to understand how cultural norms influence marital experiences, often diverging from Islamic ethical principles like justice, compassion, and dignity.

• LITERATURE REVIEW

Much has been written on women in Islam, their rights and roles as defined by the Qur'an and Sunnah, and much has also been written on the condition of women in different societies, including Kashmir. In the context of Kashmir, important works such as B. A. Dabla's *Gender Discrimination in the Kashmir Valley: A Survey of Budgam and Baramulla Districts* (2000), *Multi-Dimensional Problems of Women in Kashmir* (2007), and *Social Impact of Militancy in Kashmir* (2011) provide valuable sociological insights into domestic violence, dowry, denial of inheritance, and the impact of conflict on women's lives. Similarly, Dr. Mohammad Afzal Wani's *The Islamic Law on Maintenance of Women, Children, Parents & Other Relatives* (1995) and *The Islamic Institution of Maher* (1996) discuss how women's rights are often undermined by weak legal enforcement and cultural distortions. More recently, Mantasha Binti Rashid's doctoral thesis, *Violence against Women in Kashmir: Personal and Political* (2022), highlights gender-based violence and the lack of institutional support.

Smaller but significant studies also contribute to this field. Aneesa Shafi's book, *Working Women in Kashmir: Problems and Prospects* (2002), shows that even employed women continue to shoulder household responsibilities without support and have little say in domestic decision-making. Similarly, Shubeena Akhtar and Muzamil Jan's article *An Analysis of Decision-Making Power among Married and Unmarried Women* (2008) demonstrates that women in Kashmir, whether married or unmarried, employed or unemployed, have limited decision-making power both in family and public life. Tanveer Ahmad Khan & Wasia Hamid's *Lived Experiences of Divorced Women in Kashmir: A*

Phenomenological Study investigate the impact of divorce on women and analyse their lived experience after divorce.

However, while these works provide crucial understanding of women's social and economic challenges, they remain sociological in nature and do not address how religious texts are interpreted and applied in the society of Kashmir. The connection between women's subordination and the misinterpretation of Qur'anic verses and Hadith is largely absent. Many times, these texts are selectively applied in ways that create the belief that women are inferior to men, as if Islam itself endorses such inequality.

This study seeks to fill that gap by evaluating the condition of women in Kashmir and, through case studies of women such as Salima, Saima, Iffat, and others, showing how Qur'anic verses and religious teachings are misinterpreted and misapplied when it comes to women's rights. It argues that such practices are carried out under the guise of Islam, even though they contradict the religion's foundational principles of justice, mercy, and dignity.

STATUS OF MUSLIM WOMEN IN KASHMIR

The condition of women in Kashmir reflects a complex relationship of cultural norms, patriarchal and selective interpretation of religious texts. The women in the traditional society of Kashmir remained subordinate to men, dependent, harassed, and faced injustice, domestic abuse, and conservatism (Dabla, 2010, p. 11). While many of them enjoyed certain advantages, occupying significant positions, distinguishing themselves as rulers, powerful queens, diplomats, landowners, builders, reformers, and scholars of religious knowledge. They participated in almost every social activity alongside men, but over time, their privileges were gradually eroded (Bazaz, 2003, p. 2).

However, with the emergence of modern education, socio-political consciousness, and religious reform movements, women began to focus more on both secular and religious education. As Dabla (2009, 19) notes, this shift allowed them to assess their position in society and push for greater autonomy. Yet, despite these advancements, the question remains: have Kashmiri Muslim women truly gained the status that religious texts provide them, or are they still subjected to subjugation and discrimination through patriarchal interpretations of Islam?

Like other regions of South Asia, Kashmiri society is deeply influenced by gender hierarchy. Women lived under the dominance of deeply ingrained traditional customs. Women were rarely considered equal to men; their roles were primarily domestic, making them fully dependent on male family members—first on their fathers, then on their husbands, and later on their sons for economic and social security (Bhat, Khurshid, & Hussain, 2011, 173). The self-identification of many women as *Siyah Sar* (black-headed), which metaphorically symbolizes their fate of endurance, sacrifice, and resilience in a patriarchal society where they face injustice from birth to death (Dabla, 2009, 20).

Gender discrimination has hindered women's participation in various aspects of life, such as education, employment, mobility, decision-making, and politics. They often face unequal access to opportunities and are discouraged from exercising independent judgment; their contribution as active workers and household managers is undervalued. They are considered physically weaker and mentally incapable and are not given the right to independent thinking. They do not enjoy participation in decision-making, ranging from minor issues (Shamshada, 2002, 52). They have to obey orders from their husbands, and by not doing so, they would be abused and face humiliation in the community for not being a good wife and finally have to face segregation (Ray, 2009). The dominant narrative surrounding their roles is deeply entrenched in social norms that emphasize their responsibilities while overlooking their rights. Religious interpretations play a crucial role in shaping these attitudes.

Religious traditions have assigned husbands the authority or headship of the family while demanding obedience from the wife. The texts are interpreted in such a way that they assign women an inferior position not only in the society but also in the family, thus depriving her not only of attaining a position in religious organizations but also of the right to attend the community prayers in masajid (Tanveer and Wasia, 2020, 381).

A significant body of literature produced by religious organizations like Anjuman Nusrat al-Islam,² Ahl al-Hadith³, Jamaat-e-Islami, and Tablighi Jamaat sought to impart religious education to Kashmiri Muslims, including women. However, this religious education for women often remained confined to the mere recitation and memorization of the Qur'an without a deeper understanding of its meaning. As a result, women gained knowledge about religious rituals but not about the ethical and legal rights conferred to them in Islamic scripture. Furthermore, the literature produced by scholars within these movements was primarily advisory in nature, shaped largely by prevailing social structures and patriarchal interpretations of religious texts. (Sikander, 2022, 65). Rather than offering a balanced discourse on obligations and entitlements, these texts reinforced the notion that a woman's primary role was to serve as a caregiver and supporter rather than as an independent individual with inherent rights and agency. Additionally, the patriarchal understanding through which many of these works were written resulted in a twisted understanding of religious principles, where cultural traditions were often mistaken for religious mandates. This led to the widespread belief that women's subservience to men was a divine decree rather than a social construct, further marginalizing their rights within both religious and legal frameworks (Sikander, 2022, 70).

