POLITICS OF IDENTITY: COMMUNITY, GENDER AND NATION IN MUSLIM WOMEN NARRATIVES OF CONTEMPORARY INDIA

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By

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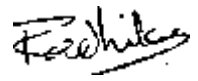
DECLARATION

I hereby declare that the work embodied in this dissertation entitled "Politics of Identity: Community, Gender and Nation in Muslim Women Narratives of Contemporary India" submitted for the award of the Degree of Master of Philosophy in English to the University of Hyderabad is a result of *bonafide* research carried out by me under the supervision of Dr. Tejaswini Niranjana. It has not been submitted either in part or in full for any degree or diploma to this or any other university.



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CERTIFICATE

This is to certify that Ms. P. Radhika worked under my supervision for the degree of Master of Philosophy in English. Her dissertation entitled "**Politics of Identity: Community, Gender and Nation in Muslim Women Narratives of Contemporary India**" represents her own independent work at the University of Hyderabad and has not been submitted for a degree or diploma elsewhere.

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CONTENTS

ABBREVIATIONS

BJP	Bharatiya Janata Party
CrPC	Criminal Procedure Code
IPC	Indian Penal Code
RSS	Rashtreeya Swayamsevak Sangh
UCC	uniform civil code

CHAPTER ONE

Introduction: Locating Mediations/Mediating Locations

> [I]t would be well to acknowledge the provisionality of the statements we make, their own historicity and location in a specific political context, and consequently their privileging of particular forms of knowledge, particular relationships and forces to the exclusion of others. None of this is to deny importance or efficacy of certain subject positions in a particular historical context.
>
> Gyanendra Pandey "In Defence of a Fragment" (1991), 571.

The question I address in the thesis is how Muslim women's identity gets constructed in the contemporary Indian context. While recognising that what is most difficult to document is the present, it is the very present which prompts me to respond to it with a certain compulsion. I attempt to briefly lay out in Section I my understanding of the contemporary moment. In Section II, I take up the question of my location and subject position.

Locating Mediations

> One distinguished novelist began his contribution by reciting a *sloka*. Then, instead of translating the verse, he declared: "Every educated Indian will understand what I've just said." This was not simply a form of intellectual grandeur. In the room were Indian writers and scholars of every conceivable background—Christian, Parsi, Muslim, Sikh. None of us had been raised in a

> Sanskritic tradition We were all reasonably educated', however 50 what were we being told? Perhaps that we weren't really Indian'?
>
> Later during the day, an eminent Indian academic delivered a paper on Indian culture that totally ignored all minority communities When questioned about from the floor, the professor smiled benignly and allowed that of course India contained many diverse traditions—including Buddhists, Christians and 'Mughals'. This characterisation of Muslim culture was more than merely peculiar. It was a technique of alienation. For if Muslims were Mughals', then they were foreign invaders, and Indian Muslim culture was both imperialist and inauthentic. At the time we made light of the gibe, but it stayed with me, pricking at me like a thorn.
>
> Salman Rushdie Imaginary Homelands (1991), 2.

Let me recount an incident that happened recently: In the hostel in which I stay, some of us were watching a cricket match on television. It was the Sri Lanka vs India 1996 World Cup semi-final held in Calcutta. The match was disrupted because of some spectators having thrown stones and bottles at the Sri Lankan players. As we were coming down the staircase, excitedly discussing the happening, suddenly a voice rang out: "Ay, it must be those Muslims in Calcutta who did it re!"

To think of 'Muslims' as having disrupted play in the context of a Sri Lanka-India match was something I was hearing for the first time. Mind you, it was not an India-Pakistan match, which often inspires remarks such as the above. The stereotype of Muslims as hooligans', uncivilised', 'barbaric' gets evoked so unconsciously in the incident cited above. This stereotype has almost become part of common sense', an accepted way of thinking about certain things, that in hearing it one would unconsciously be nodding a 'yes' to evocations of such stereotypes. What is of consequence is not so much the 'truth' of these evocations as much as how they are used, by whom and for what purposes. Combating terrorism on an international scale' was the reason given by Bill Clinton (also initially supported by the Bharatiya Janata Party government) for the US bombings in Sudan and Afghanistan in August

1998. These stereotypes which have been historically used by the West have also influenced the manner in which narratives of Muslims get constructed in India Muslims are marginalised explicitly, for instance, in narratives of Indian history where Muslims are always the invaders, an aberration in Indian history, or in a more subtle manner in their culture being made invisible, for instance, in the primary textbooks in Karnataka beginning with the lesson, "Eetha Ganapa, Eetha Eesha", i.e., "He is Ganapa, He is Shiva".

Since the 1980s, we have been witnessing an explicit identification of'Hindu culture' with the concept of the 'Indian nation'. The demolition of the Babri Masjid on 6 December 1992 symbolises an attempt by the hindutva forces, constituted by the Bharatiya Janata Party-Rashtreeya Swayamsevak Sangh-Vishwa Hindu Parishad (BJP-RSS-VHP), to project a monolithic culture. It is not merely the question of building a temple that is involved here but a certain way of thinking about Hindus/Muslims and their place in Indian history and culture. If we look at the recent controversy around the television serial 'Tippu Sultan", it represents a certain (re)writing of history which is taking place in India today in which institutions like the media and the legal machinery are implicated. Victoria L. Farmer argues that the serial did not fit into Doordarshan's nationalist paradigm because it depicted Tippu, a Muslim, as progressive and modern. It was finally shown, but only after a court battle resulting in a judgement saying that before each episode it should be stated that the story was fiction' and not history', "thus marginalising Tippu Sultan as a historical figure and contributing to a nationalist history in which Muslims somehow become non-Indian" (1996, 106). The hindutva forces are engaged in a discursive struggles-contesting in various arenas of life—to make the hindutva ideology[2] (a way of seeing

the world) the dominant ideology (Kapur and Cossman 1993, ws-35) What seems to be the danger is that the hindutva discourse has become the dominant mode in which one thinks and speaks, increasingly visible in middle-class Hindu households, educational institutions and the media.

Historically, hindutva conceptualises India as a Hindu Rashtra or Hindu nation. There is a difference in the politics of hindutva in contemporary India in that it is not built on an ideal of a theocratic state but in fact on the idea of a secular, modern state which is impartial' and treats everybody equally. The view of equality used by hindutva is formal' equality, which requires that "all religious communities be treated the same under law. Any special or different treatment, on the basis of religion, is seen to violate secularism" (Kapur and Cossman 1993, ws-37).[3] This approach to secularism reinforces the norms of the dominant community as neutral and secular, i.e., the notion of secularism hindutva invokes in the Indian context is that of 'Hindu' as secular.[4] Further, through hindutva's claim to be secular, it promotes violence and intolerance against minority groups. It invokes the language of law—of equality and secularism—to attack the legitimacy of minority rights (Kapur and Cossman 1993; Chatterjee 1994a). It

> seeks to mobilise on its behalf the will of an interventionist modernising state in order to erase the presence of religious or ethnic particularisms from the domains of law or public life and to supply, in the name of national culture', a homogenised content of the notion of citizenship (Chatterjee 1994a, 1768).

In this discourse, which we hear ad nauseam, Hindus are secular', Muslims communal' and those who defend the rights of Muslims pseudo -secularist'.

Representation of Muslim women in the Hindutva Discourse

Central to the conceptualisation of the hindutva discourse is the Hindu male who takes on the responsibility *of* fulfilling the ideal of the 'Hindu Rashtra' In this narrative, the Muslim male, communal and fundamentalist, is the eternal enemy of the Hindu community Traditionally, in the framework of hindutva the Hindu woman is revered as the mother of the sons of the soil'. However, the new woman' of hindutva is the middle-class Hindu woman who is 'an active political subject' not only in the *samiti* (organisation), but in the domain of communal politics (Sarkar 1991).[5] The Muslim woman, in contrast, is always the helpless victim who has to be saved by the Hindu male. This is similar to how the British colonisers justified their rule, pointing to the subordinated position of Indian (Hindu) women who symbolised Indian society (Kapur and Cossman 1993, ws-42, Mukhopadhyay 1994, 118, Mani 1989, 10). As Kapur and Cossman point out, at one level hindutva differentiates between Hindu women and Muslim women. However, at another level, in the demand for a uniform civil code (UCC), which is a demand for a single set of laws for all the people of the country irrespective of religion, they invoke the notion of sameness. Thus, Kapur and Cossman point to how

> [b]y making Muslim women the same, they [Muslim women] would in effect be 'de-Muslimised'--that is—they would no longer be constituted through the discourses of their community. This discursive strategy of Hindu fundamentalism is skillfully constructed to strike at the heart of identity—the intersection of community and gender. (1993, ws-42)

It is this intersection of community and gender that I will be interrogating in my thesis, addressing the question of how Muslim women's identity comes to be constructed in contemporary India in the 1980s-1990s. We examined above the manner in which Muslim women's identity gets constructed in the hindutva

discourse the thesis attempts to explore the extent to which this discourse is prevalent in contemporary India by probing various sites of representation of Muslim women It attempts to show that the hindutva discourse is not limited to the extremist discourse of the BJP-RSS **but** is part of the discourse of the state and civil society, the former constituted by the legislature and judiciary, and the latter by the media, educational institutions and literature.[6] Before I proceed, I will briefly explicate the manner in which I conceptualise Muslim women's identity, the usage of certain terms and the routes I take to address the Muslim women's identity question.

Conceptualising 'Identity'

Since the 1980s, identity politics—ethnic, regional, linguistic, peasant—has come up in a big way. Not that it did not exist earlier, but is getting foregrounded now, as Calhoun points out, because "it has had to contend with various more universalising, difference-denying, ways of thinking about politics and social life, and these have shaped the nature not only of our politics but of our academic thinking" (1994,23).

Jacques Derrida's deconstruction of the Cartesian model of the self marks a significant shift in the conceptualisation of identity. If in Descartes' model ("I think, therefore I am"), 'self was seen as unified, singular, harmonious and coherent, Derrida problematises the notion of identity by questioning the ' essentialism' inherent in such a model. Simultaneously, there has also been a claiming of identity by the ' subalterns'—those subordinated in history by factors of class, caste, gender, region, religion etc. (Guha 1982a, vii). However these two shifts need not be seen as

necessarily contradictory I hough Detrida's critique of Western metaphysics involves deconstructing various concepts (and their *systems)* which are part of Western metaphysics, for instance 'history' and its search for origins, meaning etc, he says that one cannot also do without such concepts. Hence "we must first *overturn* the traditional concept. but at the same time mark the interval, take care that by virtue of the overturning and by the simple fact of conceptualisation, that the interval not be *reappropriated "* into the older regime. This is what Derrida calls 'double gesture' or 'double writing' (Derrida 1981, 59). 'Identity' is one such concept 'under erasure'. In looking at the subaltern subject, it is necessary "to assert and affirm a denied or alienated subjectivity" (Hutcheon 1995, 131). Stuart Hall points to the centrality of 'identity' to the question of'agency' where the latter does not imply acts of individual will or a return to "an unmediated and transparent notion of the subject or identity as the centered author of social practice" (1996, 2). He agrees with Michel Foucault who emphasises that what is important is "not a theory of the knowing subject, but rather a theory of discursive practice" (Qtd in Hall 1996, 2). However this decentering requires not the abandonment of 'the subject' but a reconceptualisation of it within a newer paradigm. It is in this effort to rearticulate the relationship between the subject and discursive practice that the question of identity recurs (Hall 1996, 2; Calhoun 1994,20)7

Usually 'identity' is based on the basis of recognition of "some common origin or shared characteristics with another person or group...and with the natural closure of solidarity and allegiance established on this foundation. In contrast with the 'naturalism' of this definition, the discursive approach sees identification as a construction, a process never completed—always 'in process"' (Hall 1996, 2). This

does not, however, deny 'identity' but questions its 'ensentialism'- as a pre given, fixed notion It is "strategic and positional" (ibid , 2) This is important because it points to the various alliances that subalterns can make. Identity is hence lodged 'in contingency'. It is constituted 'in and through difference'. It requires its 'other', "its constitutive outside to consolidate the process" of identification (ibid., 2-3). Historically, the process of constitution of the 'self '--of the dominant in opposition to the dominated—has not been an innocent one but has involved a violent hierarchy, as in man/woman, white/black, brahmin/dalit etc. What the subalterns are now involved

in is in reversing the process, in claiming ' identity' for themselves.

Collective socio-cultural identities are linked to the notion of 'community'—members of a caste, class, religion, etc. Both material and psychological factors contribute to legitimise this notion. For instance, factors like territory, the postal system etc. bind a set of people as a ' nation'. Added to this is the sense of love, kinship and communion with a set of people one has never known or met (Anderson 1992,2).

National Identity

A nation is, what Benedict Anderson calls an imagined political community[1] (1992, 6). He was among the first to draw attention to the cultural construction of nation and nationalism. A nation

> is imagined as a community, because, regardless of the actual inequality and exploitation that may prevail in each, [it] is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such imaginings, (ibid., 7)

He rightfully points out that 'nation ness is the most universally legitimate value in the political life of our time" (ibid , 3). The nation is seen as a modern community' as against religious, ethnic, tribal or caste communities which are seen as primitive, pre-modern and primordial. It is also a fact that in modern nation-states these identities are still invoked, even in state-processes like elections, for instance. All these identities gain legitimacy through their appeal to national values, be it Afro-American groups or women's groups, dalits and Muslims in India.[9] Some of these groups question the claims of the nation-state to democracy and justice, like dalit or women's groups. However Muslims largely do not voice their critique, fearing that they might be called anti-nationals'. Any assertion of their Muslim identity, for instance, in their demand to have a Muslim Personal Law outside the purview of the state, is seen by the state as being ' anti-national' (See Chapter Two, p.33).

Only a few are privileged to enjoy the rights of a citizen. In the Indian context, the citizen subject invoked by the nation is the upper-caste Hindu male, leading to a marginalisation of Muslims (Tharu and Niranjana, 1994). One of the prominent discursive strategies in Indian nationalism was the setting up of a reformulated Hinduism as constituting an 'authentic Indian-ness' or as the Indian tradition'. This national identity was forged with an implicit othering' of Islam (Tharu and Lalitha 1993, 72). With time the upper-caste Hindu centrality got consolidated and increasingly gained powerful currency as it edged all other identities to the margins and began to operate as a national and often secular' identity (ibid., 77).

Communitarian Identity

The exclusion of certain groups from the discourse of the nation' (and hence that of the rights' of a citizen'), has been critiqued by various subaltern groups The critique of the nation state, which claims to represent them, is part of the critique of modernity aimed at values of western enlightenment like 'liberalism', 'secularism', citizenship', 'equality' etc.

There has been an attempt on the part of some to consider the 'community' as a political space' to be contended with. For some the community' represents a counter to modernity, the site of' 'authentic', indigenous Indian culture and tradition, i.e., community (read Indianness) as against modernity.[10] Others recognise that the community' is not outside modernity and that it does not exist in a pure, unmediated form. However, they stress the importance of recognising it today as an alternate political space.[11] This acquires importance in the light of the violence perpetrated by the state on subalterns, especially today in the context of the BJP trying to appropriate complete power in establishing a 'modernising interventionary state' (Chatterjee 1994a) through its agenda for a UCC, the proposed amendment of the constitution or in its nuclear programme. The community', this group argues, offers a space for resisting the state.

In the thesis, I use community' to mean a religious community, such as Hindu or Muslim. Recent studies theorising religious communities' have tried to point to the imagined' nature of religious communities, suggesting that religious communities are a colonial legacy and do not form a legitimate 'community' because of the heterogeneity within, especially in terms of class-caste factors. They argue that historically, alliances have been across religious communities, based on class or caste

identities and culturally, similarities are region specific rather than religion specific (Thapar 1989, Pandey 1992, Chatterjee 1994b) However in the context of my thesis I do not problematise the notion. The question for me is not so much the legitimacy of the notion as much as the fact that in contemporary India there have been mobilisations under both Hindu and Muslim identities. I am interested in the evocations of such identities and why they get evoked, over and despite the question of the veracity of their legitimacy, for as Andrew Parker points out:

> It is the lived crisis of national and sexual [and communal] bodies that form our most urgent priorities. These crises are not simply opportunities for the state to activate its normativities. They also offer dissenting subjects the possibility of producing contestatory practices, narratives of resistance that may reconfigure the horizons of what counts globally today as "the political". (1992, 14)

The Gender Question

The third route I take to address the Muslim women's identity question, and central to my thesis, is the gendered perspective. I locate myself, as an upper-caste, middle-class Hindu feminist addressing the Muslim women's identity question. Let us examine how the nationalists and the feminists resolved the women's question'.[12]

In the construction of a national identity, India was normed Hindu and the upper-caste, middle-class Hindu woman was made the repository of Indian tradition. As Partha Chatterjee points out, the chaste, respectable middle-class Hindu woman was contrasted not only with the western woman but also with the 'common woman' who was seen as coarse, vulgar, loud, quarrelsome, sexually promiscuous and subjected to brutal physical oppression by males. The upper-caste Hindu woman was accorded the status of cultural superiority over the lower-caste woman [and the

Muslim woman] (1993, 244- 45) the Muslim woman was marginalised from the discourse of the nation

A similar marginalisation took place in the history of the women's movement in India. The feminist movement, dominated by Hindu, upper-caste, middle-class women, in invoking popular symbols and myths to address women, Flavia Agnes points out, relied on symbols borrowed from the dominant culture like'kali' or 'shakti'. Though the intention was not to propagate Hindu ideology, the movement did not make any conscious effort to evolve alternate symbols. Also, in countering the allegation that it was western, the women's movement tried to establish its 'Indianness' for which "it relied on Hindu iconography and Sanskrit idioms denoting women power, thus strengthening the communal ideology that Indian, Hindu and Sanskrit are synonymous'" (1994b, 1123-24). In the demand for a UCC by the BJP and some feminist groups like Forum Against Oppression of Women (FAOW) and All India Democratic Women's Association (AIDWA), the latter did not challenge the anti-women biases in Hindu Personal Law. Inadvertently, the feminists legitimised "the fiction popularised by the BJP that the Hindu code is a perfect family code which ought to be extended to other religious denominations in order to liberate women" (ibid., 1126). This was a period when the movement found itself, unwittingly, siding with the BJP on various issues regarding women's rights As the Anveshi Law Committee points out:

> the attitude of the women's movement, normed as urban, Hindu, and upper caste-class, has been to address the concerns of the Muslims or the dalits by making some space for the dalit woman and the Muslim woman even while insisting that their primary' identity is neither dalit nor Muslim, but woman (1997, 454).