Field interactions with female students in colleges reveal their religious knowledge was derived from family members, religious preachers, or madrassah teachers rather than from a direct engagement with Islamic texts. They had little exposure to the broader teachings of Islam, particularly regarding women's rights, such as financial independence, access to education, and legal safeguards against oppression. However, one striking commonality among these students was their awareness of discrimination. Despite their lack of formal religious knowledge, nearly every student, I interacted with spoke about the injustices they faced, highlighting the gap between what they had been told about their roles in society and their lived experiences of inequality.

It is crucial to understand the underlying reasons for the discrimination and subjugation of women in Kashmir. Beyond sociological factors, there exists a religious dimension that has been used to justify male dominance over women in the name of faith. Many Kashmiri men are well-versed in certain ahadith that they believe define the status of women in Islam. Some of these traditions depict women as inherently flawed and deficient, reinforcing the idea that they must remain subservient to men. For instance, it is commonly believed that a woman's prayers or good deeds will not be accepted by God as long as her husband is displeased with her. Any form of disobedience is treated as a sin, and a woman is warned of the torments of hell if she fails to satisfy her husband. Furthermore, disobedience to one's husband is equated with disobedience to the Creator. Women are frequently portrayed as sources of fitnah (temptation) and described as lacking in both religious commitment and intellect. However, many modern scholars view such interpretations as deeply misogynistic (Fadl, 2021, 12), arguing that Islamic texts originally granted revolutionary rights to women, rights that were systematically eroded over centuries by patriarchal structures and male-dominated religious interpretations. Often, misrepresentations and misconceptions about how women are treated by

² This madrassa cum school was established by Mirwaiz Molvi Rasool Shah in 1889 in order to teach religious as well as western education.

³ The reformist movement was founded by Hussain Shah Bakhtu.

religious texts are used to develop the notion that Islam is misogynistic in areas like domestic abuse, women beating, divorce, legal testimony, inheritance law, and polygamy, which leads to gender-discriminative practices and has a direct impact on the health of Muslim women in particular and society in general.

In summary, while Islam provides clear guidelines on gender equality, ensuring dignity, rights, and personal autonomy for women, these principles are frequently overshadowed by male-dominated readings of religious law that prioritize cultural traditions over scriptural authenticity. As a result, Kashmiri women remain trapped in a system that denies them the full spectrum of rights Islam originally granted them. The divergence becomes particularly visible in cases involving marriage, mahr, domestic violence, and divorce; these areas are explored further in the case studies that follow.

CASE STUDIES: LIVED EXPERIENCES OF KASHMIRI WOMEN AND THE MISINTERPRETATION OF RELIGIOUS TEXTS

This section highlights how Kashmiri society follows the patriarchal norms which are actually combination of misinterpretations of religious texts that shape women lived experience, particularly within marriage. To explain how these misinterpretations of religious texts happen in everyday life, this study presents only three case studies based on in-depth interviews and field observation. These cases were selected because all of these represent repeated form of harm which resulted due to distorted interpretations of *qiwamah*, misapplication of *Talaq*, and nonpayment of *mahr*, which actually dominate the Qur'anic principle of justice, compassion, tranquillity. These studies form the empirical foundation for the thematic analysis presented in next section.

Case Study 1: Saima⁴

Saima, a highly educated woman, was married to Wahid under social pressure, despite her dissatisfaction with minimal *mahr*. From the beginning, conflicts arose between Saima and her in-laws over the demand of dowry. Despite Wahid having no personal issues with her, he remained silent while his family dictated the terms of the marriage. Just two months into the marriage, Saima was expelled from the house while pregnant. For the next 18 months, neither Wahid nor his family reached out to her or provided financial support for her or the child. She struggled economically, bearing the entire responsibility of raising the child alone.

As time passed, societal pressure compelled Saima's father to send a message to Wahid, seeking dialogue and reconciliation. However, instead of engaging in a fair discussion, Wahid's family took the matter to the local Mohalla committee, an all-male body that further worsened Saima's mental distress. When she was summoned, she was not allowed to fully present her case. She was reminded of the concept of *qiwamah* (Qur'an 4:34), insisting that Wahid had the right to discipline his wife and that Saima must return unconditionally if Wahid agreed. If she refused and sought a divorce, she was told she would have to pay a penalty that was beyond her financial means.

Despite these pressures, Wahid remained adamant about not taking Saima back, and for two years she waited, during which she was neither married nor divorced. Seeing the hostility of his family and the Mohalla committee's inability to reach a fair resolution, Saima filed a case under the Domestic Violence Act and sought maintenance for her child. After years of legal proceedings, the court ordered Wahid to pay a nominal maintenance of ₹2,500 per month, which Wahid never paid. During the court proceedings, Wahid secretly married another woman. As Saima fought for her rights, she was ultimately left with no option but to seek a mutual divorce. Wahid falsely claimed in court that he had

⁴ Based on interview with Saima and thorough analysis of her court proceeding.

already divorced Saima, a claim she vehemently denied, demanding proof, which Wahid could not provide. Eventually, she agreed to a mutual divorce, but she never received any financial support for herself or her child.

Nine years have passed since Saima's marriage, and her now 8-year-old child has never seen his father nor received a single penny in maintenance from Wahid. While Wahid married another girl and enjoyed his life.

Case 2: Iffat's Story

Iffat married Latif in 2018, and in the initial months of their marriage, their shared religious inclination created a sense of mutual respect and bonding. However, this harmony began to collapse within three months when discussions around having children, particularly a male child, arose. In Kashmiri society, the birth of a son is often perceived as a form of social security and a guarantee for the continuity of family property. Under this pressure, Iffat was repeatedly taunted for not conceiving quickly enough. When conception was delayed, Latif resorted to physical violence over trivial issues. Iffat endured this mistreatment, initially believing that her husband's aggression stemmed from family pressures. Matters escalated when her parent's discovered signs of her injuries. Instead of acknowledging his abusive behavior, Latif attempted to justify wife-beating by reciting Qur'anic verses (Qur'an 4:34) in front of Iffat's family, claiming that Islam permits disciplining a wife "when she is not in control."

Iffat eventually gave birth to a daughter, which further aggravated her situation. Instead of being welcomed back, she was neglected by her husband and in-laws, who expressed disappointment over the birth of a girl. Some years later, Iffat learned that Latif had married another woman without informing her. When she tried to object to his second marriage, she was threatened with divorce and told not to interfere.

Despite her patience and endurance, Latif ultimately distanced himself entirely from Iffat and their daughter. In a local committee hearing, he claimed that he had already divorced her, a statement she categorically denied since no formal *ṭalāq* was ever pronounced. When Iffat demanded her mahr, only a sum of ₹300,000 was returned to her. The remaining amount, which included gold worth ₹10 lakhs given as *ṭhān* and *zēwar*, remained with Latif and his family. Left with little choice, Iffat assumed sole responsibility for raising her daughter, bearing both the financial and emotional burdens alone.

Case Study: Saleema

Saleema was married to Farooq, but from the very beginning, she faced harassment from her in-laws because of her outspoken nature and insistence on fairness within the family. Matters became more tense when she secured a government job. While her husband initially welcomed this as a source of economic stability, her in-laws regarded it as a threat to traditional household roles. Despite her employment, Saleema fulfilled domestic responsibilities and even contributed her entire salary to her husband, who justified this practice by invoking *qiwāmah*, insisting that he was the family's maintainer. Over the years, Saleema gave birth to three daughters. Instead of celebrating their arrival, her in-laws and husband pressured her for a male child, viewing a son as a guarantee of social and economic security. With her salary, she managed the marriages of her husband's two sisters and even financially supported his younger brother, yet her contributions were quickly forgotten. When the birth of daughters was perceived as her failure, Farooq married a second wife. Saleema was then given the "choice" of either staying under one roof with the co-wife or leaving. Refusing polygamous subjugation, she returned to her paternal home with her daughters.

For the past twenty years, Saleema has lived in a state of uncertainty, neither divorced nor fully married. Her husband has not taken her back, nor has he formally pronounced *ṭalāq*. Instead, he insists

that she file for khul', thereby relieving him of the obligation to pay her mahr and any outstanding dues. But she never demanded khul and is living in a condition neither divorced nor married. The wealth she had spent on his family, including her earnings, remains uncompensated.

This case illustrates how religious concepts are often misinterpreted or manipulated within Kashmiri society. The principle of qiwamah, which is meant to place financial responsibility upon men, is reversed and meant to control women's earnings while simultaneously neglecting their rights. The Qur'anic vision of marriage as sakana (a source of tranquillity and mutual comfort) is eroded when economic benefit is extracted from the wife while she is denied dignity and security. Moreover, polygamy, which in Islam is tied to justice and fairness, is frequently used as a patriarchal tool of oppression. Saleema's husband also misuses the concept of khul', pressuring her to release him from his legal and financial obligations.

Like Iffat's case, Saleema's story shows how women are trapped in exploitative marriages not only because of cultural norms but also because religious texts are invoked selectively and distorted to serve patriarchal interests.

Deep analyses of the three cases reveal the following pattern.

1. All the husbands invoked qiwamah to proclaim dominance, justify control over women, or legitimize violence.
2. In each case husbands issued alleged divorces verbally, secretly, or retrospectively. Women were left neither divorced nor in marriage.
3. Islamic principle of reconciliation and the entire process of divorce were absent.
4. Women were denied mehr, maintenance, control over earnings, and rights over 'than and zewar.'
5. Women were pressured for male child
6. Mohalla committee reinforced male authority and silenced women often interpreting Islamic texts such a way that justified things.
7. Each woman suffers loss of housing, loss of financial security, even they went through psychological trauma and faced social marginalization and finally, due to unawareness and prolonged legal support they lack the legal support.

THEMATIC ANALYSIS OF MISINTERPRETATION OF RELIGIOUS TEXTS IN KASHMIRI SOCIETY

Based on the interviews, field observation and case studies, this section will explore how Qur'anic principles related to marriage, divorce, mehr, polygamy, and overall family ethics are either selectively applied or completely misinterpreted in the society of Kashmir.

Misinterpretation of religious texts forms one of the important factors which shapes women's marital experience in the society of Kashmir. Although the Qur'an is quite clear when it describes the marriage as bond which is based on tranquillity (sakan), love (mawadah), compassion (rahmah) and justice (adl) as described in al-Qur'an 30:21 and 9:71, but what's seen in the society of Kashmir is that the principles of the Qur'an are dominated by cultural and patriarchal interpretation. Many scholars emphasise that family relationship in Islam is based on wilaya, meaning mutual care, responsibility rather than any kind of hierarchy or domination (Alwani, 2013, 35-40). However ethnographic evidences from Kashmir indicate that verses related to family life are interpreted in such a way that they do not reflect the Qur'anic principles.

Sociological studies of the society of Kashmir reveal that gender relations demonstrate cultural beliefs rather than the Qur'anic worldview. Bashir Ahmad Dabla, in his long assessment, shows how patriarchal and cultural norms shape religious understanding in such a way that it normalizes any kind of subjugation of women (Dabla, 2007, pp. 41–42). Women also accept these interpretations because usually their religious knowledge is limited to recitation of the Qur'an without comprehension (Sikandar, 2022, 68), which leaves them dependent on male family members or community leaders for interpretation. Women usually receive education of Islamic duties and roles primarily from family traditions reinforces culturally embedded gender roles

The fieldwork conducted confirms the findings: many women interviewed across different places expressed that their understanding of marriage, obedience, their role as wife, mother, daughter did not come from their understanding of texts but what actually they have seen in their homes and what they have been taught by elders including their mothers, grandmothers, or local religious figures. Verses concerning *qiwamah* (al-Qur'an 4:34) or marital discord are frequently quoted to justify the demand of obedience or even sometimes as domestic abuse, (Sakeena while interviewed).

The case studies of Saima, Iffat and Saleema illustrate how misinterpretation of religious texts enable husbands and the extended families to legalize control over women and deny them their rights to *mehr* and maintenance or even the manipulative procedure of divorce. These are not isolated cases but Mantasha Rashid describes how patriarchy and cultural norms are embedded in religious interpretation, thus making women vulnerable in both family as well as community spaces. (Rashid, 2022, pp. 57–63).