It was necessary to interrogate the movement itself, rethink its agendas and reconfigure the subject of feminism in order to take note of the gendered-subaltern subject, in this context the Muslim woman.

In the thesis I contend, as many others have done, that gender identity is not an exclusive identity and that we have to take into account factors of caste, class, religion etc. Patriarchy is then entangled with other forms of social ordering and hierarchies (Sangari and Vaid 1993, Tharu and Niranjana 1994). We cannot separate out these identities for they constitute each other. As Elizabeth Spelman puts it, they are not 'additive'. Using the category of race, she explains that

> according to an additive analysis of sexism and racism, all women are oppressed by sexism, some women are further oppressed by racism. Such an analysis distorts Black women's experiences of oppression by failing to note important differences between the contexts in which Black women and white women experience sexism. The additive analysis also suggests that a woman's racial identity can be subtracted' from her combined sexual and racial identity (Qtd in Pappu 1997, 1051).

In addressing the Muslim woman's identity question we have to keep in mind that issues of gender are always connected to issues of community and that the two are inseparable. The Muslim woman has to contend with oppression by men and with majoritarian oppression and neither can override the other. Thus, Muslim women find themselves in a predicament when having to respond to the question of oppression of Muslim women raised in a context where the majority, the Hindu Right, and even the Left seem to invoke it to reinforce notions of the Muslim community and Muslim men as oppressive.

Identity and Representation

In the context of **a** history as outlined **above, I look at narratives** of/by Muslim women to examine how nation, community and gender are configured in them Though I draw from history, sociology, political **science,** anthropology, I address the question of Muslim women's identity from the perspective of 'representation', of how certain discourses about Muslims/Hindus are being effected through certain models of representation of Muslims/Hindus. Identities, as Hall points out, exist within, and not outside representation. And representations **are** constructed on particular sites through certain discursive strategies (1997). In this light I look at the media, judiciary and literature as three sites of representation; judiciary representing a state apparatus, being responsible for ensuring justice and media an ideological apparatus constructing truths' which gives us the 'history' of our times. Literature is also an ideological apparatus but it is conventionally seen as depicting "fiction' as opposed to the media which depicts Tacts'. However I would suggest, as Raymond Williams does, that such distinctions are inadequate if one sees them as social practices. Literature is a practice of discourse produced by the same historical conflicts and struggles which produce journalism or judicial discourse (1980).

The chapters are divided according to the three sites I deal with. In Chapter Two I deal with representation in judicial discourse for which I look at the cases of Shah Bano, Khatoon Nisa (better known as the "Tilhari judgement' or 'Triple Talaq judgement') and Sarla Mudgal. Though the Sarla Mudgal case was about the question of bigamy by Hindu men, the judges spoke extensively on Muslim Personal Law and the need for UCC. The case exemplifies how talking about Hindus becomes a way of talking about Muslims. In Chapter Three, on media representations of Muslim

women, I examine the cases of **Ameena** Begum and Taslima Nasreen and analyse which identities—gender/nation/community—get foregrounded and why. Though the media constructed the two cases in apparently diverse ways, I suggest that the discourse about the Muslim community **in both** cases was the same. Chapter Four deals with the question of representation in literature. I look at Sara Abubakar, a Muslim woman writing in Kannada, to examine the configurations of gender, nation and community in her writings, and to interrogate the site of her writing. In examining all these sites of representation, I intend to show how the hindutva discourse about Muslims circulates in the state and civil society—judiciary, literature and media. However I would also like to suggest that these sites of representation are contested and can offer spaces for resistance.

All the sites are of equal importance and they are not hierarchised because of visibility, convention or location. Media representations are not more authentic because of a 'truth' value attached to them. As I would like to argue, the 'effects' of these representations are of greater importance. When I look at the cases of Shah Bano and Ameena, I do not deem them more important than other similar cases. The point is that Shah Bano and Ameena become important because of what they represent. Both were national symbols and sites on which various discourses of the nation, community and gender were played out. The visibility given to these cases might help us understand the present historical moment. The dynamics of each case are both particular to the case and also represent a certain manner in which Muslim women are spoken about in contemporary India.

In the chapter on Sara, generic divisions like fiction/journalism or oral/written narratives and values attached to literariness, popular fiction etc. are not deployed.

While I emphasise the importance of a Muslim woman writing about Muslims, I do not wish to imply that the location of Sara ensures an 'authentic' representation of Muslim women as against other sites of representation. Nor am I looking at a correspondence between representation and reality but at why certain representations take place in particular ways.

I not only analyse representations of Muslim women but also examine the sites of the discourses themselves—media, law, literature—to understand how these sites function in particular frameworks which allow for only particular representations. I also probe these sites to see the limitations of these frameworks in making possible 'radical' critiques from perspectives of subalternity, in this context from perspectives of Muslim women.

II

Mediating Locations

> the starting point of a critical elaboration is the consciousness of what one really is, and is knowing thyself as **a product** of the historical process to date, which has deposited in you an infinity of traces, without leaving an inventory.. therefore it is imperative at the outset to compile such an inventory.
>
> Antonio Gramsci[13]

One of the important questions in looking at Muslim women's identity is that of the researcher's location. On the one hand there are comments like Mary John's, "it has become almost commonplace to engage in such a confrontation by positioning oneself along the axes of race, class and gender... Its ritual aspect has become dissatisfying" (1989, 50); on the other hand there is a fear that a presentation of an

inventory' of historical traces might be read as a spiritual autobiography', a reinstatement of the upper-caste, middle-class Hindu subject

As a Hindu, upper-caste woman studying the question of Muslim women's identity in an English' department, I have to engage in an act of translation One, in an attempt to reconfigure the concerns of English Studies which have been upper-caste, middle-class Hindu concerns. I will return to this question towards the end of my thesis (Chapter Five,pp. 104-105). Also, my representation of Muslim women is a translated one. As suggested earlier, I do not claim authenticity' for my readings of the cases of Shah Bano, Ameena and Sara.

Aware of the authorising power which makes me a 'viable subject' who can represent the other, and as an 'outsider' in some sense, I have attempted to find a 'feminism that translates across borders'[14], to loosen the rigidity of the self/other distinction without erasing it, realising, as Derrida has cautioned, the consequences of immediately obliterating such boundaries (1981, 59).

What has been of primary concern to me is the question of my representation and its reception on this side of the border—readers in the academia (English departments and universities) who in all likelihood will be Hindu and middle-class. To illustrate, Sara often states that Muslim women are helpless, that their voice is stifled, etc. (Abubakar 1984a; 1997a; 1997b). What are the consequences of representing Muslim society as oppressive to their women to an English-schooled audience with its own notions of Muslims and Islam borrowed from Western styles of representation? Usually, the Muslim woman is seen vis-a-vis a static conceptualisation of Islam as gender-biased rather than placed within a particular historical context. If we look at the manner of representation of Muslim women in

fiction and in cinema[15] they are largely stereotypical ones How do we read Sara's representation of *ta/aq,* polygamy etc. as primary problems of Muslim society? Do we read it as gender discrimination endorsed by Islam or should we inquire into why Sara talks about these aspects? Sara mentions that these are not problems exclusive to Muslim women. It is only that they get highlighted when they occur in Muslim society. For example, the furore (by the Right and Left groups) over the Muslim Women's (Protection of Rights on Divorce) Bill, 1986, which deprived Muslim women of maintenance, was absent when there was an amendment in the Special Marriages Act,in 1976, which reinstated male coparcenary rights and deprived Hindu women of their right to property (Agnes 1994d, 11-13). In the light of such antipathy towards Muslims, it is not easy to condemn certain acts of Muslims, like their protest against the Shah Bano judgement which was overtly in favour of Muslim women. However one cannot foreground minority location to the detriment of Muslim women. As a Hindu, upper-caste woman there are obvious limitations in taking a definitive stand on the issue. This is not a deliberate pursuit of non-coherence or a presentation of a fashionable post-modern predicament. Only that with so many more political players visible today, asserting their rights and identities, in situations where more than one identity is involved—in the cases of Chunduru[16] or Shah Bano—one fails to achieve simple resolutions.

Sara's critique of the state, community and patriarchy, I argue in Chapter Four, is not 'radical'. This statement on Sara, of her not being radical-enough,arises partly from my expectation and desire for a radical' subaltern subject who critiques structures of domination. It is perhaps not insignificant to note that those who have been articulating this 'radical' critique are upper-caste, middle-class Hindus. This is

because. I suggest, it is possible for them to take such a position As Butler points out

> The subject who theorizes is constituted as a 'theorizing subject' by a set of exclusionary and selective procedures.. Is it not always the case that power operates in advance, in the very procedures that establish who will be the subject who speaks in the name of feminism [or a radical critique] and to whom? (1990, 8).

A Muslim friend in conversation said that it was not as if Muslims are not angry at the manner in which the Babri Masjid issue is being dealt with, but that they cannot afford to articulate that anger. Is the site of resistance constructed by me available to the Muslim? As Gayatri Chakravorty Spivak cautions us, we should be careful when constructing a 'knowing and speaking' subaltern subject who can offer a radical critique (1988).

The question is also who articulates the radical critique as radical'? Carol Maier points to "'the translator's obligation not to fall back on familiar and unexamined frames", the need to critique existing frames and develop "new conceptual frames", especially in cross-cultural translation (Maier 1995, 31). This points to the need to interrogate and historicise the concept of 'radicalness' itself.

Being upper-caste and middle-class (though woman), studying in a state-supported university that provides for a subsidised schooling; having completed my M.Phil when my dalit classmate was not allowed to complete his; studying in a largely Hindu, middle-class, 'liberal' English department where the two Muslim girls who joined for the MA. course in my three-year stay here, were seen as immoral, having abnormal' sexual tendencies because they came from 'conservative', repressed' Muslim households; being financially supported by an upper-caste Hindu family in which Muslims figure in jokes and swear words, I am no radical' myself on

this side of the border I don't know if this is a reinstating of the upper caste, middle-class author' subject This is, for me, as Mary John puts it, 'the need to confront what one is' through a more extensive questioning of the intrications of one's history within History"(John 1989, 50)

I am not making invisible an intention or suppressing the personal voice, or making a claim to objectivity. What I represent is, as James Clifford says of ethnography, "a cultural fiction, which is based on systematic and contestable exclusions" (1990, 6). Truths are necessarily partial. But what should be attempted is a "self-conscious, and serious partiality" (ibid., 7). This is not to claim any such honour for my effort, but to say that in the contemporary Indian' context, with the hindutva discourse becoming a dangerous commonsense', regarding the manner in which one thinks or speaks about Muslims, it is necessary to present an alternate perspective. I speak with the shared anger of my Muslim friend, from a certain ideological standpoint—of critiquing the nation-state for its failure to fulfil its promises of democracy and its inability to represent the whole nation—the dalits, Muslims and other minority and subordinated groups who have been excluded from the discourse of the nation and that of rights as its citizens.

In talking about the hindutva discourse, as well as the nationalist discourse and in focusing on how Muslims get constructed in these discourses, there are other groups, like tribals and dalits, who have been made invisible in the thesis. My project is also a partial truth' in this sense, "committed but incomplete.... In translating the reality of others, one cannot tell all" (Clifford 1990, 7). This is not to discount them. It is important to consider their position, to mark both their similarity and difference to Muslims and the nature of their exclusion from the discourse of the nation.

End-notes

[1] Hindutva today is contesting various other discourses to lay claim to its discourse as the truth. Michel Foucault uses the term discourse' to mean a set of statements or language which claims to produce a truth about a phenomenon. Discourse is not outside the realm of power; it is in fact embedded in what Foucault calls a discursive formation, the field of social forces and their hierarchical relations (1972).

[2] ' Ideology' in the classical Marxian sense was "a pure dream, empty and vain, constituted by the day's residues' from the only full and positive reality, that of the concrete history of concrete material individuals materially producing their existence" (Althusser 1971, 160). For Marx, ideology meant false consciousness' which deceived people about their real' nature of existence. Antonio Gramsci and Louis Althusser break away from this notion of false consciousness' and talk of ideology as a way of seeing the world and of making sense of the things around us. For Althusser, there is nobody who is outside Ideology; we are all in one ideology or the other.

[3] The BJP manifesto reads

> The idea of a theocratic state is an anathema to the Indian mind. The BJP believes that the state in India has always been a civil institution which respects all religions equally and makes no discrimination between one citizen and the other on the grounds of language, caste or religion.

The RSS on its views states:

> The RSS...never demands any special rights to the Hindus. At the same time, it is against giving any concession to other religious minority groups and it opposes religious discrimination. (Qtd in Kapur and Cossman 1993, ws-37)

[4] In one of the more extreme statements made by Deoras this is explicit:

> If secularism means treating all religions on an equal footing, proselytisation and secularism can't go together. Those who believe in conversion do so because they feel their religion is superior to all others. Their organisations therefore cannot claim to be secular. Hinduism, on the other hand, does not believe in conversions and Hindus have never been proselytisers. As such, organisations of Hindus alone can truly be secular.

The perverse logic behind this RSS argument, as Kapur and Cossman point out, is that

> [s]ecularism is defined as the toleration of all religions; Hinduism is defined as the only religion with a true tolerance for all religions; thus, according to these terms, only a country based on Hinduism can be truly secular. Within this vision, secularism collapses into antithesis-a theocratic state (1993, ws-37.).

[5] Tejaswim Niranjana and Susie Tharu in a seminal study look at the configuration of class/caste/gender in the politics of hindutva today where the Hindu, upper-caste, middle-class woman *is* the subject with agency, who is visible and in the forefront in the disbursal of hindutva ideology- (Tharu and Niranjana 1994).

[6] Louis Althusser talks of both institutions like the government, army, police, courts, prisons etc. and family, religion, schools, trade-unions, culture etc. as state-apparatuses. However, he points to an important difference between the two; the former functions predominantly through repressive means while the latter predominantly through ideological methods (Althusser 1971, 142-45).

[7] Craig Calhoun points to this relationship between 'discursive practice' and what he calls *the* problem of recognition'. The process of identification involves 'recognition', i.e., the ability to be reflexive, for example, any capacity to look at oneself, to choose ones acts and see their consequences. However, he says, the multiplicity of discourses which try to name persons challenges the very basis for recognition (1994, 20).

[8] Even in the academia, there have been attempts to rewrite narratives with the perspective of the subaltern in mind. Among the pioneering studies in the area of culture and history is done by the Subaltern-Studies Collective. Talking about the agenda of the collective, Ranajit Guha points to how traditional Indian nationalist historiography—of both colonial officials

and of left historians of India—presented the perspective of the elite, thus marginalising subaltern perspectives. He argues for the importance of presenting such perspectives (Guha 1982b and 1983)

[9] Andrew Parker points to how "black nationalism in the U.S. might often better be termed black culturalism, what helps to lend this movement its identity as a movement is its very recourse to the rhetoric of the nation" (1992, 8). In India, on the other hand, dalits and Muslims precisely register their claims as political by working within a nationalist framework.

[10] This position is exemplified in theorists like Ashis Nandy who see modernity as a loss of tradition. Hence their answer to the current problems in society is in countering modernity through a move towards 'nativism' and indigenism'. For a critique of this position see Vivek Dhareshwar(1995).

[11] This position is exemplified by Partha Chatterjee (1994a). See also Sara Joseph (1997) for a discussion of the politics of theorists like Partha Chatterjee, Ashis Nandy and Sudipto Kaviraj.

[12] I borrow the phrase from the title of Partha Chatterjee's essay, "The Nationalist Resolution of the Women's Question" (1993).

[13] Qtd in Edward Said (1978, 25).

[14] I borrow this phrase from Ruth Behar (1993, 276).

[15] The question of representation of Muslim women in fiction (English and Kannada) and in films has been inadequately researched. Regarding the latter, a recent study by Fareed Kazmi examines some of the Muslim Socials of the last three decades (1960s-80s) like Nikah, Pakeezah etc. He shows how portrayals of Muslim women are stereotyped and hardly match with their lived experience. The Muslim woman is often a sexual object with an accent on her beauty and the veil which covers it. The discourse moves towards the unveiling of the woman, literally and figuratively (Kazmi 1994).

[16] In Chunduru, a village in coastal Andhra Pradesh, on 6 August 1991, thirteen dalits were murdered by upper-caste Reddys The reason was that a dalit youth had intruded' into a space traditionally reserved for upper-castes. The youth, accused of harassing upper-caste women in a drunken state was taken to the police-station where he was beaten up. Consequently, the story that was circulated by both upper-caste women and the press was that of eve-teasing and harassment of the former in the hands of dalits. The question that Susie Tharu and Tejaswini Niranjana raise is that where sexual abuse by upper-caste men of lower-caste women gets sanctioned as 'custom', the alleged harassment of upper-caste women invokes the penalty of death. The incident foregrounds the aspect of how only the upper-caste, middle-class woman can lay claim to the category of 'woman' (and hence as the subject of inquiry of feminist analysis till now), historically marked so in contrast to the lower-caste woman who was seen as promiscuous (Tharu and Niranjana 1994, 99-101).

CHAPTER TWO

(In) Justice: Muslim Women in Judicial Discourse

> Now my hypothesis is not so much that the court is a natural expression of popular justice, but rather that its historical function is to ensnare it, to control it and to strangle it, by re-inscribing it within institutions which are typical of the state apparatus...the court is not a form of popular justice but rather its first deformation.
>
> Michel Foucault: "On Popular Justice: A Discussion with Maoists" (1980), 1-2.

This chapter looks into the legal discourse of the past two decades, the 1980s-90s, to examine the manner in which 'Muslims', and more particularly 'Muslim women' are constructed in it. I study dominant constructions of Muslim women, which mark a shift in a visible sense from earlier ones (approximately pre-80s), and their significance. For this purpose, I analyse the cases[1] of Shah Bano (1985), Sarla Mudgal (1989), Khatoon Nisa (1994) and the UCC debate. The manner in which these cases were discussed and debated in legal, academic and feminist circles are both specific to the cases and exemplify'[2] the manner in which Muslim women are perceived and constructed in contemporary India.

The legal system represents a state-apparatus[3] and the understanding of its discourse is important to work out the mode of engagement we seek with it. The 'modern' judicial system, one must not forget, came into existence at a particular point in history with a specific historical function. Michel Foucault argues how the

judiciary has the "authority to intervene" and is "based on political power" unlike the earlier "court of arbitration to which cases of dispute were taken by mutual consent, and which was in no way a permanent repository of power". The notion of a neutral institution' which can arbitrate between the people and its enemies, which can establish the dividing line between the true and the false, the guilty and the innocent, the just and the unjust, Foucault argues, is alien to the practice of popular justice where the people rely on their own experience and on the understandings of the injuries they have suffered. Their decision is not an authoritarian one, not backed by a state apparatus which has the power to enforce their decisions (1980, 8-9). This is certainly not to posit "popular justice" as non-violent or 'just' but to recognise the nature and functioning of the judiciary in its modern form. My study will bear out Foucault's argument that the judiciary has served to legitimise and preserve the power of the state, by perpetuating practices which safeguard the state's position, by circulating a truth which is produced by power and which in turn reproduces this power (1980).

Speaking of the Indian context, the number of judgements made by the ' impartial judiciary' endorsing domestic violence and gender discrimination, and its unwillingness to sentence the accused in custodial rape cases suggest that the judiciary works more in collusion with a repressive, patriarchal state than as a check to it.[4]

Despite this, even the left and feminists invest a certain faith in the judiciary. In another context, Mary John talks of a similar faith invested in the state which is partly because of the positive response of the state towards demands made by them. This, she argues, is because of the state's identification with the movement whose

spokespersons are invariably middle-class and upper-caste We would be more cautious in our dealings with the state [and the judiciary] if we recognised the manner in which they deal with the subalterns where the interests of the latter often clash with that of the upper caste and upper class (1995, 14). The manner in which judgements were pronounced in the Mathura, Rameeza Bee, Maya Tyagi and the Pararia cases make evident not only the patriarchy of the judiciary but also its underlying prejudices against tribals, dalits and Muslims.[5] The Anveshi Law Committee points to how

> As far back as the Mathura rape case...it was evident that the legal system could recognise as the bearer of rights only one that it defined as a chaste and virtuous upper-caste-class woman. Any other woman ran the risk of being designated as a prostitute, and not entitled to redress from the court's ruling (1997, 454).

I look at the Shah Bano, Sarla Mudgal, and Khatoon Nisa cases where some of these attitudes were foregrounded. The judgements reinforced notions of Muslims, their laws and religion as conservative, backward and anti-women. These were instances where the trajectories of state, community and gender crossed. The existence of personal laws of Muslims was contested between the state and the community[6] and seen by the state as a threat to national unity' and a challenge to nationality' itself. Women became the site on which the contest was carried out. Many have tried to argue how in the cases of Shah Bano and Khatoon Nisa, the Muslim woman is only apparently the subject and that these women become marginal to the discourse as the issue gets displaced onto the question of identity, community and state (Kishwar 1986; 11; Mani 1989, 10; Mukhopadhyay 1994, 118). In the present historical context where hindutva is the dominant discourse, the manner in which the Muslim woman is invoked by the community and state marginalises the Muslim woman's question.

Section I deals with the cases in particular, and Section II with the representation of Muslims and Muslim women by the judicial system, in the present culture and ideology of hindutva. I also address the question of UCC brought up by the judges in all these cases I analyse feminist discourses around the UCC too and attempt to draw the implications of both these discourses on Muslim women.

Shah Bano

To outline the case: Shah Bano, a seventy-three-year-old Muslim woman, was divorced after forty years of marriage, the husband intending to pay her maintenance only during the period of *iddat* (the period of three months following divorce). Shah Bano first filed a case in the lower court and later in the Supreme Court asking for maintenance under section 125 of the Criminal Procedure Code (CrPC), 1973.[7] The Supreme Court gave a verdict in favour of Shah Bano getting maintenance. The Chief Justice Y.V.Chandrachud also made offensive remarks on Islam and Muslim men. He evoked stereotypical notions of Muslim men as villainous and insensitive. "Undoubtedly, the Muslim husband enjoys the privilege of being able to discard his wife whenever he chooses to do so, for reasons good, bad or indifferent. Indeed, for no reason at all" (Qtd in Kishwar 1986, 4). The judge invoked notions of *talaq* and polygamy as primitive and as oppressive to Muslim women. This privilege' of discarding and, probably, also procuring a wife, the judge seemed to suggest, is particular only to the Muslim male because of Islamic law which allows him to do so, when in fact it is prevalent in all communities. I return to the question of bigamy by

Hindu men later in this chapter The question to be confronted then, said the judge, is what a Report of the Commission on Marriage and Family Laws appointed by the Government of Pakistan in 1955 put as "whether the law of Islam is capable of evolution" (Qtd in Engineer 1987, 34). In taking the comment out of its context and placing it in another, the judge gives it a completely different twist. In the Pakistan report, the comment suggests the need to interpret and make changes in the *Shariat* keeping the present conditions in mind, and there have been such changes. The question raised by the Indian judge, however, presumes that the *Shariat* is 'static', outside history and has not evolved. It suggests that the *Shariat* is conservative and discriminatory regarding Muslim women. Consequently, Chief Justice Y.V.Chandrachud argued that laws having "conflicting ideologies" be supplanted by a UCC to enable the "cause of national integration". This has been later quoted in various other judgements to emphasise the need and urgency for a UCC. The UCC is represented as the symbol of "national integration", thus making it a political agenda for all; the refusal of the need for a UCC is thus seen as anti-national. Though claiming to be a secular code, the UCC runs the risk of being an extension of Hindu Personal Law, just as the Hindu Code Bill was an extension of brahminical practices to all those who came under the label 'Hindu'—Sikhs, Buddhists, and all the lower-castes irrespective of religion (Kishwar 1986; Mukhopadhyay 1994). Thus national integration' is to be achieved, according to the judges remarks, through a process of homogenisation of different laws and cultures under a brahmin culture, which is what hindutva attempts.

Some Muslim groups first protested against the Supreme Court judgement, as many have pointed out, because of the offensive remarks made against Islam and

Muslim men (Kishwar 1986, Engineer 1987) The judge himself quoted two cases—the Bai Tahira v Ali Hussain Fidaalli Chotia, 1979 and Fazlunbi v Kader Vali, 1980—where the woman has been granted maintenance by the Supreme Court under CrPC, 1973. They, however, had not evoked protests from the Muslim community, for the emphasis in those judgements was on the need to fight injustice against women rather than on the conservative and discriminatory nature of Islam and Muslim men (Kishwar 1986; Engineer 1987; Pathak and Sunder Rajan 1992). The media, instead of foregrounding the aspect of gender-injustice depicted Muslims as fundamentalist and anti-women. It emphasised the need for a UCC stating that Muslim Personal Law was discriminatory against women. The question of Hindu Personal Law, however, was untouched as if it was the last word on secularism and gender-sensitivity (Kishwar 1986, 10).

Some feminist groups celebrated the Supreme Court judgement as a landmark. They emphasised the need for a UCC, a secular code, since all personal laws were discriminatory to women (Balasubrahmanyan 1985; AIDWA 1995; FAOW 1995). Such a position largely foregrounded 'gender' identity to the exclusion of all other identities. Other feminists argued that the sensitivity of issues regarding minority communities should caution us against an outright condemnation of the protest by Muslims (Pathak and Sunder Rajan 1992). However, they see this as an "indulgence toward a minority's insecurity" (ibid., 265). Framing the question in terms of indulgence', I suggest, is similar to the 'equality' discourse of the BJP. Ratna Kapur and Brenda Cossman draw attention to the distinction between formal and substantive approaches to equality. The former is based on sameness', i.e., being treated the same' under law while in the latter, equality' requires 'differential' treatment.

keeping in mind the histories of various communities The latter implies that there should be equal and just treatment in effect. The hindutva discourse on equality, as we saw in the introduction, is of the formal type which believes that there should be no discrimination, no "special rights to Hindus or *concessions* to minority groups" (1993, 37-38, emphasis mine). In talking of indulgence' or concessions' then, one is not taking into account the fact that as minorities in India, Muslims are in a disadvantageous position.[9]

In reaction to the protest by Muslims, the government formulated the Muslim Women's (Protection of Rights on Divorce) Act, 1986 which said that "the divorced woman's husband is obliged only to return the *mehr*[10] (marriage settlement) and pay her maintenance during the period *of iddat*.... If the divorced woman is not able to maintain herself after the *iddat* period, her maintenance will be the responsibility of her children, or parents, or relatives who would be entitled to inherit her property upon her death [failing which]...the magistrate may direct the State *Wakf* Boards (administrators of Muslim trust funds) to pay the maintenance determined by him".[11] Thus the duty of maintaining the woman falls not on the husband but on the family. Feminists have pointed out that for purposes of framing the Act, stereotypes of Muslim men and women were invoked, the Muslim woman as "invariably destitute" and the Muslim male as "polygamous, callous and barbaric". The government colluded with the Muslim Personal Law Board to (dis)place the 'protection' of the Muslim woman back in the sphere of the patriarchal family, and failing that, the *Wakf* Board. The government thus strategically 'protected' both Muslims in general and Muslim women in particular (Pathak and Sunder Rajan 1992, 270).

Some feminists have tried to steer clear of choosing between supporting a minority community or condemning them on feminist grounds by emphasising the shared predicament of all Indian women within the personal laws of all religious communities—thus de-emphasising the religious identity of Muslim women, in order to highlight their gender identity (Pathak and Sunder Rajan 1992, 265). In either case, the specific gendered-subaltern identity of the Muslim woman is made invisible; if we support the minority community, we neglect the gendered perspective and if we condemn them, we neglect the woman's communitarian identity. The Shah Bano case represents the difficulty of addressing the Muslim women's identity question in today's context.

The Muslim woman, on the one hand, is compelled to assert her secular[1], national identity (historically, as all Muslims are suspect of being Pakistani agents or at least having loyalties towards Pakistan) and on the other, her communitarian identity (Shah Bano withdrew her case saying that, "this judgement seemed to be creating conditions for *danga phasad* or riots, and that she did not want to be the cause of anti-Muslim riots" (Kishwar 1986, 5). The Muslim woman is in such a situation today where she is caught between foregrounding herself as an Indian woman (which in effect means the reinforcement of the notion of the Muslim community as oppressive) and as a Muslim (where in effect the Muslim woman's problem is made invisible). Shah Bano was thus entangled in her various identities as Indian woman, Muslim and Muslim woman and in the end she got no maintenance.

Sarla Mudgal

In the Sarla Mudgal case,[12] four Hindu women petitioned under the Prevention

of Bigamous Marriage Act against their husbands who remarried after converting to Islam. The verdict made void the second marriage after conversion because, the judges stated, it was "in violation of natural justice" (AIR 1995, 1537). However, instead of addressing the issue of bigamy by Hindu men, the judges seemed more concerned about Hindus converting to Islam. They dwelt on how Muslim Personal Law legitimises practices like polygamy. The judgement read:

> Till the time we achieve the goal—uniform civil code for all the citizens of India--there is an open inducement to a Hindu husband, who wants to enter into a second marriage while the first marriage is subsisting, to become a Muslim. Since monogamy is the law for Hindus and the Muslim law permits as many as four wives in India, [an] errant Hindu husband embraces Islam to circumvent the provisions of Hindu law to escape from penal consequences (ibid., 1533).

The judgement, in this case, presumed that it was only through conversion to Islam and permission under Muslim Personal Law that Hindu men are turning polygamous. The language suggests that Islam stood as a threat to the monogamy of Hindu men, luring them (just as the Muslim woman is usually depicted, as a vamp seducing Hindu men)[13] from their dutiful and righteous path. Consequently, the judges, Justice Kuldip Singh and Justice R.M.Sahai, advocated a UCC as the only solution to the problem of bigamy of Hindu men and one which will alleviate the sufferings of Hindu women (Agnes 1995, 3238). They characterised "religious practices, violative of human rights and dignity and *sacradotal (sic) suffocation* of essentially civil and material freedoms, [as] not autonomy but *oppression"* (AIR 1995, 1540; emphasis mine). This charge made against Muslim Personal Law did not seem to hold true with Hindu Personal Law which the judges felt "was given a go by as far back as 1955-56 codifying the same" (ibid., 1538). Contrary to what the judges

suggest, Hindu Personal Law was not secularised in 1955-56 It was merely codified then, and as Madhu Kishwar points out, not necessarily for the better as far as women's rights were concerned (1995, 5). The judges' assumption that Hindu Personal Law is 'secular' suggests that the judiciary is not outside the culture and ideology of our times. One can draw similarities between now and the 1920s when Hindu nationalist discourse was dominant. Even M.K.Gandhi, in battling against 'sectarianism' in the 1920s, explicitly identified with the Hindus. He declared that Muslims' were not moved by the spirit of nationalism:

> The Mussalman masses do not still recognise the same necessity for Swaraj as the Hindus do...sufficient time has not passed for the nationalist interest to be awakened among the Mussalmans (Qtd in Satyanarayana 1992, 49).

suggesting that Muslims are not quite 'nationalists' or'Indians'. They are on the margins of the nation[1] (ibid.). In a similar fashion, the judges here argued that

> The Hindus, along with Sikhs, Buddhists, and Jains, have forsaken their sentiments in the cause of national unity and integration, some other communities would not, though the Constitution enjoins the establishment of a uniform civil code' for the whole of India (AIR 1995, 1538).

The Hindus, Sikhs, Buddhists and Jains are, for the judges, true nationalists, as against Muslims who are unwilling to sacrifice their Muslim' sentiments in the interests of the nation. Constructing a binary opposition between national identity and community identity, the judges declared:

> Those who preferred to remain in India after the Partition fully knew that the Indian leaders did not believe in two-nation or three-nation theory, and that in the Indian Republic there was to be only one nation—Indian nation—and no community could claim to remain a separate entity on the basis of religion. It would be necessary to emphasise that the respective personal laws were permitted by the British to govern the matters relating to inheritance, marriages, etc., only under the Regulation of 1781 framed by Warren Hastings. The legislation—not religion—being the authority under which personal law was

> permitted to operate and is continuing to operate, the same can be superseded/supplemented by introducing a uniform civil code (ibid , I539)

In an explicit fashion the state (here, the judiciary) defines its relationship with the Muslim community. Just as the British defined themselves in relation to ' India', today a Hindu' India defines itself in relation to the Muslim community in it. As suggested in the introduction, there is a similarity between the colonial construction of India' and the contemporary majoritarian view of Muslims, and both use 'women' as symbolic of the backwardness of the other's* community. The hegemonic relationship is established to assert the powers of the state. Laws and legal justice do not seem to reflect a popular consensus but that of the will of the state, of what it will allow and what it will not (Foucault 1980, 1; Kishwar 1995, 6). The Anveshi Law Committee points to how "the modern legal system has evolved as one of the strategies of the state to organise relationships of power within its boundaries (and also to demarcate those boundaries themselves—as through the question of citizenship, etc.)" (1997, 456). And citizenship' in the Sarla Mudgal judgement meant identification with the national identity to the exclusion of all others. The judges felt that the Muslim community's insistence on Muslim Personal Law was to reassert "Jinnah's two-nation theory" (Kishwar 1995, 6).

Some feminists supporting the demand for a UCC see Muslim Personal Law as a potential source for oppression of Muslim women and as a source conferring benefits on Muslim men which men of other religions too wish to enjoy (Balasubrahmanyan 1985, 1261). Others have tried to point out that the practice of polygamy among Hindus is almost the same as among Muslims. According to the 1975 report of Census in India, percentage of men practicing polygamy was 5.8 by

Hindus and 5.7 by Muslims (Kishwar 1986, 9) The law against bigamy does not act as a deterrent to men, since most marriages are performed according to customary practices and often do not follow the formalities prescribed by the Supreme Court required for the conviction of bigamy. [14] And as pointed out by some, bigamy of Hindu men persists with the encouragement and active benevolence of the judiciary (Agnes 1995; Saumya 1995). If anything the Act has proved more detrimental to Hindu women than to anyone else.[15] The question then is, if Hindu Personal Law has proven to be harmful to Hindu women,[16] on what basis did the judges argue for a formulation of a UCC in both the Shah Bano and Sarla Mudgal cases.