Wife Beating & Misuse of Qur'an 4:34

Domestic violence, particularly wife-beating, is one of the most dehumanizing and brutal practices against women in Kashmir. Although the Qur'an clearly maintains that the marriage is based on love, protection, and mutual cooperation, patriarchal interpretations of Qur'an 4:34 have been widely used to justify male authority, female subjugation as well as physical discipline. Multiple studies on Kashmir confirm that physical abuse is not an exceptional phenomenon but a deep-rooted component of marital life for many women. As Azam (2020) reports, physical violence is a common aspect of married life for many women in Kashmir, characterized by a repeated pattern of domestic violence, including beatings and insults. Wife beating is not considered as unusual, but many women described physical abuse as a normal practice that usually is justified by husbands and in-laws as discipline (Shafi and Jahangir, 2013, 55). Women sometimes report severe beatings by husbands for trivial household issues (Ibid). Bashir Ahmad Dabla's research in analyzing the reasons behind this practice in Kashmir presents shocking justifications, including a wife's attempt to convince her husband to establish a nuclear family, dissatisfaction with food preparation, the husband's desire to marry another woman, loss of temper, or suspicions of infidelity (Dabla, 2009, 64).

Many men who are involved in wife beating often cite the Qur'anic verse as religious justification for their behavior, thereby interpreting the verse as a license to discipline their wives: "As to those women on whose part you see ill-conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly, if it is useful), but if they return to obedience, seek not against them means (of annoyance). Surely, Allah is the Ever Most High, the Most Great." (al-Qur'an, 4:34)

This verse was revealed in the context of marital discord and describes a step-by-step approach to resolve the conflict. The Qur'an first advises discussion between spouses, followed by separation in bed, and then *daraba* (a term that has been debated by classical as well as modern scholars extensively,

although widely translated by scholars as 'to hit' or 'to strike'). However, in the following verse, the Qur'an states:

"And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things]." (al-Qur'an 4:35)

Thus, the Qur'an promotes arbitration, reconciliation, and ultimately, if necessary, divorce as a means of conflict resolution. Classical Muslim scholars have generally interpreted the word "ḍaraba" as a form of discipline when they fear disobedience (Nushuz) (Chaudhry, 2013, 62-68), which is usually accepted as the main interpretation by the Muslims of Kashmir, though they (classical Muslim scholars) have universally condemned any injurious or severe beating. (Nazir and Tasneem, 2024). Some scholars have even suggested that it should be symbolic, using a folded handkerchief or a siwak (a small twig used for cleaning teeth). At the same time, modern scholars, while examining the verse within the broader framework of family dynamics, argue that ḍaraba does not imply physical hitting at all. Rather, they interpret it as a temporary or physical separation, suggesting that it refers to moving away from the situation of marital conflict. According to this view, rather than resorting to physical violence, stepping away from the conflict allows both spouses to reflect on their relationship and its consequences. (Abusulayman, 2003, 10-17).

In Kashmir, however, this misinterpretation has allowed the continuation of domestic violence under the guise of religious authority. Instead of viewing ḍaraba as a last resort within a reconciliation process of marital disputes, many husbands believe in the legitimacy of beating their wives to 'discipline' them as a part of the husband's right under the concept of qiwama. They believe that women need to be monitored and guided; thus, this is used as a cause for proclaiming male dominance. The International Center for Research on Women (1999) reports that such violence is often viewed as a routine and acceptable feature of relationships between men and women, making the situation far more complex. Cultural norms thus distort religious language, transforming violence into a socially sanctioned act.

Much further research reveals the severity of the issue. According to research, about 70% of all crimes reported to the police are women who are beaten by their husbands. Usually linked to matrimonial disputes, family problems, and harassment for dowry. (Gul and Khan, 2014). According to one more report, 15% of married women are physically and mentally being abused (Dabla, 2009, 25). Religious education available to most Kashmiri women is often limited to memorization rather than understanding of the texts, which further contributes to the uncritical acceptance of such claims (Sikander, 2022, pp. 65–67). As a result, wife-beating in Kashmir is not an Islamic prescription but a cultural practice that is based on misinterpretation of Qur'anic verses. The verses are used to legitimize harm; thus, this misinterpretation undermines the Qur'anic principle of compassion, tranquillity, and moral responsibility, thereby leaving women vulnerable to many kinds of violence, leading to the continued subjugation and suffering of women.

Marriage: Qur'anic Ethics and Lived Reality of Kashmir

Marriage (nikāḥ) in Islam is defined not only as a legal arrangement but as a moral, emotional, and spiritual institution with duties (Huquq) and responsibilities (Taklīf) and is grounded on affection (Muwaddah), resting abode (Sakan), and mercy (Raḥmah) (al-Quran 30:21). While classical jurists define marriage as a legally binding contract legitimizing conjugal relations with the rights and dignity of each spouse (Mula, 2019, p. 174), modern scholars maintain that marriage can't be reduced to a

mere contract but must be guided by the higher ethical objectives of the sharī‘a, namely justice, compassion, and human dignity (Hashim Kamali, 2008).

The Qur’an explicitly situates the purpose of marriage in *sakīnah*, a state of calm, stability, and repose, by declaring, “He created for you spouses from among yourselves so that you may find tranquillity (*litaskunū*) in them, and He placed between you affection (*mawaddah*) and mercy (*rahmah*)” (Qur’an 30:21).

Many scholars affirm that *sakīnah* is not a metaphorical state only but refers to residential stability and mental peace within marriage, where spiritual and material needs are fulfilled in a balanced way and are filled with an atmosphere of love, equality, and harmony (Fauzan, 2020, 59). *Sakīnah* emerges only when marriage provides a safe and stable home environment where dignity, self-respect, trust, and physical as well as emotional safety are ensured (Ibid 52-54). Marriage in the Qur’an has also been described through the concepts of (*wilaya*) mutual guardianship and mutual care, where men and women are supposed to take responsibility to maintain and protect each other (Alwani, 2007, 51), and are defined as garments (*libās*) of each other (Al-Qur’an 2:187). The metaphor of *libās* highlights the ideal of mutual care, intimacy, and interdependence between spouses. The spouses are to be a source of spiritual, emotional, and psychological support for one another, embodying the Qur’anic vision of harmony, compassion (*rahma*), and mutual protection within the family structure rather than the relationship of domination or superiority (Alwani, 2009, 33-43).