The media, in selectively reporting the case, did not address the question of bigamy by Hindu men but only emphasised the need for a UCC. Nor did the media, which is supposed to present Tacts', question the assumptions made by the judges. Instead it reinforced prejudices against Muslims which the judiciary invoked (Agnes 1995, 3238). In the modern' framework of the judiciary and the media, monogamy, a Hindu, upper-caste norm, is represented as the universal norm, implicitly constructing Muslims and other communities, in which polygamy is a custom, as backward' and 'primitive'. That the judicial discourse is not outside the hindutva logic is a clear sign of the latter becoming hegemonic.[17]

Khatoon Nisa (Tilhari judgement)

The background to the Khatoon Nisa case is as follows. Under the Ceiling on Land Holding (Amendment), 1972, a notice was issued to Rahmatullah to give up the surplus land he possessed. In reply, he filed a case saying that part of the land belonged to his ex-wife, Khatoon Nisa who he had divorced in 1969. The authorities

ft

had clubbed the separate lands belonging to the two together to declare the land belonging to Khatoon Nisa as surplus. She too filed a case in 1980 stating that she had been divorced for the past eleven years. Both objections were overruled, against which the two filed appeals. The question before the court was whether the two were divorced according to law or whether the plea of divorce was raised only to hold back the land. In April 1993, the judgement given by the additional commissioner, Faizabad, held that there had not been a 'divorce' or a judicial separation' through a court order. The *talaqnama* and the evidence of Khatoon Nisa's father and other witnesses were not held to be adequate proof of divorce. Rahmatullah and Khatoon Nisa petitioned against this judgement at the Allahabad High Court in Lucknow (Agnes 1994, 1169-70). The question before the court was whether an orally divorced wife (as under Muslim Personal Law) got the same benefits as one who was divorced or judicially separated through a court order (as under Hindu Personal Law), for the latter is exempted from the Land Ceiling Act. Justice H.N.Tilhari on 15 April 1994 held, as Agnes states:

> a customary divorce either under the *Shariat* law or under the Hindu Marriage Act, is not a valid divorce if it violates the provision of the Constitution, and since triple *talaq* is discriminatory against women, such a divorce is not valid (ibid., 1169).

At first glance, as with the Shah Bano case, the judgement seems to be in favour of women, showing great concern over Muslim women's problems and upholding the constitutional rights of women. However, if we examine the implications of the pro-woman judgement' itself, Khatoon Nisa lost the piece of land because she was considered married for the purposes of the Land Ceiling Act. On the other hand, she was a divorcee under -the Application of Shariat Act, 1937 and not entitled to

maintenance in accordance with the Muslim Women's Act, 1986 (Agnes 1994, 1169). On both counts then Khatoon Nisa was deprived of her economic rights. Since judicial separation is not recognised under Muslim customary law, the concession that exists for divorced Hindu women—of exemption from the Land Ceiling Act—does not exist for divorced Muslim women (ibid., 1170). This shows how the normative subject invoked by law is the upper caste-class Hindu and the specificity of the gendered-subaltern subject is made invisible by law.

Both the Faizabad and Allahabad courts questioned forms of customary practices when they were not in question at all. It is certainly necessary to review various laws in order to ensure justice. However it is only the laws of the Muslim community which are seen to be in need of such reform. This attitude is visible even among left groups. The Special Marriage Act, 1956 had provided for equal property rights for men and women. However, its reform in 1976, which reinstated male coparcenary rights, did not evoke the response from feminists that the enactment of the Muslim Women's Bill, 1986 did (Agnes 1994d, 11-13). Regarding the question of producing fake divorce decrees to save property from the land reform laws, there are innumerable cases in which Hindus are involved. However, in none of these cases has the constitutional validity of forms of divorce prevailing in the personal laws been questioned (Kannabiran 1994, 1509; Agnes 1994c, 1170). Further, Agnes points **to** how even when the constitutional validity of the discriminatory nature of personal laws has been questioned, the court has either dismissed it or upheld the discriminatory provision[19] (Agnes 1994c, 1170). It must be mentioned here that the concept of triple *talaq* has been in debate among Muslim women themselves.

However, even liberal Muslims found the judgement offensive They felt that it would put further pressure on the Muslim community to resist reform from within.

If we look at the judge's past record (for a change), in a case involving the question of custody of a child, where the husband was a Hindu and the wife a Christian before marriage who later converted to Hinduism, the gender-sensitive[1], non-discriminatory judge granted custody to the father stating that

> it cannot be disputed that in the present circumstances the custody to the mother is against the spiritual welfare of the minor children because they are not being brought up in the religion of their father and they are practically turning into Christians (Qtd in Bindra 1994, 12)

For the judge, only Hinduism, and not Christianity (or any other religion), can constitute the spiritual welfare' of the children. The judge further added that children who attend Christian missionary schools

> may feel and think that they do not belong to India, that their nationality is not Hindustani, and that their source of inspiration is not Hindustan, but in some foreign land. If that is so then... it can be said that for... the moral and spiritual welfare of the minor...it would be just and proper that the minors be put into custody of the father and not the mother (ibid., 12).

The spiritual welfare of the children also lies in the fact that they "feel and think" that they belong to India, and their nationality is "Hindustani". Thus the judge first equates Hinduism with spiritual welfare and the latter with patriotism. As suggested in the introduction, hindutva does not always explicitly identify itself as a religious ideology. It projects itself as a nationalist ideology. This blending of 'Rambhakti' and 'deshbhakti', two very potent sources of emotional involvement, Tanika Sarkar says, is "the greatest triumph of the present communal moment" (1991, 2062). Evident in the judge's remark above is the fact that the hindutva ideology is not alien to the judiciary, which works with the very same notions and stereotypes.

II

The question I address in this section is how the 'Muslim community' and 'Muslim women' in particular are constructed in and through the Shah Bano, Sarla Mudgal and Khatoon Nisa cases. In the above cases, the Muslim male is seen as a villain who does not pay his maintenance (Shah Bano case), as polygamous (Sarla Mudgal case), as a cunning thief trying to hold back land which is due to the state (Tilhari case) and as unpatriotic because he asserts his communitarian identity (Sarla Mudgal case). Muslim Personal Law, seen as legitimising these practices, came into conflict with the state which identified Hindu Personal Law as secular and progressive (Sarla Mudgal case). Muslim Personal Law was constructed as the authentic' tradition of the community and which should not therefore be interfered with from the 'outside'.[20] On the other hand, the state constantly tried to question its legitimacy.

In all these cases the Muslim community is targeted as backward and conservative through the symbol of the Muslim woman, just as practices of Sati, child marriage and the Hindu widow's helplessness were cited by the British to construct India as uncivilised, barbaric and traditional. In the Shah Bano case, the Muslim woman is constructed as oppressed by her community's personal laws and as seeking redressal from a Hindu nation-state. In the Khatoon Nisa case, the Muslim woman is first seen as complicitous with the Muslim male in trying to hold back the land. Although, later on she gets constructed as a woman victimised by Muslim Personal Law, here the supposed pro-woman judgement did not benefit the Muslim woman concerned, unlike in the Shah Bano case. In the Sarla Mudgal case, though no Muslim woman was directly involved, Muslim Personal Law was represented

in terms of Muslim woman as seductress' and prostitute' luring the Hindu male Implicit in this construction of Muslim woman is the contrast of the upper-caste Hindu woman who is seen as chaste' and ' moral' The implication of this is that it is only the upper-caste Hindu woman who can lay claim to being a woman', whose 'womanhood', femininity has to be protected unlike the Muslim woman and the lower-caste woman who are seen as 'loose', as prostitutes etc. and thereby disqualified from such protection. That is why in cases involving the latter, such as Rameeza Bee,[21] the judges often acquit the accused on the grounds that these women are of questionable character'.[22]

Polygamy is a trope which is often invoked by the judiciary. In the Sarla Mudgal case, the legitimising of polygamy by Muslim Personal Law was seen as 'oppressive' to the four Hindu women who had petitioned in the case. There was one other petitioner, Sunitha alias Fatima, who stated that her husband had reverted back to Hinduism under the influence of the first wife, leaving her (Fatima) with a child. Fatima's grievance was that "she continues to be a Muslim, not being maintained by her husband and has no protection under either of the personal laws" (AIR 1995, 1533). Neither this question nor that of the status of the child was addressed by the judges. The Muslim woman as a subject is invisible before law. In the modern framework of the judiciary, Hindu marriage which is seen as 'sacred' embodies the virtues of a family unlike a Muslim marriage which is a contract. It is the former which would represent a happy family' of '*Hum do, hamare do',* i.e., 'we two, ours two', unlike Muslim families which are large because of the practice of polygamy. Polygamy is seen as a means to outnumber the Hindu population, to reduce the latter to a minority status in India. This is precisely how the RSS

ideologues construct polygamy Paola Bacchetta shows how in RSS literature, Muslim women are constructed as 'reproductive organs' for the Hindus* enemies. RSS claims that "Muslims (Indian and Pakistani) use the population bomb' as a war tactic against Hindus and the bomb' is activated by polygamy" (1994, 198). This is the reason, the RSS would argue, for Hindus to become more militant (unlike the mild and meek selves they are now) and preserve their culture and themselves from being outnumbered and destroyed. Polygamy is also seen as victimising the Muslim woman with the legitimacy of Islam and Muslim Personal Law. In this context Muslim women are seen as unsuccessfully fighting against polygamy or as saved by heroic nationalist Hindus. The role of saving the Muslim woman' is precisely what the judiciary took upon itself in the Shah Bano, Sarla Mudgal and Khatoon Nisa cases.

The UCC Debate

In the above cases, the judges cited the victimisation of Muslim women as reason to call for a UCC. The judgement on the Shah Bano case stated:

> It is the State which is charged with the duty of securing a uniform civil code... [but] legislative competence and the political courage to use that competence is quite another... Inevitably, the role of the reformer has to be assumed by the Courts because, it is beyond the endurance of sensitive minds to allow injustice so palpable. (AIR 1995 SC 1538)

In the Sarla Mudgal case, quoting the above judgement, the judge also added that "a unified code is imperative for the protection of the oppressed". Here Muslim Personal Law was seen as oppressive to both Hindu women and Muslim women. If the judiciary sees a UCC as liberating to women, how did feminists respond to this?

One of the positions is that of having a UCC as the only code (FAOW 1995; AIDWA 1995), the other is of having it as an option existing alongside personal laws

(Chhachhi et al 1998, Kishwar 1995) There are subtle differences among these groups. However, their main argument is that religious personal laws of all communities are patriarchal and hence should be replaced by the secular laws of the state. So despite being aware of the patriarchy of the state and its ineffectiveness in providing legal recourse to women, they see the state as a more viable space for seeking justice than other spaces like the community. They see communities as demanding primary allegiance from their subjects, especially women. Hence they argue that communities are coercive and oppressive to women (Chhachhi et al 1998).

My position is closer to that of the Anveshi Law Committee and Flavia Agnes who point to the patriarchal/caste/community biases of the judiciary, arguing that it has performed dismally in ensuring gender-justice, especially when the subject concerned is subaltern, here the Muslim woman subject (Anveshi 1997; Agnes 1992). This is not merely because of prejudice' or 'villainy' of the judiciary but because, as the Anveshi Law Committee points out, "the culture or ideological ground that provides the basis for law...derives from and also shapes...the processes by which citizenship is historically conceptualised, institutionalised and normed. All these determine who can be the bearer of rights" (1997, 456). As suggested in the beginning of the chapter, the manner in which judgements have been passed in cases involving tribals, dalits and Muslims shows that the modern legal system recognises as the bearer of 'rights' and of 'justice' only one who is marked upper caste, middle class and Hindu, thus excluding dalits and Muslims, especially dalit and Muslim women. In the next chapter, I suggest how a similar process of marginalisation occurs in representations of Muslim women within the liberal-humanist, secular-modern framework of the media.

If the state takes on the task of Formulating a UCC, the law is in danger of embodying an upper-caste Hindu code just as the Hindu Code Bill brought Hindus, Sikhs, Buddhists, Jains and all the lower castes irrespective of religion under the rubric of a brahminical code (Kishwar 1996, Mukhopadhyay 1994). Even if feminists take on the task, it is problematic in a context where the upper-caste, middle-class norming of the feminist movement is being put at issue by dalits and Muslims. The Anveshi Law Committee points to how any attempt to formulate a UCC now will simply reaffirm the upper-caste woman as the subject before law without addressing the questions raised by dalits and others. (1997, 455-56). They also point out that we should address the question of the nature of dealings we seek with the state before calling for legislation. I acknowledge that it is very necessary to interrogate our engagement with the state. However, I think legal reforms should not be put off despite the present context. It is precisely at this moment when the feminist movement is being interrogated by dalit and Muslim groups that we should work towards legal reforms in alliance with those groups and their understandings of gender-justice. The Anveshi Law Committee places a certain faith in the community as a space where gender-justice can be obtained. While I would recognise the community as a space for resistance, I also see it as being within the purview of the state. Also, there has not been much evidence about the democratic nature of communities, especially with regard to women. Multiple patriarchies should be fought on multiple sites through multiple strategies. I would see legal space as something we cannot afford not to have, while keeping in mind that legal-justice is not the final word on gender-justice. Legal reforms undertaken now should be seen as a means of providing a space for further contestations and reforms which has to be

complemented by interventions in other areas of discursivity, such as literature and the media, to promote gender-justice.

In the next chapter, I look at the site of media discourse to examine how Muslims, and Muslim women in particular, are constructed in it. I scrutinise the cases of Ameena Begum and Taslima Nasreen where the manner in which the courts handled the cases was to a large extent influenced by how the media reported' the two cases. This suggests that the two discourses—that of law and that of the media—mutually reinforce each other and perpetuate certain stereotypical representations of Muslims and Muslim women.

End-Notes

[1] I use the word case' (i) in its legal sense, (ii) to indicate the various issues around the legal case, and (iii) to suggest a ' case-study', an example to understand a particular moment in time. It is a 'signifier' to how Muslim women are constructed in judicial discourse.

[2] Judith Butler cautions us pointing to how '"examples' and paradigms' serve to subordinate and erase that which they seek to explain—effecting a violent reduction of the field to the one piece of text..." (Butler 1992, 5). What I attempt is not so much a generalisation across cases as much as within the cases.

[3] Louis Althusser talks of the court as both a repressive state-apparatus and an ideological state-apparatus (1971, 143).

[4] See Flavia Agnes (1992; 1993).

[5] The Mathura case (1972) was a case of rape of a sixteen-year-old tribal girl by two policemen. The Supreme Court judge acquitted the policemen giving a judgement to the effect that "Mathura is a shocking liar whose testimony is riddled with falsehood and improbabilities". Commenting on the medical report which said that since the vagina admitted two fingers, Mathura is habituated to intercourse', the judge suggested that if an unmarried girl is habituated to intercourse', she would willingly sleep with any stranger.

In the famous Maya Tyagi case (1980), a twenty-year-old woman who was five months pregnant was beaten up by policemen with slippers and lathis. A baton was inserted into her vagina and she was then paraded through the bazaar. It took eight years for the judgement to be passed, which acquitted the prime-accused. It was only after the rape of another woman that he was suspended from duty.

In the Pararia rape case (1988), the judge acquitted eight policemen and six chowkidars who were accused of mass rape of five women. The judgement cast doubts on the character of the women because they were poor: "It cannot be ruled out that these ladies might speak falsehood for a sum of Rs. 1000 which was a large sum for them... These women cannot be equated with such ladies who hail from decent and respectable society, they are engaged in menial work and were of questionable character" (Agnes 1993).

[6] Some have tried to point to the similarities between the present context and the 1940s-50s, where personal laws are seen as representing the 'authentic tradition' of the community and women become the bearers of their respective traditions (Mani 1989, 10; Kishwar 1986, 11; Mukhopadhyay 1994, 118). Kishwar explains how the introduction of the Hindu Code Bill in the parliament in 1944 caused a furore. The bill called for changes in Hindu Personal Law apparently in favour of 'women'. Among the clauses opposed were one asking for the abolition of polygamy and one which gave daughters a right to property. The latter clause was so vehemently voted against that it was dropped (1986, 11). A similar controversy arose over the Age of Consent Bill, 1891 which raised the minimum age for a girl to get married from ten to twelve (Kosambi 1991).

[7] Section 125 of CrPC is an "order...for monthly allowance for maintenance for wives [till death or remarriage]... at such monthly rate not exceeding five hundred rupees in the whole" (Pathak and Sunder Rajan 1992, 275). This section is meant for destitute' women, but is usually appealed to because of the enormous time taken for proceedings under personal laws.

[8] Maitrayee Mukhopadhyay in her study shows how the codification of Hindu Personal Law served to change existing social relations between (i) men and women and (ii) state and family and reinforced a family structure that was "patriarchal, patrilineal and monogamous". With regard to women, especially dalit women, there were stricter regulations on women's sexuality and in the areas of marriage, property, maintenance etc. (1994, 111-13).

[9] Using the National Sample Survey report of 1988, Reserve Bank of India report of 1992 and the Gopal Singh Commission report on minorities in 1984, India Today presented the socio-economic conditions of Muslims in India:

52.3% live below poverty line with an income of 160.00 or less.

50.5% of the Muslims are illiterate.

They constitute:

1.6% of Indians who are college graduates.

4.4% of Indians *in* government jobs.

3.7% of Indians who receive financial assistance to start business.

5% of Indians who received industrial loans from the government-owned banks

2% of Indians who received loans from the government.

In the defense services, the percentage has reduced from 32% in 1947 to *2%* in the present (Qtd in Raza 1994,2541).

[10] *Mehr* is an amount exclusively settled on the woman, who has a right to it during her marriage, and serves as a future security for her. It is unlike either the dower, which is a widow's right to be maintained from her deceased husband's property, or bride-price, which is an amount given to the bride's father to compensate for the loss of his daughter's labour power. Agnes elaborately discusses this and other economic rights available to women under Islamic law unparalleled by any other legal system. However, she argues, more patriarchal Hindu and Christian practices have now infiltrated, curtailing the rights of Muslim women which Islamic Law guaranteed (1996, 2833).

[11] Quoted in Pathak and Sunder Rajan (1992, 259).

[12] All references are from Sarla Mudgal v Union of India (AIR 1995).

[13] In Galaganatha's Kannadigara Karmakathe (The Story of the Destiny of Kannadigas), for instance, the Hindu prince falls in love with a Muslim woman and he forgets his duties towards his kingdom. This excess love is seen as the cause for the downfall of the

Vijayanagar empire. There are variations of this depiction where the Muslim woman is the vamp as against the Hindu woman who is chaste. A classic example is the *tawaif* in Hindi films living in a *kota* who is the other' of the wife placed within the structure of a family.

[14] Among the rules that the Supreme Court prescribes for bigamy are (i) performance of a ' vivaha homa' i.e., invocation before the sacred fire and (ii)'saptapadi' i.e., seven steps round the fire by the groom and the bride; (iii) Customs contrary to the Shastras should be validated by a law text (Agnes 1995, 3239). Since the first two are upper-caste practices and the last almost non-existent, the husband usually escapes conviction of bigamy.

[15] If either one of the wives cannot prove the valid ceremonies of her marriage, she will lose out in the bigamy proceedings and her economic rights in the matrimonial proceedings. The husband often states that the second wife is a keep, thus casting doubt on the validity of the second marriage. If the husband, on the other hand, proves that his first marriage subsists, the second wife does not have any legal recourse (Agnes 1995, 3243).

[16] Some point to how Hindu Personal Law is as discriminatory as Muslim Personal Law in matters of maintenance, property rights, guardianship and custody of children (Kishwar 1986, Agnes 1994c). Regarding maintenance under Hindu law, a woman can claim a maximum of one-third of the joint incomes of her husband and herself. That means that if, for example, she is earning Rs.500 and her husband Rs.1000, she cannot claim any maintenance because she already has one-third of the joint income which is Rs.1500. Talking of 'secular' laws, Kishwar pointedly asks, "what did the Supreme Court grant as maintenance to Shah Bano after all?" It granted her Rs. 179.20 per month which is "less than half the statutory minimum wage in most parts of the country, not to mention the lower court offering her Rs.25 per month which she says was more an insult than an award" (1986, 8). She also points out that unlike Hindu Personal Law, under Muslim Personal law, a father cannot deny his daughter her rightful share of inheritance (ibid., 7).

[17] Mushirul Hasan marks the sharp rise in the number of RSS members since the Babri Masjid demolition: 'the RSS membership [has] swelled over the years. Before December 1992 it consisted of 16,000 shakhas, but a year later the number had risen to 30,000 (1997, 300). "The Hindutva project", he says "is no longer an abstract article of faith of a handful of determined crusaders on the margins of political life. It is...on the verge of becoming the new *mantra* of civil society. Its appeal as an alternative pattern of political mobilisation is no longer confined to the northern cow-belt, but cuts across castes and regions. So that the BJP, having led an uneasy life for two decades, picked up a substantial vote in Bengal and occupied a vantage point in as many as 30 of the 140 seats in Kerala in the 1991 elections, both states with a history of strong left and democratic movements" (ibid., 301).

Among those who speak the hindutva discourse are a large group of Hindu, upper-caste, middle-class women who are becoming increasingly visible in the public sphere, claiming to speak as empowered women. Susie Tharu and Tejaswini Niranjana analyse this new visibility in one of their essays (1994).

[18] When the right of jurisdiction in matrimonial matters was transferred, with the passing of the Matrimonial Act, from the High Court to the Civil Court (Family Court), this was mentioned only in the Hindu Marriage Act and Special Marriage Act. Cases which came under the Parsi Marriage and Divorce Act, Dissolution of Muslim Marriage Act, continued to be dealt with by the High Court. Flavia Agnes cites instances where such callousness of the judiciary has caused problems for Muslim women (1994a). Take also the instance where a Muslim woman wants maintenance while her marriage subsists. She has to approach the Family Court under section 125, CrPC. If she also wants a divorce, she has to appeal to the High Court under the Dissolution of Marriage Act. In obtaining a Divorce, she cannot claim maintenance, as per the Muslim Women's Act, 1986. If she wants to claim her *mehr,* and maintenance for the *iddat* period, she has to apply in the Magistrate's Court under the same Act (Agnes 1994b, 1170).

[19] Flavia Agnes quotes the case of T Sareeta v T.Venkatasubbhiah, 1983 where the Andhra Pradesh High Court held that the restitution of conjugal rights demanded by the husband is unconstitutional since it violated the right to privacy guaranteed by Article 21 of the constitution. The Delhi High Court reversing the judgement held that, "Introduction of constitutional law in the home is most inappropriate. It is like pushing a bull into a China shop. It will prove to be a ruthless destroyer of the marriage institution and all that it stands for. In the privacy of the home and married life neither Article 21 nor Article 14 has any place". This was subsequently upheld by the Supreme Court (1994c, 1170).

"° Maitrayee Mukhopadhyay points to how the non-interference argument does not hold because what is constructed as the authentic' tradition is the result of'codification' by British colonial officials who reinterpreted the interpretations of the Shastras given by pandits (1994, 108).

[21] On 29 March 1978 Rameeza Bee was approached by two constables at night and brought to the police station where she was raped by several policemen. The main defence of the police was that Rameeza was a prostitute for which they fabricated false evidence. They used the fact that Rameeza was married earlier to prove that she was a woman of loose morals. They stated that she was sitting in the rickshaw indecently exposing herself. The court did not convict any of the accused. Later, a film Nagnasatya (Naked Truth) based on Rameeza's case was made and given an award by the government where the main character was shown as a prostitute to fit the government's version (Agnes 1993, 108-110).

[22] See also the judgements in the Mathura and Pararia rape cases, op.cit. note 5.

CHAPTER THREE

Hero(in)es and Villains: Media and the Muslim Woman's Story

> Journalists of very different views and dispositions can tell the same kind of story. I often say to radical friends, I am not interested in what the person's politics are; what kinds of stories do they tell?' because I know many radical journalists in the media who tell exactly the same kind of stories: they construct events with the same kinds of language as the people who disagree with them profoundly. So there is a kind of stabilisation in the institutions and in the available discourses which are sustained in a set of known practices inside those institutions. Those stories write the journalists.
>
> Stuart Hall[1]

In this chapter I take up the cases of Ameena Begum (1991) and Taslima Nasreen (1995) in order to analyse how mainstream media represents the Muslim community and Muslim women. As Louis Althusser points out, media, like the judiciary, is one of the sites on and through which ideology is constructed and circulated (1971, 143). Recent studies have shown how in the last two decades television and cinema have played an important role in formulating a concept of the Indian nation which marginalises Muslims. Such studies point to how the hindutva ideology gets constructed in the media and how the media works along with other state apparatuses to maintain status quo.

If we look at the manner in which the media depicted the Shah Bano and Sarla Mudgal cases, we notice a similar process. In the Shah Bano case, for instance, Chandrachud's judgement stating that maintenance be given to Shah Bano was discussed in the media as if it was the first Indian ruling in favour of Muslim women. There was a subsequent reporting of similar judgements as if they were unprecedented. The media projected the UCC as the need of the moment because Muslim Personal Law was allegedly discriminatory to women. It did not even mention Hindu Personal Law, which is equally discriminatory, thus reinforcing stereotypes of Muslim men as villainous' and anti-women (Kishwar 1985, 10). In the Sarla Mudgal case, the media did not question the presumption underlying the judgement that (a) conversion to Islam and the adoption of Muslim Personal Law was the only available strategy to Hindu men desirous of committing bigamy; and (b) a UCC was the only remedy for the problem of bigamy (Agnes 1995, 3238). Instead, the media reinforced notions of Muslim men and Muslim Personal Law invoked by the judiciary. Likewise, media too influences the judicial process. The manner in which the Ameena case and the Taslima Nasreen case were narrativised by the media set the parameters for the issues to be debated consequently. For example, in the Ameena case it had a direct impact on the way in which the case was dealt with in the legal sphere.

The manner in which the media depicted the two cases, in a sense, places them at two extremities in terms of how Muslim identity was highlighted. If in the Ameena case the issue was constructed as a national issue' rather than as a communal issue', in the Nasreen case the very opposite happened, where the debate around the ban of her book Lajja was communalised by representing the ban as a

fundamentalist attack against the author. To quote **a** few headlines: "Campaign against Taslima: **F**undamentalist plot in Bangladesh" (Karlekar 1994), "Regime of Fatwa-Givers" (Jahangir 1994). But I would like to argue that even in the Ameena case, the Muslim identity of Ameena was implicit in the whole debate, which was foregrounded in the reporting of a subsequent case framed as a 'replay' of'Ameena'.

The scope of this chapter is limited to the English language print media in India—and I look at largely newspapers—one, because of accessibility in terms of my familiarity with the language. Two, the English language print media played **a** major role in making the Ameena case and Nasreen controversy national issues which should be the concern of all Indians. Three, the English language print media addresses the urban, middle-class Hindus who constitute the subjects of hindutva and are centrally involved in the shaping of its ideology. Four, the English language print media works within a secular-modern and liberal-humanist framework which I interrogate in section II of the chapter. Section I deals with the media constructions of the Ameena and Nasreen cases.

I

The Ameena Narrative[3]

The rescue of a 'child bride' was the news which hit the headlines of English newspapers in August 1992. Reports stated how Ameena, a young girl, was found weeping in an Indian Airlines flight from Hyderabad to Delhi. Amrita Ahluwalia, the airhostess on that flight, was said to have saved the child from the clutches of a sixty-year-old Arab, Al Sageih.

The press reported the details of the case on a daily basis Al Sageih was arrested at the Palam airport police station in Delhi. Though he was initially refused bail, he was later granted it on the condition that he should not leave India until the case was dismissed. Both Al Sageih and Ameena's parents were chargesheeted under various sections, mainly for abduction and for the buying and sale of a minor for prostitution (Khanna 1992; Sunder Rajan 1994).[4]

Media(ting) Identities of Ameena

Ameena was given various identities by both the law and the media. The question of whether Ameena was 'mature' enough to be married was to be determined by whether she was a 'minor' or an adult', which in turn depended on the particular law under which she was to be tried. Under the Child Marriage Restraint Act (CMRA) of the Indian Penal Code (IPC), a girl can marry only when she reaches the age of eighteen. The assumption is that at that age the girl is intellectually mature enough to make a decision.[5] Under Muslim Personal Law however, 'maturity' is constructed in terms of the girl's physiology, i.e., once she attains the age of puberty, which is not specified and can be as early as the age of nine. According to the medical examination, Ameena was ten to twelve years old; her parents stated that she was eighteen years old while the *nikahnama* (marriage contract) mentioned her age as thirty two. One of the issues here, as depicted by the media, was the conflict between a secular state law, i.e., between CMRA and Muslim Personal Law, just as in the Shah Bano case there was a conflict between Section 125 of CrPC and Muslim Personal Law on the question of maintenance. Unlike the judgement in the Shah Bano case, the judiciary here did not unduly dwell on the discriminatory nature of Muslim

Personal Law. Instead, the issue **was** displaced onto the question of consent by invoking Muslim Personal Law where unless the consent of the girl is obtained, the marriage is void (Mulla's Principles Sec.251). Ameena made a statement, though she later withdrew it, that she had not given her consent.[6] Thus the issue was not communalised at the judicial level. The media, however, focussed on Ameena's Muslim identity. It discussed and debated the prevalence of child-marriages in Muslim communities, the large families resulting from such early marriages, the helplessness of Muslim girls in not having a say in the matter etc. I will come back to this aspect later in the chapter.

The other question before the court was that of custody of Ameena, which foregrounded her oppositional identities as a dependent' who needs protection and an agent' who can choose' where and with whom she 'wants' to live. As one who has to be protected, Ameena was first placed at Nari Niketan, a protection home in New Delhi for juvenile delinquents and destitute women. If we look at how the concept of protection' is constructed by law, it is two sided. It works with the underlying assumption that women are dependents and have to be protected by the state or the family, which in turn becomes a means of monitoring and controlling women. 'Custody' too takes on this two-sided meaning of being in protection' and being incarcerated' *('in* custody') (Sunder Rajan 1994, 157). Custody has meant in practice anything but protection in institutions like the police or in protection homes.[7]

Subsequent to the Shah Bano case and the passing of the Muslim Women's (Protection of Rights on Divorce) Act, 1986, the Muslim woman came under the protection of her husband first, then her parents, then relatives and last under the *Wakf* Board. The family in Ameena's case, by selling her off, did not do its duty of

protecting her. So the state took over this task and placed the girl in Nari Niketan. Some women's groups, however, asked for her to be taken out, questioning the incarceration of a child for too long a period (Brinda Karat v State). Along with six other contenders the women's group Saheli applied for the custody of Ameena. Vying with Saheli were Ameena's parents, the state, the airhostess Amrita Ahluwalia, Injuman-e-Islami, a Muslim group and the All India Housewives Federation. When Ameena was given a 'choice' to express her desire, withdrawing her earlier statement, she said that she wanted to return to her family. Though the Juvenile Welfare Board saw Ameena's parents as unfit to look after her, she was sent back to them, but under monitoring by the state. Thus, Ameena was constructed both as a minor to be protected and as one with agency, capable of choice. The media, however, expressed scepticism about whether Ameena's parents should be entrusted with the task of taking care of Ameena. It empathised with Amrita's hurt and anger in not getting custody of Ameena (Thakur 1992). If this was the legal trajectory of Ameena traced by the media, there were other identities that the media foregrounded in its Ameena narrative.

I now examine in detail how Ameena came to be part of the social imaginary of the nation which was largely due to the media's narration of the Ameena story. Ameena's story is constituted at the intersection of three plots/narratives of the modern Indian nation-state. One, the national romance of the damsel in distress who is rescued by Prince Charming. Two, the hindutva narrative of the Hindu male rescuing the Muslim woman from the clutches of Muslim men. Three, the story of the selective gendering of modernity in India where the woman who is Hindu is seen

to have entered modernity while the Muslim woman is still helpless and oppressed From the swirls and shifts of these three narratives the Ameena story emerges.

Ameena was the protagonist of India's 'national romance'. Andrew Parker draws attention to this age-old depiction of "the homeland as a female body whose violation by foreigners requires its citizens to rush to her defense". This trope of the nation-as-woman which constitutes the national romance, he adds, "of course depends for its representational efficacy on a particular image of the woman as chaste, dutiful, daughterly or maternal" (1992, 5-6). Reports described Ameena as 'pretty', 'shy', reticent' and charming' and were reinforced by photographs which usually showed her looking down in a coy manner or with her family, thus depicting her as ' innocent' and 'respectable' (Appendix I). Ameena symbolised the chaste female body which would have been violated by the rich, evil Arab-Muslim who abducted her on an aeroplane. The story was constructed in the frame of an epic romance where Ameena was the damsel in distress who would be saved by Prince Charming. In Ameena's narrative, however, it was not the Hindu male but the beautiful Hindu middle-class woman, who has concern for the underprivileged, who was the hero(ine) of the episode. There was a shift from the epic romance where the man is the saviour and from the hindutva narrative where the Hindu male rescues the Muslim woman from the clutches of Muslim men. Amrita symbolises a break with the notion of a traditional Hindu woman like Sita. The new modern Hindu woman is thus the hero(ine) who rescues the poor, hapless Muslim girl from the clutches of the evil Muslim man. The main addressee of the English national daily, who is also the normative Indian citizen (the upper-caste middle-class Hindu) would vicariously participate in the rescue of Ameena and feel a paternalistic sense of well-being when

Ameena is taken care of by the secular Hindu state in its programs of starting tailoring centres for Muslim girls and in arranging for a tutor for Ameena. The role of the custodian for Ameena was played by the Hindu readers, the state and Amrita. The media thus made Amrita 'the subject' of the narrative. There were many articles which focussed on her—both in relation to the Ameena case and also exclusively on herself, her life.[8] Her concern for Ameena and other such children (she donated the money from one of her awards to CRY, a child relief organisation), her willingness to adopt Ameena were reconstructed by the media **to** image her as the protector and custodian (Appendix II).

As part of the 'national romance' Ameena did not remain merely Ameena, the individual or the personality. She became an example. There was a spate of stories in the media about minor children—both Hindu and Muslim—being sold off. There were reports of an eleven-year-old-girl being married off to a forty-four-year old deaf and dumb Sikh without consent; of a ten-year-old Hindu being sold by her maternal uncle for Rs.80,000; of a seventy-year-old Omani fisherman, already married thrice, marrying an eighteen-year-old Indian divorcee who had earlier married a Dubai-based man. Reports such as these kept appearing till November 1995.[9] In all these cases the class identity of the girl was foregrounded, emphasising the low economic status of the family. The structure of the stories were: Poor minor girl married forcibly/without consent to a rich old man.

However there was an exclusive focus on lower class Muslim girls in Hyderabad. Hyderabad was depicted as **a** region in India which has turned into an 'auction market' of Indian girls for rich Arabs. There were articles and editorials asking the state and central governments to check the ongoing 'flesh trade' (Times of

India 11 December 1993) Hyderabad was also shown as a city dominated by Muslims and localities like Basheerbagh, Charminar and Barkas were made to stand in for Hyderabad. Barkas, especially, came into focus and was represented as a kind of 'mini-Arabia'. People living here were seen to be more Arabic than Indian. An article said that fathers marry their daughters to hoary-headed foreigners, that "the populace is Arabic in lineage" and that "some families even bury their dead in that land", suggesting close ties between the two lands which go beyond even national boundaries.[10] The media depicted Hyderabad as both a city in India and a Muslim-dominated region, having intimate ties with a foreign land. In a similar fashion, and unlike in the Sarla Mudgal case where the judges saw the two as oppositional identities, the media framed Ameena as an Indian who was also marked Muslim.