Despite this Qur’anic framework, marriage in Kashmir is usually based on patriarchal norms and cultural practices that usually undermine the Qur’anic ethical principles. Although it is considered as a religious obligation and is solemnized publicly, its focus on social customs and rituals sometimes makes it a social obligation rather than focusing on moral and ethical commitment. As Muhammad Maruf Shah observes, many marriages in Kashmir are performed to meet social expectations rather than to foster sincere companionship as outlined by Shariah. This is evident in the extravagant wedding rituals and high costs that discourage many from marrying, leading to an increase in late marriages (Maruf, 2007). The emphasis on rituals and customs over roles and responsibilities further curtails the ethical foundations of marriage, and the rights and roles it demands for a healthy companionship, particularly those of women, are merely discussed; thus, it results in marital conflict and discord.

Empirical studies from Kashmir show that marriage is least considered as a mutual cooperation and partnership but more as a hierarchal and patriarchal relation where a woman is expected to confine her roles to domestic labour and service to husband and his family (Dabla, 2000; Dabla, 2007). Field observations further reveal that the worth of women is assessed through their ability to adjust, endure, and sacrifice. The marriage structure in Kashmir is usually patrilocal, where women after marriage shift to their husbands’ houses and are expected to see not only their husbands’ demands but also the entire family’s demands. While there is importance of the nuclear family in Islam, the extended family is also viewed as a mini-Ummah, a reflection of the global Muslim community. This extended family is meant to offer moral and emotional support to the family members living there, not to prescribe any unfair sacrifices or excessive burdens on any member or intrude on any member’s privacy (al-Faruqi, 1992, 135). However, in Kashmir the marital home for a woman, which the Qur’an has described as a place of *sakīnah* becomes a place of adjustment, control, fear, and subjugation.

One of the contributing factors for subjugation of women in marriage is the interpretation of *qiwamah*. The Qur’an says, “Husbands are the protectors and maintainers of their wives, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient and guard in (the husband’s) absence what

Allah would have them guard. (Qur'an 4:34) The word "qawwamūn" has been differently interpreted; while some classical scholars understand qawwamūn as a ruler or in charge (Ibn Kathir, 1999, 292), at the same time others understand qawwamūn as protectors and maintainers (Muhammad Shafi, 2004, 418; Qurtubi, 1952, 169). However, classical and modern scholars have maintained that qiwāmah does not grant men unchecked authority over women, but it imposes an obligation to ensure the welfare and security of women (Majid Daryabadi, 325-326; Qurtubi, 1952, 169; Alwani, 2016). This role is based on the duty to support and protect, not on superiority, allowing women to focus on home management without the obligation to earn unless necessary. This division aims for societal balance and justice, not inequality, but misinterpretations have led to patriarchal dominance, where women are seen as inferior and their independence is suppressed.

In the society of Kashmir, the concept of qiwāmah is usually interpreted as male dominance and intellectual superiority, economic control, and, in some cases, violence within marriage, unquestioned obedience to husbands, and limiting women's roles to domestic spheres, with little or no space for independent thought or active participation in decision-making, even within the household sphere (Jan and Akhter, 2008, 44). Such interpretations often result in domestic abuse, with women accepting this as their fate. Women are thus treated as things and objects and are exploited as means, considered inferior beings whose only purpose is to enhance men's lives (Fatima et al. 2020, 127).

Thus, while Qur'anic principles of marriage are based on mercy, justice, and equality, the marriage system of Kashmir is overshadowed by cultural rituals, patriarchal misinterpretation, and sometimes misapplication of the revealed texts in order to justify the marriage as a site of control, thereby marginalizing women's physical, spiritual, and social as well as emotional security.

Mehr: Qur'anic Obligation and its Practice in Kashmir

Mehr (dower) occupies an important position in Islamic marriage and is considered a critical mechanism for safeguarding women's dignity and financial security. Although the exact term mehr does not appear in the Qur'anic text, the concept is conveyed through synonymous terms such as sadaq (honesty), nihla (gift or present), Farīdah (obligation), Ajr (reward), and Ṣadaqah (charity) (Qur'ān 4:4; 4:24), each of which explain the importance of a mandatory gift from the groom to the bride, symbolizing respect, commitment, and the seriousness of the marital obligation (Jamal, 1990, 32.). Classical and modern scholars unanimously consider mehr an important right of the wife that is obligated upon the husband, and if not paid, it remains an outstanding obligation owed to the wife, irrespective of whether the marriage is not consummated, or is dissolved, or is continued. The Qur'anic command "And give the women their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, then enjoy it with right good cheer" (al-Quran 4:4) explains two important things: one, that mehr is the exclusive property of women, and two, that it must be paid with free will, as an ethical responsibility, not as coercion or under pressure. Jurists further maintain that remission of mehr by the wife is accepted and valid, but it must be given voluntarily and without coercion, and if it's waived off under pressure, it will surely contradict Islamic legal ethics (Kamali, 2008, 44).

Despite clear guidance on mehr and its importance in Islam, the practice of mehr in the society of Kashmir remains altogether different. Instead of being realized as a symbol of respect, dignity, financial security of women, and religious obligation of a man, it has usually been reduced to a ritual that is largely shaped by customary practice. There are several reasons that affect the practice of mehr in Kashmir, like the level of awareness or ignorance about the principles of shariah, the economic positions of the families involved, the personal qualities of the contracting parties, and the prevailing social behaviour that play decisive roles (Afzal Wani, 1996, 126).

Women in Kashmir usually remain unaware about the significance of Mehr; neither are they given proper understanding of this institution, nor are they eager to know about this or other rights given by Islam. Although the fixation of Mehr is carried out during marriage, that too in the presence of a religious scholar, the actual payment of mehr and acknowledgement of its importance as a religious duty are usually neglected (Afzal Wani, 1996, 26). Even in many cases, women are not even given the right to demand their Mehr if it remains unpaid at the time of marriage. (Khusboo, 2024, 120). An empirical study survey shows that for many women mehr exists on paper only, with 43% reporting that mehr was never paid to them and 30.7% stating that they received only a partial payment at the time of marriage. (Shazia, 2014, 80). However, in recent years, in certain towns, a trend has emerged where the entire Mehr is stipulated as prompt and is paid at the time of nikāḥ, a practice more in line with the true spirit of Shari‘ah.

Furthermore, usually the fixation of mehr is negotiated between male members of the families involved without consulting the bride, who is just informed about the quantum of mehr after final fixation and thus excluded from the entire process of settlement (Afzal Wani, 1996, 27) thereby, contradicting the spirit of shariah, which maintains and recognizes mehr as a woman’s personal gift and respects her autonomy in any contract.