The national identity evoked in the case of Ameena, contrary to what Rajeswari Sunder Rajan suggests, does not suppress the Muslim identity (1994).[11] Pointing to the difference between the Shah Bano case and the Ameena case, she argues that in the former case both the judiciary and the media and a particular historical moment served to communalise the issue. In the Ameena case there was a containment of the communalisation of the issue partly because of, what she argues as, the success of "a certain liberal-discourse of 'secular-nationalism' in universalising'—within limits a minority woman's predicament and demonstrating how issues that had primarily to do with class and gender could be successfully articulated in the fraught context of communalism and nationalism" (ibid., 154). However, I would suggest that though Ameena was not explicitly framed as Muslim, her Muslim identity hovers round the media narrative throughout. I have already pointed to how the rescue narrative of the Muslim woman by the Hindu can be read

alongside the national narrative where Ameena was constructed as an Indian (Muslim) girl who was oppressed by an Arab (Muslim) male. Importantly, in both Shah Bano and Ameena cases, it was the Muslim male who was indicted, reinforcing notions of the Muslim male—Indian or Arab—as oppressive, and the Muslim woman as oppressed—explicitly or implicitly, from within or without, by the Muslim community. So, the evocation of the national identity in Ameena's case served to construct the Arab-Muslim male as a villain. Ameena's father was the other Muslim male in the narrative. While he was shown as being so greedy as to stoop to sell his daughter, he evoked sympathy because of his poverty. Al Sageih, the foreigner who did not belong to our country[1] became the villain. Al Sageih represented "the totality of certain collective aspirations", just like the archetypal hero, who must "necessarily become immobilized in an emblematic and fixed nature which renders him easily recognizable" (Eco 1984, 110). He fitted into the stereotype of the Arab as brutal and lusty. Also, Al Sageih was so old that he cut a ludicrous figure. Pictures of him were splashed in the papers; he was mocked at as 'India's best known bridegroom of 1991'. The medical examination declared him impotent and there were allegations that he had married at least five times. His was the narrative of the Arab-Muslim which has been reiterated time and again,[12] the structure of which is:

> The Arab- Muslim who is polygamous (he has wives tucked away in the Gulf or in India). He is old, ugly but rich (he is wicked or disabled). The bride is an Indian, a 'child'/young girl who is pretty, innocent, poor, helpless and Muslim. The Arab comes to India, seeks a broker, pays a sum of money to the broker and the family, marries the girl, has sex, sells her/intends to sell her for prostitution or makes her a servant.

What the media presents as the repetitive 'reality' is actually the repetitive construction of a reality' (Sunder Rajan 1994, 153). It is on the iterative scheme of

the plot, characteristic of popular narratives, Umberto Eco says, that the reader's pleasure is based (1984, 117). The readers in this context were largely Hindu, middle-class men and women who would have readily accepted the story. Unlike the English language newspapers, the Urdu newspapers which carried these stories did not sensationalise the event. (Sunder Rajan 1994, 165).

There were other stories published during that time—about young Indian boys being maimed to beg in the streets of Arabia, especially during the Haj period, about young Indian boys being caught for camel races in Saudi Arabia. There was an illustration which showed an Arab on a camel and a Muslim woman literally 'walled' by her *burkha* and chained to an iron ball (Appendix III).[13] Photographs and illustrations accompanying reports, especially, reinforced stereotypes of Muslim men as traditional and Muslim women as oppressed.

Saudi Arabia in the Ameena case and Bangladesh in the Nasreen narrative, as we will see later, served to construct the Muslim 'other' as communal, traditional (with old fashioned views) and conservative in relation to a modern, secular India. The Indian Muslims such as Ameena's father, Badruddin are seen as an aberration in Indian modernity. Ameena's narrative is also slotted in the traditional-modern' frame, tradition often taking on the connotation of conservatism. There was a reference to how lower-class Muslim girls, because of poverty, had "an abysmal education level" and were socialised into being docile, killing any "sense of emancipation", making protests against child marriages impossible.[14] There were other stories which spoke of child marriages among Hindus. However, it was usually the states of Bihar, Rajasthan and Madhya Pradesh which got constructed as conservative.[15] There was an article on how even in California child marriages were

found, among certain tribes who had migrated from Laos.[16] Ameena traced a vast trajectory. She was an over determined subject, at once child-bride, Indian citizen, Indian girl, Muslim woman. But what I have tried to argue is that even while she was constructed as an Indian, her Muslim identity as a religious (and national) 'other' was never forgotten. This can be seen in the resurrection of Ameena again in 1993 in the dramatic 'covering'[17] of the Kaneez issue by the media.

Kaneez was one of the major case-effects of the Ameena case. On 10 December 1993, four days after the first anniversary of the Babri Masjid demolition, the rescue of Kaneez was published by various newspapers. Just as Ameena was discovered weeping by an airhostess, the newspapers announced that policemen had nabbed two Arabs roaming in Nizamuddin West along with a sixteen-year-old girl who, according to the police "seemed scared and in a state of shock". On being approached, Kaneez, the girl was said to have broken down. The story of Kaneez was constructed as a replay' of the Ameena episode (Farooq 1993). "Ameena-like case, 3 Arabs held" read one headline (Times of India 10 December 1993); "Trivial thing for Saudis" read another (Pioneer 10 December 1993). The story in The Indian Express read: "Another minor girl was saved from being sacrificed at the altar of lust on Wednesday as alert Delhi police rescued sixteen-year-old Kaneez Begum from the clutches of three Arab Nationals" (10 December 1993).

Kaneez's story was that of an innocent, beautiful girl married to a not-so-old but mentally deranged man, Mohammad-Al-Elausi (Appendix IV). Elausi and his cousin, "the Saudi nationals" were reported to have come to India "with an express intention of buying a girl" (Pioneer 10 December 1993). Kaneez was said to have been married against her wishes. Reports suggested that Elausi was careful

enough to get a written consent from Kaneez keeping in mind the precedent of the Ameena case (Times of India 12 December 1993).

Ameena' was re-visited. There were reports on the current condition of the girl. Hers was a name constantly evoked beside that of Kaneez. One editorial headline read, "After Ameena, Kaneez" (Times of India 11 December 1993). Another headline of a report in The Telegraph read, "Despite Ameena, Kaneez" (18 December 1993). There was a replay of similar articles—stories of girls from poor families being married off to old Arabs, the socio-economic status of Muslim families, links between Hyderabad and the Gulf, how government should check the flesh trade from India to Arab countries, etc.

The twist came when a different version of the Kaneez case was presented by some journalists, as to how the police had barged into the house in which Kaneez and her husband were staying and had forcibly taken them to the police station (Nayar 1994; Sahgal 1994; Kishwar 1994). One article criticised the media for having described Kaneez's marriage as part of the flourishing 'flesh trade' and for judging Elausi even before the court passed the verdict (Nayar 1994). A magazine-feature by Priya Sahgal and Sarita Rani gave the story according to Kaneez's mother, who angrily stated that Kaneez had gone into the marriage with her eyes open, unlike Ameena (1993). Some pointedly asked when child marriages are common among both Hindus and Muslims, why Muslims in particular should be targeted. However, very few newspapers followed up this version of the story. These were spaces given to accommodate, and through this to contain, alternate views. Thus, the ideological state apparatuses, as Althusser and Raymond Williams point out, unlike the repressive state apparatus allow dissent, but also check it (Althusser 1971; Williams 1980).

Though there were different constructions of the Kaneez story, the dominant construction was in the mould of Ameena's and this I suggest is due to the underlying communal element in cases like Ameena's which made possible media's sighting of the Kaneez case and its construction in a similar manner.

The Taslima Nasreen Narrative

I would like to clarify at the beginning of this section that I am not dealing with the contents of the book Lajja or with Nasreen's views on communalism, fundamentalism or secularism but with the media constructions—around the Nasreen case—of the Muslim community and Muslim women, of community (Hindu/ Muslim), nationality (Indian/Bangladeshi), and gender.

Though Taslima Nasreen is from Bangladesh, the reason I discuss her is because her case was taken up in a big way by the Indian media. The media discourse around Nasreen shows the manner in which Muslim women get constructed in India and the contribution of the media to such constructions.

For almost two months, from the end of April through June 1994, newspapers were talking about how Bangladesh, in the grip of religious fundamentalism was prosecuting Taslima Nasreen, a feminist author and activist, for allegedly causing hurt to religious sentiment. As a feminist, questioning patriarchy, Nasreen was depicted as a person with agency. But as one who was prosecuted and exiled she was also seen as one who was oppressed and hence needing protection.

India and the West were presented as the custodians of Nasreen. India was shown as the secular/Hindu, democratic state protecting Nasreen, the Muslim woman. One report pitted "the- government of India...sympathetic to the beleagured(sic)

writer" against "a country like Bangladesh where only the trappings of an open democracy exist and a secret fancy for a theocratic set up still dominates the minds of the illiterate majority" and where "a woman who dares the establishment is bound to be damned" (Independent 27 April 1994). The discourse of protection, evident in the Shah Bano case, of the Hindu male [here (Hindu) secular India] protecting the Muslim woman from the Muslim male [here (Muslim) fundamentalist state] was re-invoked here.

In some of the reports, it was the West which was seen as offering shelter and protection to exiles from Muslim fundamentalist states. The names of Salman Rushdie and Nasreen were evoked, the *fatwa* against Nasreen seen as another human-rights violation in Muslim fundamentalist states (McGirk 1994). In constructing Nasreen as a feminist who attacks all institutions that legitimise patriarchy, and that it is only incidental that Islam is one of them, her stand was seen as legitimate and acceptable to all. It was seen as if only fundamentalist (read Islamic) countries like Bangladesh would raise such a furore over the issue.[18]

For a western audience, it was not merely Bangladesh but Asia itself which was represented as communal, fundamentalist and backward.[19] Whether it concerns Bangladesh or Asia, the metanarrative in both discourses (hindutva or orientalism) is that of modernity, with the West as hero and the East (Bangladesh and Asia) as the villain of the narrative. In both Indian and Anglo-American media discourse, modernity is unproblematically seen as progressive, secularism privileged over communalism, fundamentalism etc.

Thus, the depiction of Bangladesh as a fundamentalist state by the Indian and Western media also served to define oneself—India and the West—as the saviours,

which the readers, as in the Ameena case, would identify with Reports in India called on the public to support Nasreen. They decried the apathy of the public, intellectuals and activists to the plight of Nasreen (Dasgupta 1994).

The media, working within a liberal framework foregrounded the ban on Lajja as a violation of 'an individual's rights'. The violation gets highlighted especially when the person concerned is a writer, with the conventional attributes of being an extraordinary individual endowed with heightened sensitivity, elevated consciousness, and 'Imagination'. The fight of Nasreen was taken up as the classic battle of the author' against The Author" (God), of the word' against "The Word'. A writer stated how "Freedom of thought is increasingly under attack everywhere in the world" (Ghosh 1994).

Media in speaking about writers in the past victimised by religion ended up specifying only authors who were persecuted by Islamic fundamentalism, the latest being Salman Rushdie. The editorial of The Indian Express declared how

> Imagination seems to have become the biggest enemy of a faith. In retrospect The Satanic Verses is no more a book, it is a metaphor for an imagination which is hunted, banished and even assassinated.... Taslima Nasreen...carries in her tragedy a chilling message, the archaic renaissance of Islam through its permanent misinterpretations of revelations, continues to thrive on what Rushdie calls 'autocannibalism'... The doors of [Islam]...are closed to anyone who asks questions. Taslima did ask one, the answer is baying for her blood. (7 June 1994)

However, unlike Rushdie, whose literary-imaginative powers were undisputed, the media extensively debated the literary merits of Nasreen, the author.[20]

Thus, in the media's framing of the Nasreen debate, it continuously displaced Nasreen's identity from one onto another, as 'agent', as 'dependent', as 'individual', as author', these identities themselves being contested within the liberal-humanist,

secular-modern framework of the media. As in the case of Ameena, Nasreen too did not merely remain Nasreen, the individual. There were stories in the media which spoke of the atrocities committed on Muslim women "against the backdrop of countless *fatwas* being issued by the *maulanas".* There were articles about a Muslim woman, buried up to her waist in a pit and stoned to death because she had divorced and remarried (Jahangir 1993; McGirk 1994). As in the case of Ameena, the media constructed the Muslim male and the Muslim community as oppressive and patriarchal and Nasreen represented the Muslim woman who was innocent and oppressed.[21]

In examining how the media configured Nasreen's identity in relation to nation, community and gender, unlike the Ameena case, where Ameena's communitarian identity (Muslim) had to be underplayed to foreground her national (Indian/secular) identity, here Nasreen's communitarian identity (Muslim) was not seen as conflicting with her national (Bangladeshi) identity. In fact, the two converged in the imaging of Bangladesh as a Muslim fundamentalist state. If newspapers constructed Bangladesh as a Muslim fundamentalist state, Nasreen claimed that her nationalist identity was a Bengali' identity and that she was worried about the attempts to Islamise the Bengali language (Islam 1994). This is to point out that whatever may have been Nasreen's views or intentions, what really mattered was how she got constructed, for the effects' of the Nasreen case—the *fatwa* against Nasreen, BJP's reaction, the manner in which Lajja was constructed—resulted from the latter and not the former.

All of Nasreen's identities invoked by the media, in effect, framed her as a Muslim woman who was oppressed by her community. There were several stories in

the media about the immediate consequences of the Nasreen case. An article in The Lawyers written from a 'secular', pro-judiciary point of view talked of the danger of the proposed introduction of a Bill which made it a criminal offence to defile the Koran and the name of the Prophet. The offense was said to be punishable by a maximum of life imprisonment and death and not requiring proof of intent or prior government sanction (Hossain 1995). Such reports further reinforced the construction of Islam and the *Shariat* as communal and barbaric just as with the passing of the Muslim Women's Bill, 1986 there were reports and studies of how Muslim men could avoid paying adequate maintenance to their wives by appealing to the bill (Agnes 1994a; Mukhopadhyay 1994). I accept that both the bills are problematic; the former, in effect, suppresses critiques of oppressive power-structures from within the community; the latter deprived Muslim women of equitable maintenance. However, there always exists the danger that these reports and studies would reinforce notions of Muslim men as fundamentalist and anti-women. For instance, sections from Nasreen's book Lajja, which criticised Muslims in Bangladesh for oppressing minority Hindus, were circulated by the RSS in their journals. In not too different a fashion, the Indian media in its representation of the Nasreen case portrayed Islam as a barbaric, intolerant religion always at war with secular forces, with headlines often invoking concepts like *fatwa* and *jihad.* An article in The Indian Express carried the headline "Prisoners of God: Islam's Jihad against Imagination". Such articles were accompanied by illustrations of a knife or a sickle dripping with blood (Appendix V).

Fatwas--which are nothing more than the *ulema's* position on an aspect of conduct or belief—get characterised as "death threats" with connotations of something 'ominous', like a curse (Ahmed 1995). One of the articles in The Independent

introduced Nasreen as "a Bangladeshi poet and feminist who has a fatwa-death threat—on her for blasphemy" (McGirk 1994). In the modern framework of the media, *fatwa* and *jihad* become representative of Islam, placing the latter in the medieval period, characterising that which is 'primitive', 'archaic' etc. As in the hindutva discourse, in the media too, communitarianism in relation to Muslims invariably gets depicted as communalism and fundamentalism.

II

Media Framework

The media constructed the Ameena and Nasreen stories as human interest stories, framing them in a 'modern', 'secular' grid. However, in constructing them within a secular, liberal problematic, the media communalised the issues, i.e., the Muslim community was represented as backward and Muslim women as oppressed by the community. As suggested earlier, the hindutva discourse circulating in India permeates through both institutions termed communal' and 'liberal'. Just as the call for maintenance in the Shah Bano case from a secular, gender-sensitive point of view ended up in a lashing out at the minorities, the Ameena narrative too, in a covert manner, constructed the Muslim woman as a victim of Muslim men. In the Nasreen narrative, the Muslim woman was more explicitly constructed as oppressed by the Muslim community.

In the liberal-humanist framework of the English language print media, its addressee in the Indian context is the middle-class Hindu subject. The invocation of this humanist subject, as many have pointed out, is done through a series of exclusionary procedures (Tharu and Niranjana 1994). Implicit in evoking this subject

is the 'othering' of Muslims In the narratives of Ameena and Nasreen, though the narratives revolved around them, the media's perspective was not that of Ameena's and Nasreen's. The media identified with Amrita and could empathise with her hurt and anger when Ameena decided to go back to her parents,[22] and so would have the readers. In Nasreen's case, there was anger against India not doing enough for Nasreen. An article spewed anger that Calcutta had let Nasreen down, for not a single major rally was held to protest against the ban (Dasgupta 1994). A reader responding to the article hit out at left Muslim intellectuals and writers in India and Bangladesh (Indian Express 18 June 1994). In this sense, Ameena and Nasreen were not the subjects of the narrative. They were means to critique communalism, fundamentalism and a way of defining India and the upper-caste, middle-class Hindu as protector and saviour. The media discourses served to reinforce stereotypical notions of Muslim men as 'villainous'. If we look at the manner in which the media projected the fundamentalist attack on M.F.Hussain by the Shiv-Sena, it did not condemn the act as an attack on the freedom of expression of artists, as it did in the case of Nasreen. Instead, it concentrated on the responsibility of artists to be sensitive to the religious sentiments of the people and not portray things objectionable to a particular community. The media's statements on the two accounts seem to be different, except in the commonness of the media's identification with the Hindu middle-classes in India. As Ranajit Guha points out in relation to traditional nationalist historiography where the subaltern is 'othered', in English language media discourses too a similar process occurs. It is in this context that we have to interrogate our narratives', as Guha points out, to make the subaltern the subject of our narratives.

In the next chapter, I look at Sara Abubakar, a Muslim woman who writes in Kannada to examine representations of Muslim women in her texts. I probe her location to see the kind of resistance available to a middle-class Muslim woman in the contemporary Indian context. I suggest that a liberal-humanist position within a secular-modern framework offers limited space for a radical perspective of a gendered subaltern.