In addition to other customary practices, two customary concepts, like ‘Than and Zewar,’ have been historically associated with the mehr in Kashmir (ibid). “Than” refers to unstitched clothes and other basic items in kind that are provided by the groom to the bride. “Zewar” refers to gold ornaments given at the time of marriage from the groom and his family. These Than and Zewar were not included in the mehr, and the actual mehr consisted of a small cash amount, and “Than and Zewar” were recorded separately. Moreover, mehr was considered the legal property of women, while ‘than’ and ‘zewar’ were considered the joint property of both spouses. As a result, many families would keep mehr nominal, while ‘Than and Zewar’ would be a large amount of gold and valuables, ensuring to limit the women’s independent control over wealth.⁵ There are specially printed Nikah Namah documents in Kashmir that contain separate columns for Mehr, Than, and Zewar, as well as a column indicating the extent of Bakhsheda Mehr (remitted mehr). Recently, under the influence of the Ahl al-Hadith school, new forms of Nikah Namah were introduced, which omitted Than and Zewar altogether and instead contained only three columns: (a) Total Mehr in cash and kind, (b) Prompt or disbursed Mehr (Mehr Mu‘ajjal), and (c) Deferred or undisbursed Mehr (Mehr Muwajjal). This development reflects the contestation between customary practice and attempts at reform by religious movements in Kashmir. Field observations further reveal that even gold formally designated as mahr is frequently taken into the custody of in-laws soon after marriage, leaving women with little or no control over their own assets (Mantasha, 2022, 63-64). There is also evidence that the manipulation of mehr has a direct connection with divorce practices in Kashmir. In many cases, husbands delay the pronouncement of divorce in order to avoid paying Mehr, and many women are even compelled to ask for Khul, in which case they forfeit their right to Mehr, even in situations where the husband is clearly at fault (Dabla, 2009, 135).

Taken together, these observations highlight the troubling situation of women and how Mehr, being women’s inalienable right, have been influenced by culture. Instead of implementing Mehr as an obligation enjoined by God and His Messenger, society has redefined it through cultural practice, thereby undermining both women’s rights and the divine intent of the institution.

⁵ Interview with Advocate Mujtaba Farooq. Lower Court Srinagar, on 16th, December, 2025.

Divorce: Qur'anic Procedure and Community Practice in Kashmir

The Qur'an devotes a complete chapter (Sūrah al-Ṭalāq) to regulating divorce, repeatedly cautioning believers not to transgress divine limits: "And whoever transgresses the limits of Allah has surely wronged himself" (Qur'an 65:1), wherein focus has been made that none of the spouse's rights would be abused, and if the rights are violated, the entire community has been warned of the punishment (al-Qur'an 65:58). Further, when Islam focuses on the marriage to be on *bil Maruf* (kindness and what is known as behavior that is considered socially accepted and does not go against the Shari'ah [divine law]), at the same time it explains divorce to be with *Ehsan* (doing good) by remembering the good times spent with each other (al-Qur'an, 2:237). The primary aim of the regulations is not separation itself, but the protection of dignity, financial security, and the possibility of reconciliation.

Islamic teachings clearly establish that divorce is the last resort after exhausting every effort of reconciliation and must be based on family ethics, not coercion, and is only permitted when continuation of marriage causes greater harm than dissolution (Abugideiri & Alwani, 2003, 14). The Qur'an outlines five sequential steps to be followed: open discussion between husband and wife (this step is to be initiated and pursued by the husband), temporary separation in sleeping arrangements (ideally without involving the children), limited disciplinary measures or distancing, recourse to arbitration (both spouses should seek arbiters from their respective families to help them heal the rift, to advise them, and to prescribe remedies for the various problems afflicting them), and finally, either reconciliation or divorce (al-Qur'an 4:34-35; 4:128). Each stage must be fully observed before proceeding to the next, emphasizing patience, reflection, and *shūrā* (mutual consultation).

Divorce in the society of Kashmir occupies a complex position between religion, culture, and patriarchy. Although Islam grants both men and women the right to dissolve the marriage through a process of just conditions, divorce in Kashmir has traditionally been treated as a social taboo, and that too for a woman. Divorce was considered undesirable and abhorred, bringing dishonour to family and community (Dabla, 2010, 135). This attitude was quietly reflected in the 2011 census of India, which recorded only a 0.35% divorce rate in Jammu and Kashmir (Census of India, 2011). However, recent reports show that this figure has sharply increased to about 5%, which indicates a change in social dynamics (Zirat Times, 2024).

Despite the rise in divorce numbers, the pattern of divorce in the society of Kashmir reflects a unique amalgamation of custom, tradition, community authority, and gradual legal transformation. As M. Afzal Wani documents, divorces in Kashmir have historically been "rarely conducted through proper procedure" and are pronounced orally, depriving women of *mehr* and maintenance (Afzal Wani, 1987, 210-211). Community mechanisms, particularly Mohalla committees and informal mediation bodies, play a key role in regulating divorce in Kashmir, often prioritizing rapid resolution and reduced public humiliation over practical adherence or just treatment of both spouses (Athar, 2014, 696).

In numerous regions of the Valley, the dissolution of marriages frequently occurs outside official judicial frameworks, depending instead on familial mediation and deep-rooted social conventions. Field research reveals that families usually opt to resolve marital conflicts through *baradari* (elders, mosque committees or Mohalla Committee), prioritizing rapid resolution and reduced public humiliation over practical adherence or just treatment of both spouses. If the reconciliation fails in these gatherings, the husband usually pronounces an oral declaration of *ṭalāq* in the presence of relatives, which sometimes is followed by a brief written document (*talaqnama*) prepared by a local elder or *qāzī* to formally record the event (*ibid.*, 700-701). Such divorces are regarded as final within the community, even with the absence of judicial registration or a revocation period.

Women interviewed in empirical studies describe these divorces as sudden and unilateral, often happening during household conflicts. Some females describe being notified by family or brief written notes; some even deny having received any kind of talaq, whether oral pronouncement or written, but still live like divorcees.⁶ Others reported that they received a text or WhatsApp message declaring the end of their marriage. This pattern was confirmed by judicial material as well; in 2025 there was a case from the High Court of Jammu and Kashmir where the husband claimed that he divorced his wife in a formal way, but the wife and the investigation records showed a different thing: that the husband had sent a triple talaq message via mobile phone, which became central evidence in that case (High Court, 2004). These examples show how traditional pronouncements have adapted to modern communication technology, replicating the same impulsive pattern through electronic means. This trend arises from a persistent misunderstanding and misinterpretation of religious guidelines, wherein men believe that a singular declaration, whether verbal or written, is sufficient to dissolve the marriage completely (Muzamil and Asma, 2018, 79-82). Further, in the majority of these cases, women lack awareness of their rights to reconciliation, maintenance, or appeal, as the process is managed informally by families instead of judicial systems (Ibid).

However, it is evident that Kashmir has undergone a notable transformation. Many families in Srinagar and other towns are increasingly approaching for legal remedies for domestic-violence relief, divorce, custody, and maintenance proceedings. The nationwide survey conducted by the Bharatiya Muslim Mahila Andolan noted a consistent increase in judicial divorces throughout India, including Jammu and Kashmir, especially among women seeking official documentation for financial and custodial protection (BMMA, 2016). Lawyers in Srinagar affirm this trend, observing a significant increase in court-registered separations and khul' petitions over the previous decade, which indicates an increase in legal literacy and reduced stigma (interview with Advocate Affan Ali).

A particularly severe problem seen in Kashmir is leaving women suspended for years without formal divorce to avoid paying mahr or maintenance, while husbands remarry and move on and wives remain at their paternal homes, sometimes with their children, without any support or maintenance from the husbands. These women are neither divorced nor in marriage but just trapped in the uncertainty and face prolonged social, emotional, and economic vulnerability, with limited access to legal redress (Mehrajuddin, 1985, 344-346).

The process of divorce in Kashmir shows that there is misinterpretation of Islamic texts; traditional oral and community-mediated separation is influential, although judicial divorces are increasing. The Qur'anic model of divorce based on justice, reconciliation, and dignity is quite in contrast to the community practices that prioritize male authority. This disjunction not only violates women's rights but also undermines the ethical foundations of Islamic family life, thus highlighting the need for interpretation reform based on Qur'anic objectives (maqāṣid al-sharī'ah) and lived justice.

Polygamy: Misinterpretation and Misapplication

Polygamy remains one of the most debated issues in contemporary Islamic discourse. While some scholars advocate for its unconditional acceptance, others, especially women's rights activists, oppose it, arguing that it often leads to the marginalization of women, undermines their dignity, and is unjust towards them (Rohman, 2013). Islam was the first system to place restrictions on polygamy, limiting the number of wives a man could have to four, whereas pre-Islamic societies allowed unrestricted polygamous unions. As Karen Armstrong writes in her book *Muhammad*,

⁶ Interview with some women further supported by Tanveer A. Khan & Wasia Hamid, *Lived Experiences of Divorced Women in Kashmir* (2021), pp. 382–389.

“The Qur’anic institution of polygamy was a piece of social legislation. It was designed not to gratify the male sexual appetite but to correct the injustice done to widows, orphans, and other female dependents, who were especially vulnerable. They were often sexually abused by their male guardians or converted into a financial asset by being sold into slavery. Polygamy was designed to ensure that unprotected women would be decently married and to abolish the old loose, irresponsible liaisons; men could have only four wives and must treat them equitably; it was an unjustifiably wicked act to devour their property. The Qur’an was attempting to give women a legal status that most Western women would not enjoy until the nineteenth century” (Karen, 2006, 147).

The Qur’an states:

And if you fear that you shall not be able to deal justly with the orphan girls, then marry (other) women of your choice, two or three or four, but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess. That is nearer to prevent you from doing injustice. (al-Qur’an 4:3)

However, this permission is accompanied by strict conditions: first, the man must be capable of ensuring absolute fairness among his wives, and second, he must possess the financial capacity to maintain them adequately. The Qur’an further emphasizes the difficulty of upholding complete justice in polygamous marriages:

You will never be able to do perfect justice between wives even if it is your ardent desire (i.e., emotions of the heart), so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e., neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft-Forgiving, Most Merciful) (al-Qur’an 4:129)

Renowned scholar Muhammad Abduh strongly opposed polygamy, arguing that it is inherently unjust to women. He based his stance on the above-mentioned verses, concluding that the Qur’an, while permitting polygamy under extreme circumstances, discourages its practice due to the near impossibility of maintaining justice between co-wives (Jamal, 2009, 24).

From these verses, the following points emerge:

1. Polygamy is neither mandatory nor encouraged; it is merely permitted under strict conditions.
2. The permission is linked to specific social circumstances, such as providing justice to widows and orphans.
3. Even within this limited allowance, the Qur’an significantly restricted polygamy compared to pre-Islamic customs, which allowed unlimited marriages.
4. Justice in polygamous marriages is an obligation. If justice cannot be ensured, the Qur’an advises marrying only one (Badawi, 1972).

While classical Islamic jurists viewed these conditions as moral guidelines, modern scholars argue that they serve as restrictive legal conditions meant to make polygamy nearly impossible in practice. Some reformist scholars even advocate for a complete ban on polygamy, arguing that its fundamental requirement of justice is rarely achievable. Muslim feminists advocate for restrictions on polygamy, arguing that it is a pre-Islamic practice and that the conditions required for its practice, such as justice, are difficult to uphold in the modern era, warranting its ban or limitation. On the other hand, the prevailing belief among Muslims is that polygamy is an Islamic practice explicitly mentioned in the Qur’an and, therefore, cannot be challenged. Polygamy has frequently been challenged by

contemporary Muslim scholars who argue that it tends to marginalize women, undermine their dignity, and result in unfair treatment (Rohman, 2013). In response, several Muslim-majority countries have reformed their laws on polygamy. For instance, Tunisia's 1957 law explicitly prohibits polygamy, while Morocco's 1958 law states that if injustice between co-wives is anticipated, polygamy should not be permitted. Meanwhile, countries like Syria, Iraq, Pakistan, and Malaysia have adopted a more moderate approach, making polygamy contingent upon court approval. This approval is granted only under specific conditions, such as the infertility of the existing wife, the presence of a lawful benefit, the husband's just character, and his financial capability to support another wife (Kamali, 2002).

POLYGAMY IN KASHMIRI SOCIETY

In Kashmir, polygamy is legally permitted under Muslim personal law, allowing a Muslim man to marry up to four wives. However, it is rarely practiced due to the societal expectation of monogamous unions and the economic burden associated with maintaining multiple wives.