Endnotes

[1] Quoted in Tharu and Lalitha 1995, 105.

[2] For example, Victoria L. Farmer talks about how in the 1980s with the government of India holding monopoly over television broadcasting systems, the programmes telecast highlighted the government's ideology, which in turn put into question the very legitimacy of the government's secular and democratic credentials. She analyses the serials "Ramayana", "Chanakya" and "Tippu Sultan" to show how they contributed to a nationalist history in which the upper-caste Hindu is the true nationalist and Muslims become non-Indian (1996, 102-106). Another study by Tejaswini Niranjana focuses on popular cinema, In a series of articles on films directed by Maniratnam, she suggests a similar process of constructing a national identity which posits a middle-class, urban male who is invariably Hindu (read secular) as the citizen subject in opposition to the Muslim male who is invariably fundamentalist, thus excluding the latter from the discourse of the nation (1994; 1995).

[3] The Ameena narrative I trace draws on the narrative traced by Rajeswari Sunder Rajan (1994) wherever relevant to my argument. However, I also mark significant departures from her.

[4] They were chargesheeted under sections of the IPC on charges of abduction for the purposes of illicit intercourse(sec. 366), cheating and forgery (sec.420), for using forged documents (sec.467, sec. 471 and sec. 486), for buying and sale of minor for purposes of prostitution (sec.372 and 373 respectively) and under criminal conspiracy for coming together to commit the above offences (sec. 120B). This was read along with sec. 4 and sec.6 of Child Marriage

Restraint Act, 1929 which required a girl to be a minimum of 18 years before she could marry (Khanna 1992; Sunder Rajan 1994).

[5] The first legislation on the age of consent was passed in 1860 with relative ease by the British government in line with its policy of reforming Hindu society. This Age of Consent Act fixed the minimum age for sexual intercourse at ten. It was the 1891 Age of Consent Bill which fixed the minimum age at twelve that raised a furore. It was led by the Hindu nationalist Tilak who brought up the question of interference by the British in local religions and customs. Subsequently, the minimum age was fixed at eighteen for girls and twenty one for boys (Kosambi 1991). Meera Kosambi points to how such controversies further relegated the cause of women by making social constraints on women more rigid (ibid.).

[6] Rajeswari Sunder Rajan in her article on Ameena points to how in cases such as Ameena's the question of consent is never a substantial one. She could have signed her consent (as Kaneez had done) and still claim that she was forced to do it. Ameena could claim again, as she did, that she had given her consent, merely to exonerate her parents. This is because the subject concerned is a child[1] under law. However in the case of an adult' or a 'woman' involved in matters regarding sexual offences, the question of 'consent' determines the fate of the offender wherein if the victim (usually a woman) is proven complicitous to the crime, the offender can be exonerated (1994, 169).

[7] Hamida, a 10-year-old Bangladeshi who was repeatedly raped by eight men, five of whom were policemen, was placed in Nirmal Chhaya, a juvenile detention home in Delhi. During her incarceration for more than two years, she was sexually abused by other inmates. Hamida in conversation with Roma, who fought for her and was also her translator, said, "Where have you sent me, *Bua?* Everything those men did to me, these older girls are doing to me again every night. They keep asking me to show them what the policemen did to me". (Agarwal 1995). Two other rescued brides, Fatima and Kaneez (whom I discuss later in the chapter) who were placed in Nari Niketan expressed their wish to go back to their husbands in order to

get out of these homes. Fatima said, I had been in that terrible place for three days. I was a little scared they would not send me back to Calcutta [her home].... The thought of staying in Nari Niketan forever horrified me and I believed the only way out was to go to Kabul [with her husband]" (Qtd in Sunder Rajan 1994).

[8] See for example " AmritaThreatens Fast", a report in The Times of India (Fernandez 1992) and "The Flight Back" a profile by Punam Thakur (1992).

[9] See for example reports in The Indian Express on 23 December 1992, 5 March 1993 ("73-Year-Old Omani Weds 18 Year-Old-Girl"), 14 July 1993 ("The Ameenas Speak Out"), 12 August 1993 ("Calcutta's Own Ameena"), 6 April 1994 ("Yet Another Minor Bride Rescued from Wedlock") and 28 November 1995 ("Minor Girl from KGF Married to Arab Grandpapa").

[10] A story which appeared in The Telegragh begins, "Barkas, the name itself is a corruption .... Even today, this colony is a corner of Hyderabad that is forever Arabia". It further says that the Ameena charade is not limited to just Barkas but the whole of Hyderabad (Thakur 1993). Another story reported how thousands of fathers in Barkas and Falaknuma have been selling their daughters to Arab sheikhs for over three decades now (Thakur 1992).

[11] Rajeswari Sunder Rajan offers a partial historical explanation to the containment[1] of the Ameena case where she argues that placed between two charged' events, Shah Bano and Babri Masjid, Muslim fundamentalism was at a low key and Hindu fundamentalism seemingly biding its time. Since Shah Bano had just occured the dangers of communalising the issue were kept in mind by several institutions. Unlike Shah Bano, here the Muslim husband had no support; the Muslim Personal Law Board was defensive rather than aggressive on the issue of validity of marriage and called for reform from within; the Hindu fundamentalists were pre-empted by All India Democratic Women's Association and Janwadi Manila Samiti in espousing Ameena's rights; the courts by separating the issue of prosecution from the issue of custody emphasised on Ameena's future than her past; the media by

constructing Ameena as a human interest story within a liberal problematic helped to contain the issue (1994, 155-157)

[12] See for example a story "Brides for Sale" in Probe India as far back as August 1981. It talks of how "some lascivious Arabs have turned India into an auction market for Indian girls" and describes how one such became a prey to lust: The third bride was looking at the strange surroundings when "Saleh pounced on her. Noora dodged his grasp and tried to escape, but Saleh was panting with desire and rage. Half mad and in a perverse fury, he bolted the door from inside and pulled out his leather belt. He started lashing out at her and abusing her, 'Do you think I have paid...for nothing'. He picked her up bodily and flung her onto the bed. Shareefa and Lateefa, cowering in mute terror, stood rooted to the spot. Children themselves how could they protest against a rapacious old man? But Noora refused to cooperate with her husband'. So trying another tack, Muhamed Saleh grabbed Shareefa and had intercourse with her in order to allay Noora's fears about the savage goings-on. Eventually, of course, the self indulgent child molester forced himself upon the terrified Noora" (Mishra 1981).

[13] The illustration was not in any direct relation to the piece it accompanied which, on the contrary, argued that it was not Islam but local customs and traditions in the Arab region which made politics mostly a male domain (Deeb and Tamini 1995).

[14] There was in many articles a middle-class anger against 'child brides' not protesting against their marriages. And in a typical journalistic fashion experts were asked to opine on this aspect. One such comment characterised the Muslim community as an "extremely insulated and incestuous section of society" where "not only gender operations within it serve to discourage the girls, but they also have an abysmal education level. All socialisation processes have killed any initiative or sense of emancipation, preventing them from making any protest when marriages like these are fixed" (Thakur 1993).

[15] See for example reports in Deccan Herald (24 April 1993), The Sunday Observer (2 May 1993), The Independent (4 May 1993) and The Times of India (9 May 1993).

[16] The report which appeared in The Telegraph mentioned how "perhaps no group fleeing America possessed fewer modern skills" and how after marriage, "over shots of whisky elders from both sides haggle over the payment due [to] the brides clan" (12 May 1993).

[17] I borrow the word covering' from Said's work Covering Islam (1981) who uses the word to suggest (a) the media coverage of events and (b) the process of veiling certain facts in the coverage.

[18] See for example Sujit Das's article (1994). McGirk's article too talks of how "A dozen malicious books about her, all written by men, were displayed at the last Dhaka book fair, with titles such as Taslima Knows No Shame (1994). It is not so much the remark itself as much as the attitude behind the entire article that such cheap, silly, unsophisticated behaviour can be only that of Bangladeshis, of non-Western people.

[19] See McGirk's article where he says that by being issued *a fatwa* in her country Nasreen also became "the unlikely champion of Hindu extremists in India". He states that Nasreen's next stop would be Britain where she will join the other exile, Salman Rushdie (1994).

[20] Some defended her writing, for example Amitav Ghosh said that its unconventionally is deliberate and it questioned the prescribed canon (1994), while others termed her writing 'mediocre' especially when compared to Rushdie, for example S. Prasannarajan (1994) and Hiranmay Karlekar (1994). Further, some argued that Nasreen's writing is not considered good enough by critics, perhaps, because she writes in Bengali and not in English (GPD 1994).

[21] In his article McGirk says that Nasreen is a feminist but he describes her as one with "childish frankness", "nervous at the peephole, doubting her own invincibility behind the door" or as smoking often but inexpertly, constructing her as an innocent child trying to resist the big, bad world. He says that Nasreen accuses Bangladeshi men of wanting to keep women ' veiled, illiterate and in the kitchen' thus constructing a certain authenticity around the remark(1994).

[22] In a story by Punam Thakur, Amrita spoke of how she got no returns for her good deeds. She felt betrayed by Ameena, for whom she had grand plans. After Ameena went back to her parents Amrita stated that she would wash her hands from the case (1992).

CHAPTER FOUR

Muslim Women and Fiction: To Evolve a Subaltern Perspective

> So-called secular Muslims like us don't say a word of protest when Muslims are slaughtered because we too are afraid of being labeled communal. We are silenced by the need to be called secular...the intellectual Muslim—and I am not excluding myself—have not raised their voices strongly enough.
>
> Shabana Azmi "A Striving Voice" Manushi 54-55,

This chapter deals with the question of representation in the sphere of fiction', governed by notions of imagination' and 'subjectivity', just as 'law' and 'media', which I examined in the last two chapters, represent the public sphere', governed by notions of truth' and 'objectivity'. However, I would argue that conventional definitions of both are inadequate. The two spheres are not so much opposed as inextricably woven together. With regards law and media, we saw how stereotypical notions of Muslims, represented in literature, cinema and conversation are also invoked in the public sphere. Fictional representations, hence, cannot be dismissed merely as ideas' or 'someone's fancy', for they too have 'material effectiveness' (Said 1979).

In looking at Muslim women narratives, in this chapter I focus on a Muslim woman who writes in Kannada,[1] Sara Abubakar, to examine (i) the question of

representation of Muslim women in her writings, i.e., how Muslim women are depicted in her fiction. This will form section II of the chapter and (ii) the construction of national identity and communitarian identity in Sara's writings i.e., how nation, community, and the question of gender in relation to the two, are configured in her writings. This forms section III of this chapter. Through this examination I suggest that the location of Sara makes it difficult for her to work in other than a 'secular-modern' framework and thus limits the space for any 'radical'[2] critique of the nation-state and other institutions of modernity.

Section I will provide a background for Sara 's writings. It will deal with (i) representation of Muslims by non-Muslim writers, (ii) Muslim writers in the Kannada literary tradition, and (iii) representation of Muslim women by Muslim male writers. This will help us understand one set of histories that Sara has to contend with.

The scope of this chapter is restricted to Sara's novels, Chandragiriya Theeradalli (On the Banks of Chandragiri), 1984, Sahana (Tolerance), 1985; Vajragalu (Diamonds), 1988; Kadana Virama (A Stop to the Struggle), 1991; Suliyalli Sikkavaru (Caught in the Current), 1994; Pravaha Suli (Flood-Current), 1996 and Tala Odedha Doniyali (In the Boat with a Broken Bottom), 1997. I also draw to some extent on her other writings, speeches and interviews.

I

Representation of Muslims in Kannada Literature

Kannada literature till almost the mid-1970s was dominated by a Hindu, upper-caste male perspective. These narratives, largely drawing upon the Vedic

tradition, marginalised other traditions and customs. If we look at the early novels in Kannada literature, written during the nationalist period, as argued by Shivarama Padikkal, they were attempts to imagine' a new nation (1993). He argues that in this "story of the English educated class's struggle for social identity for a new nation and a new community", explicitly or implicitly the Muslim was constructed as the 'other[1]. The novels which were published in the Dakshina Kannada region (coastal Karnataka) had as their central theme the reform of women within the framework of 'modernity'. These addressed the upper-caste, middle-class Hindu woman as the citizen-subject, thus making invisible Muslim and dalit women.[3] In the literature coming from Karnataka which was part of Bombay presidency, there was an assertion that Hindu culture was superior to modern western culture and that this awareness should be built among the peoples of India. In this narrative the Muslim was explicitly constructed as anti-national, a destabilising force, the enemy to be defeated. In Galaganatha's novels, for example, Muslims were the villains, the brute conquerors, those who were responsible for the fall of the Vijayanagar kingdom. If they were depicted as good', it was for being supportive of the Hindus or for being anti-Muslim. The third kind of novel, originating in Princely Mysore, bemoaned the decline of the Mysore state, while celebrating the greatness of Maharaja Mummadi Krishnaraja Wodeyar. Again dalits and Muslims were marginalised in this discourse (Padikkal 1993, 234). In the later Kannada writings we find, across ideologies, a silence on the Muslim community. If Muslims are represented, they are shown as minor and insignificant characters like fish vendors, *jataka sabis* (horse-cart drivers) and as prostitutes.[4] They also figure as villainous *palegaras* (local chieftans). In Kuvempu's Malegalalli Madumagalu, Muslims feature as men who collect tax from

the people. Associated with this figure is his cruel nature, exemplified in the phrase 'honnali hodetha' which characterises the brutal manner in which these men collect money by beating up people. In the grain of conventional nationalist histories, Muslims in later Kannada literature too are represented as invaders and as destroyers of Indian/Kannada culture. In the historical novels of Ta. Ra. Subba Rao and writings by Masti Venkatesha Iyengar, for instance, Hyder Ali and Tipu Sultan are represented as exploiters of the people. In contemporary times, during the aftermath of the Shah Bano case, a story was published in the local English newspaper in Bangalore which caused much debate. It was called "Mohammad, the Idiot" and it portrayed a man who is described in the story variously as one with "unusually big ears and an enormous mouth", as "the incomplete evolution, a living museum", "For the monkeys, an evolution backwards", and as "Mohammad the idiot, the mute prophet". In the story, Muslims are depicted as illiterate, noisy and dirty, having big families and yearning to go to the Gulf to make money (Namboodiri 1986, 7).

Muslim writers in Kannada can be categorised into two according to the period in which they wrote. Those who wrote before 1975 belong to the first generation Kannada Muslim writers. Prominent among them were K. S. Nissar Ahmed and M. Akbar Ali. There were others like M. Jeevan, M. Dastagir, and Abdul Majiid Khan who were not so well known. These writers did not construct a Muslim identity in their texts (Sabarada 1992, 28).[5] They wrote like mainstream Kannada writers because of the compulsion to be accepted in Kannada literary circles and by an audience dominated by values of a national modernity which, as we discussed in Chapter Three, is marked Hindu. Rahamath Tarikere, a well-known critic belonging to the Bandaya (Protest) school points to how in such a context where historically,

Muslims are seen as fundamentalist, Muslims like him vvere[/are] anxious to project themselves as 'secular'. This was effected through a foregrounding of their Kannada identity, which was seen as secular', and a simultaneous suppressing of their Muslim identity (1998).

It was in the 1970s, with the Bandaya or Protest movement which marked the emergence of dalit writing,[6] that women's writing gained prominence and Muslims also started writing about their community. Writers like Boluvaru Mohammed Kunhi, Fakir Muhammad Katpadi, Abdul Rashid, Sara Abubakar and Banu Mushtaq who started writing around 1975 belong to the second generation of Kannada Muslim writers. The Muslim character was not the stereotypical villain, corrupt, evil and fundamentalist. He/she was placed in history, compelled to negotiate with factors of class, community, gender etc.

For writers like Kunhi and Katpadi, the cultural identity of Muslims in India is a central concern. In Kunhi's Jihad (Holy War) for example, Rashid faces the question of preservation of a minority culture in the face of a dominant culture. Rashid rebels against some of the Islamic customs in his village when young. However, when he moves into the city and begins living in a Christian household and teaching in an English-medium convent, he is anxious to preserve his Muslim identity. He fasts during the month of Ramzan and is adamant that he follow this practice even after he faints once in the school (Kunhi 1995, 174).

At one level, both Kunhi and Katpadi accept the values of modernity. Kunhi's Jihad (1995) and Katpadi's "Dweepa" (Island) (n.d) underscore the importance of English education by stressing that Muslims should go to 'secular' schools and not *madrasas* if they have to compete with the mainstream Hindu majority and improve

their socio-economic position. With 68% of the Beary community (a section of Muslims from Dakshina Kannada) belonging to the lower class, these writers who belong to that community urge Muslims to goto English medium schools, the kind of ' secular' ideology which is Hindu nationalist (as suggested in the introduction) in such institutions notwithstanding. In Jihad. Rashid is disappointed and surprised when he finds that in the library, amongst the line of books including the Ramayana, the Mahabharata and the Bhagavad Gita, none of their religious texts are there (ibid., 25). Both Kunhi and Katpadi emphasise the need to break with tradition and accept modernity. However, their's is not an uncritical acceptance. In Kunhi's "Dafana" (Burial), the narrator's friend argues that the narrator should burn his mother's corpse and not bury it if the narrator is, as he claims to be, a rational' person. The narrator is disturbed at discovering that his friend is also one among the majority of Hindus who think that "for a Muslim to become rational is to become a Hindu" (Kunhi 1990, 2). Kunhi also provides a critique of the state apparatuses, both ideological and repressive. The question that Rashid has to confront in the library incident cited above is that of the marginalisation of Muslim culture in secular', modern institutions like schools. Kunhi's "Jana Gana Mana" depicts how the police and legal system discriminate against Muslims. One of the policemen in the story says, "Our laws do not apply to them. Family Planning is not compulsory. For what *karma* do we have holidays on their festival days?" (ibid., 110). In Kunhi we find a critique of the nation-state, questioning its secular, democratic claim.