According to a sociological survey supervised by Bashir A. Dabla, marriages in Kashmir show a clear preference for monogamy. 83.9% of marriages were found to be monogamous, while only 8.2% were polygamous. Furthermore, polygamy appears largely situational, linked to illness, infertility, or death of the first wife. (Dabla, 2010, as cited in Kashmir Life, 2010). This data suggests that while polygamy exists, it is not a widespread phenomenon in Kashmiri society. Additionally, a recent survey on public perceptions of polygamy in Jammu and Kashmir revealed mixed views, where 46% considered polygamy a legitimate Islamic practice, 51% opposed entering a polygamous marriage, 39% advocated for stricter laws on polygamy, and 32% supported a complete ban on the practice (Imran and Sivarankan, 2014).

Although polygamy is rare, bigamy is more prevalent in Kashmir, where the first wife and children are often forced into a compromised situation and denied their rightful financial and emotional support. Theoretically, such treatment is not permitted, as one of the conditions of polygamy in Islam is equity for all wives (Abdullah, 2010: 206; Jaafar Mohammad & Lehmann, 2011: 6). Islam does not permit unequal treatment of wives or preference for one, 'at the cost of another.' Common reasons cited for second marriages in Kashmir include marital discord and incompatibility, infertility or childlessness, desire for a male heir, and family pressure, particularly from in-laws (Dabla, 2010). Polygamy is not very common in Kashmir but it plays an important role how power is exercised by men within marriage. Many men express the view that Islam allows them to marry up to four women, and they often describe their decision to remain monogamous as a favour to their wives not as ethical and moral responsibility. During interviews, many women reported that such statements are being used by husbands to remind that they have 'options' if women do not fulfil their expectations, thereby, making polygamy as a means of threat than as an actual practice. Instead of understanding polygamy as a Qur'anic conditional permissibility, polygamy is invoked to emphasize male authority and control. This creates insecurity among women and places a kind of pressure on them to remain obedient, thereby, undermining the Qur'anic principles of respect, tranquillity and justice within marriage.

LEGAL FRAMEWORK OF POLYGAMY IN KASHMIR

Before the abrogation of Article 370, Kashmir followed the Jammu and Kashmir Muslim Personal Law (Shariat) Application Act, 2007, which allowed Muslim men to marry up to four wives provided they treated them equally. If the first wife was unwilling to continue the marriage, she was entitled to separate maintenance. Moreover, under the Jammu and Kashmir Government Employees (Conduct) Rules, 1971, government employees were prohibited from contracting a second marriage without prior permission.

After the revocation of Article 370, the Muslim Personal Law (Shariat) Application Act, 1937, became applicable in Jammu and Kashmir, legally permitting polygamy under specific conditions. However, under Section 144 of the Bhartiya Nyaya Sanhita (BNSS), if a husband takes a second wife while neglecting the first, she can claim maintenance, ensuring that polygamy does not deprive women of financial security.

Although legal provisions exist for women to seek financial remedies, many women in Kashmir remain unaware of their legal rights. Even when they approach the courts for maintenance, the legal process is often lengthy and financially burdensome, making it difficult for them to secure timely relief. This further exacerbates their economic vulnerability and reinforces their dependence on male guardianship (Interview with Advocate Affan Ali).⁷ The Qur'an explicitly warns against such injustice by emphasizing justice, financial responsibility, and emotional fairness in polygamous marriages. These cases highlight the broader issue of misinterpretation and selective application of Islamic teachings in Kashmiri society, where religious texts are often used to justify male privilege while neglecting the ethical and legal principles outlined in the Qur'an.

CONCLUSION

This study analysed whether the subordination and subjugation of women in the society of Kashmir originate from Islamic teachings themselves or from the ways in which the religious texts have been understood, interpreted and then applied within a socio-cultural context. By closely analysing the Quranic principles on one hand and lived realities of women in Kashmir on the other, the paper shows there is a wide gap between Islamic principles of ethics related to marriage, Mehr, Divorce and Polygamy and lived experience of women which is not theological but is based on interpretations.

Islamic principles regarding gender relation and family life is quite clear based on justice (adl), compassion (Rahmah), dignity (karamah) and mutual responsibility and mutual cooperation. Marriage in Islam is based on mawadah and Rahmah where husband and wife are moral partners rather than one being superior and other subordinate. Similarly, Mehr is an establishing binding obligation on men and as enforceable right of women, divorce has been defined as last resort that too takes place through a long process aimed at minimizing harm. Likewise, Polygamy as a conditional practice based on justice. However, in the society of Kashmir these concepts are understood through selective readings influenced by patriarchal understanding, cultural norms which ultimately support male authority, thus undermining and subjugating women in the name of religion.

Marriage practices studied in context of Kashmir shows how women are denied of Sakinah, reduced to service-oriented roles even within extended families, and are deprived of decision-making that too under the guise of religious duty. Mehr has been reduced by many to symbolic formality, often unpaid, sometimes forced to remit and most of the times converted into assets that's being kept beyond women's control. Likewise Divorce instead of following a gradual process which surely could have minimised the divorce rates, is frequently executed, unilaterally without keeping in consideration women's financial and emotional rights, and sometimes even not divorced not kept in marriage but keeping them hanging for years together in a situation of uncertainty. Polygamy, although rare but is used as a tool and threat in demanding obedience from women by understanding it as sanctioned 'option' if women do not behave according to wishes. The study reveals that misunderstanding of the texts are used as tools against women and these misinterpretation of texts does not operate at the level of misunderstanding only but as a systematic problem supported by patriarchal social structure, limited religious literacy among women, and concept of male dominated authority in Islam.

⁷ Interview with lawyer of Jammu and Kashmir High Court, Advocate Afan Ali on 7 Feb, 2025.

Therefore, there is an urgent need to promote Quranic contextual understanding, particularly among women, beyond memorization and beyond limiting the study on roles of women, women must be understood through prophetic period, the rights and roles women played during the period of revelation must be taught particularly to women. Second, religious leadership and community institutions like Mohalla Committee must be sensitized to Quranic ethics of justice, equality and rahma, and these institutions must be discouraged if acting as parallel legal authorities that silence women but must be working for the upliftment of deprived class of society. Finally, future scholarship must continue to challenge patriarchal interpretation thereby highlighting the concept of gender justice in Islam.

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