Looking at how Muslim women are represented by Muslim male writers, there are two aspects that I would like to foreground. One is their critique of Muslim patriarchy. In critiquing practices of wearing a *burkha*, being in *purdah* etc., Kunhi

and Katpadi show how patriarchy is closely intertwined with factors of class and community as well as notions of modernity. Class determines economic practices like distribution of labour which is in turn linked to social practices like the wearing of a *burkha*. In Katpadi's "Musuku" (Veil), Maimunissa's friend tells her, a *maulvi's* daughter, "I am older than you. I should have worn a *burkha* earlier than you. But if I wear it, we will not be able to live. Along with rolling beedies, we have to work in the fields, go to the landlord's house to carry sand" (Katpadi n.d., 100).

The writers critique the oppression resulting from women having to be the bearers of Muslim tradition and custom, for instance, women not being allowed to go to schools or to see films, both schools and films being symbols of modernity.[7] When Salma in Jihad, for example, starts going to school,the *Jamat* refuses to let her draw water from the well. Katpadi in "Vaiyaktika" (Personal) (n.d.) criticises the Muslim traditionalists and *maulvis* who supported the Muslim Women's Bill, 1986; according to him, in the name of protecting the *Shariat* they did injustice to women. Kunhi in "Jana Gana Mana" points to how Muslim women are oppressed not merely by Muslim men and Islam, as generally perceived, but also by a patriarchal nation-state. In the story a Muslim woman is accused of stealing a child. During police interrogation the sub-inspector makes lewd remarks to her. In a conversation later, he argues that the woman must have stolen the child because she was born to a Beary (1990, 110). The stereotype of a Beary as a thief is still in vogue, as apparent in commonly used phrases like 'Beary Buddhi' (a Beary's mentality) which refers to a thieving mentality. The sub-inspector says that the theft is a ploy to convert the child, as part of a conspiracy by Muslims to outnumber the Hindus in the nation (ibid). This stereotype of the Muslims is part of the hindutva discourse where all Muslims in India are seen

as trying to capture political power and turn India into an Islamic nation either through polygamy or conversion. The sub-inspector says that Muslims should be beaten and chased to Pakistan. Subsequently, in the court, by some devious argument and not allowing the woman to speak, the judge concludes that the child has been stolen. "Maaraata" (Sale) (1990), unlike the stereotypical story of a Muslim male who rapes the Hindu woman, is about Sitamma, a prostitute, who tries to save her daughter, Jalaja from the sexual advances of her (Sitamma's) brother. Sitamma wants Jalaja to marry Rahim who is in love with her. Their plans, however, are thwarted by the uncle and RSS members in the village in collusion with the police. "Jana Gana Mana" and "Maaraata" present a perspective of the subaltern—be it the accused Muslim woman or Sitamma--who have to contend with patriarchy like that of Jalaja's uncle, fundamentalism of the RSS kind and state apparatuses like the police and the judiciary which discriminate against those disadvantaged by factors of class, caste, community and gender.

Another aspect of the representation of Muslim women in Kunhi's and Katpadi's texts is that it is the Muslim woman who is capable of taking a leap' into modernity which is not possible for the man. In Jihad, it is Salma, a college student living in a village, who writes to her brother, an English-educated, convent-teacher, that she has married 'P. D.' and that he, like Rashid, does not believe in *jati*(caste). At the end of the novel we find Rashid saying, "Salma... I lose Salma..., what I could not do in all these years you have achieved without a whimper...you win Salma.... Falling prey to *jati,* I have done injustice to Rosy" (Kunhi 1995,192). Rashid, who is in love with a Christian girl is unable to take this 'leap'. He is shown caught in a conflict between tradition and modernity, which he is unable to resolve. The ending

of the novel shows him breaking down under the pressure of this conflict. His sister, Salma is represented as revolutionary, as one who is able to break with tradition, something the Muslim male is unable to do. In Katpadi's Sarakugalu (Commodities) (1989), which is more in the mould of the Hindu 'reformist' novels of the social reform period, a lower-class Muslim woman falls in love with a college-going upper-class Muslim boy in whose house she works as a maid servant. Nafisa, like others living in the same lane, has a mixed Indian-Arab parentage. Customarily, a woman from that lane would marry an Arab, be his sexual partner for a few months, after which the Arab would divorce her and go back to his country. The rest of the village see these women as immoral and hence do not marry them. Saleem and Nafisa initially resign themselves to the fact that they cannot get married. However, after Saleem divorces his first wife, he decides to marry Nafisa and gathers enough courage to propose to her. Though Nafisa's first reaction is that of joy, she tells him that she will marry him only if he marries her in the presence of the whole village. Saleem, like Rashid is shattered by Nafisa's demand and is shown to be in a quagmire which he cannot get out of. Nafisa, a lower-class Muslim woman, is represented as possessing choice. She and Salma are shown as having agency' which the Muslim male does not seem to have. That the Muslim men are shown incapacitated by action probably suggests what for Kunhi and Katpadi is the Muslim man's predicament in India. Unlike the Muslim woman who is not shown as active in the public sphere, the Muslim male is shown confronted by the dilemma of having to accept values of modernity which is conventionally seen as 'progressive' and the need to preserve his Muslim identity in the face of a modernity, increasingly shaped by the values of a dominant Hindu culture and a global Western culture.

II

Representation of Muslim Women in Sara Abubakar's Writings

Central to Sara's texts is the question of women's oppression in society. She mentions, in an essay, how both religion and society serve to legitimise patriarchy (Abubakar 1991b, 42). Her novels, on the one hand present a critique of patriarchy in Islam. For instance, in her first novel Chandragiriya Theeradalli (1984a) Sara critiques the practice *of talaq* which does not require the consent or even the presence of the wife. Further, *talaq* is often given in a fit of anger or an impulsive moment. However, the Koran does not allow the husband to revoke the *talaq.* If the couple then want to remarry, the woman has to go through another marriage which has to be consummated. After three months, which is to ensure that the woman does not bear a child from the second marriage, a *talaq* can be obtained and she can marry the first husband. In Chandragiriya Theeradalli. Nadira's torture at having to marry a second time is highlighted. Sara's protagonists are shown feeling uncomfortable at the thought of a second marriage, contrary to the stereotypes of Muslim women as polygamous, loose' etc. However, writing within a 'modern' framework Sara accepts monogamy as the norm and polygamy as backward', undesirable' etc. She does not historicise monogamy' itself and examine how it is linked to a notion of 'property' which is configured within a certain system of patriarchy, it makes the man the sole proprietor of his wife and ensures that it is his 'legitimate' children who inherit his property. Nadira's belief in monogamy, endorsed by Sara, is the dominant cause for her anger against her father, husband, and the *maulvi* who force her into marrying a second time."

Though Sara critiques Islamic patriarchy, she claims that she does not criticise the Koran as much as critique the manner in which it gets interpreted. "My intention is not to make corrections to the Koran", she says (Abubakar 1984a, viii). She points out the requirement in the Koran that the three *ta/aqs* should be uttered with an interval of one month between each. However, in practice they are uttered at the same time (ibid., viii). She speaks with the rage that Nadira cannot voice:

> Whatever the father, husband and sons say Nadira has to listen. In their eyes, the child is Rashid's [the husband's]. It is his responsibility.... There is hardly any relationship between Nadira and the child.... If the father says, "I don't want that husband of yours, I'll bring another husband", she has to accept it... If the husband says, "I leave my wife" thrice, it [the marriage] is over. From that moment he and she are strangers to each other (But the woman does not have that privilege), (ibid., 29)

The protagonist is angry with her father for not asking her permission before getting a *talaq* from Rashid, and with her husband for not bothering to find out the truth. He does not even come to visit her or their child. Instead, he sends his mother to steal' the boy. Nadira is helpless, as the father is the rightful guardian of his children and she has no legal rights over the child. [8]

The depiction of women's oppression in Sara's writings, as she too argues, is not merely specific to Muslims but applies across communities (Abubakar 1991b, 42). The texts problematise questions of rape in marriage (as in Sahana, Vajragalu), pressure on women to bear sons (in Sahana), of mother-in-law ill-treating daughter-in-law (in Sahana, Suliyalli Sikkavaru, Pravaha Suli. Kadana Virama, the last specifically dealing with Hindu society) and discrimination between a son and daughter (Sahana). When Nasima in Sahana gives birth to a daughter, her husband rudely asks, "I thought it would be a boy. Have you given birth to a girl the first time itself (Abubakar 1985, 97). The daughter, Maria, is not fed properly. As a child, she

is given rice while her brother gets milk. As with Kunhi and Katpadi, in Sara too the question of patriarchy is tied to the question of class. For instance, Nasima lives with her husband and two children, mother-in-law, sister-in-law and her two children and a brother-in-law. Since the family is poor, she not only has to do the household work but also roll beedies. The excess work, poor diet and inhalation of tobacco make Nasima weak, and she is affected by tuberculosis. Her husband, finding her no longer attractive and in the hope of obtaining a dowry which he desperately needs to get his job back, decides to marry another woman. The case is, however, different in middle-class households where financial need is hardly the factor for taking dowry.

In middle-class households, the women have to bear the onus of respectability'. In Suliyalli Sikkavaru. when Mamooty, belonging to a lower-class family, returns from Dubai with a lot of money, he gifts his wife and mother a *burkha* each which he says should be worn whenever they step out of the house. Though the mother is very pleased, for she has seen women of wealthy households wearing it, and experiences it as a conferring of respectability, the *burkha,* like the *purdah,* is a form of proprietorial control over women. In "Musuku", Katpadi shows that it is suffocating for Maimunissa to wear a *burkha.* Used to having a chat with the shopkeepers along the road to the beedi shop, suddenly she finds that when she wears a *burkha,* none of them recognises her, not even her animal-friends, the goat and the dog. Abukaka and Gopalanna do not talk to her as they used to. She is now a grown up who should not speak to 'other' men. Katpadi's "Zulekha" presents an interesting twist where Zulekha's liberal' second husband asks her not to wear a *burkha,* and gives' her the freedom to go out of the house. In the end, Zulekha shouts at him, saying that though she does not have to wear a *burkha* or observe

purdah, he is as oppressive as the conservative first husband, for he dictates her life just as her first husband used to (n.d., 136). Gender oppression works in subtler ways in terms of the familial roles that women are entrusted with. Ayesha in Tala Odedha Doniyali says that she could never do things she liked because of being constantly needed at home . She complains that she could not even visit her sick mother despite her mother's many requests and that her desires were never taken care of. "You want everything of mine. But I should not expect anything from you", she remarks sharply to her husband (Abubakar 1997a, 112).

Vajragalu (1988) shows how both the 'home' and the 'state' are spaces where patriarchy exists, the state itself not being outside the home. Nafisa serves as a cook' and a prostitute' to her husband for which services she need not be paid. There is absolutely no interaction between her and her husband otherwise. When Badruddin gives her *talaq*, she has to go back to her parents' home without maintenance. Sara points to how the Muslim Women's (Protection of Rights on Divorce) Act, 1986, was so detrimental to women that those like Nafisa were left destitute.[9] Sara says that the bill was a neck-slitting bill' for divorced women (1993, 81-82; 1997b, 55). It is another question that even when there is a provision of maintenance, however meagre (as in the case of Hindu women), women are deprived of it.[10] It is also another question that the socio-economic conditions of most women do not allow them to even approach the courts.

Nafisa is sent back to her parents' home without her son. She is then married off to an old man. who is however kind to her. Though he ensures her economic security by bequeathing her a few acres of land, his son cheats her out of the inheritance. She returns to her parents' home again, where she has to live with a

brother and sister-in-law who do not want her. Nafisa is harassed in the house, and she resists by taking on the *bhuta* (devil) from time to time. Unlike Salma in Jihad or Nafisa in Sarakugalu in the writings of Kunhi and Katpadi respectively, the protagonists in Sara's texts are not radical Muslim women. Resistance for them takes the form of dreams, going mad, taking on the *bhuta* or killing oneself. These are the only forms of resistance available to someone like Nafisa (Vajragalu) or Nadira (Chandragiriya Theeradalli). It is problematic to talk of agency of a subaltern subject as Gayatri Chakravorty Spivak points out (1988). She argues that the social relations in which the subaltern is placed do not allow agency' to the subject. Ayesha, in Tala Odedha Doniyali says that "Muslim women have no 'voice' at all" (Abubakar 1997a, 64). Even if they speak, they are silenced by male fundamentalists, and one may add, by various other forces. Someone like Nadira cannot protest against her father and she realises it. "How helpless Muslim women are", Sara says (1984a, 23). This is a comment not merely on Muslim society or Islam but on the intricate social relations in which the Muslim woman is placed. Nadira has neither the material means nor the social resources to resist. She wants to explain why she cannot cross the Chandragiri river and that her husband should come and take her with him. But she is unable to because she cannot write. She further adds that even if she could, she would not be able to cross the river without her father's permission. She can resist only by taking on the *bhuta* and venting her anger by screaming at those times. In the end, the only option left for Nadira is of either marrying an ugly old man for a day in order to remarry her first husband, or marry an old man and look after his sick wife and children. Not wanting either form of dependency, emotional or financial, and unable even to contemplate living on her own, she gives up her life.

In Kadana Virama, which is Sara's only novel about Hindu society, the protagonist Nirmala, unable to contend with the poverty of her husband and his constant nagging to ask her father to send money, commits suicide. Sara depicts the ordeal of 'girl-viewing' prevalent in Hindu community, the endless times that a girl has to pose before a boy's family. It is such a situation that frustrates Nirmala and forces her to jump into a marriage in haste. Sara also criticises dowry system which is an upper-caste, Hindu custom but has become a practice in Muslim and lower-caste marriages today. That is why it is difficult for a Nirmala (Kadana Virama) or a Nasima (Sahana) to find a 'good' husband without giving a fat sum of money as well as jewellery.

However, unlike Nadira and Nirmala, Nafisa (Vajragalu) and Nasima (Sahana) decide to live on and fight. Against all odds, Nasima decides to keep Rosy and bring her up, educate and provide her with all that Nasima as a girl was deprived of. Nasima dreams of a better future for her daughter; only dreams, she says, are available to people like her. Nafisa, towards the end of Vajragalu moves out of the house and builds a hut for herself in a corner of her brother's land. She decides to adopt a lower-caste girl-child who, like herself, is abandoned by her family.

There is a sense of bonding between Muslims and dalits in the writings of Kunhi, Katpadi and Sara. If Nafisa finds companionship with a lower-caste girl and Nasima with Sitamma's daughter (Sahana), in Kunhi's "Dafana" it is the toddy dealer Duggappa pujari and not the liberal' upper-caste friend who comes to the aid of the narrator to bury the latter's mother's body. Unlike the friend Duggappa pujari does not ask, "You, who speak so rationally, why do you want to bury your mother's body in the *masjid?*". For the friend the Hindu custom of cremation is secular, rational and

modern. The narrator says that the acceptance of difference in culture by the toddy dealer was absent in his middle-class Hindu friend. Sara, in "Muslim Samvedane Mattu Nanu" (Muslim Sensibility and I) points to how Muslims and dalits face similar problems, suggesting the need for and importance of an alliance between the two groups(l991b).

Gender/Patriarchy in Sara Abubakar's Writings

Sara Abubakar locates herself as a feminist who recognises that women are subordinated in society and who acknowledges that this recognition is the first step towards bringing about a change (1993, 78). She states that she also believes in femininity', what she says is an essential' quality of women (ibid., 78). She talks about the love of a mother for her child as something inherent and essential to women. As feminists point out, this would imply at one level an endorsement of heterosexuality as ' normal' and at another level that women who do not prefer to have children are 'abnormal'. As pointed out earlier, Sara's critique of Muslim patriarchy is directed more at men who interpret Islam to legitimise patriarchy than at Islam itself. The question that arises is whether such representations justify the stereotype of Muslim men as oppressive. It is perhaps not so because in Sara's writings there are representations of men who do not fit the stereotype. Nadira's husband in Chandragiriya Theeradalli or Ayesha's husband, Saifuddin in Tala Odedha Doniyali is not the stereotypical Muslim male who is polygamous, beats up his wives everyday, etc. The critique of Muslim patriarchy is an important critique of Muslim society from within, just as there have been critiques of Hindu society by Hindu women.

Sara, however, has not limited her critique of patriarchy to the Muslim community alone. In Kadana Virama, she depicts how it functions in the Hindu community too.

If Kunhi raises important questions of cultural identity of Muslims in the face of a national modernity constructed by the Hindu majority, Sara addresses the Muslim woman's question. Though Katpadi and Kunhi too address the question, their central characters are mostly male. Their concern is that of the Muslim male in India who is caught in a complex set of social relations. Thus, Muslim women like Nafisa and Salma seem to represent for Katpadi and Kunhi agents of 'freedom' that the Muslim male, caught in his conflicts, cannot be. Sara, however, locates the Muslim woman in her social set up and shows that the complex social configurations the Muslim woman is caught in makes such agency next to impossible. Sara brings into focus the Muslim women's question and the complexities involved in it. This is not to suggest that only a Muslim woman can present an authentic' Muslim woman's perspective. One, for a subaltern group's identity which lies in its difference, there is no single subaltern who can represent all. Sara, whose identities as Muslim and woman make her in some ways the gendered other' in the Indian context, is middle-class which distances her from other subalterns. It is also problematic to talk of the authentic' subaltern considering that the subaltern's voice is mediated by other more dominant voices and hence, as Spivak points out "with what voice-consciousness can the subaltern speak?" (1988, 285). I only suggest that in looking at the particularity of Sara's case, we find that the focus that she gives to the Muslim woman's question is absent in Katpadi or Kunhi.

With the problematisation of the concept of a subaltern perspective, our attempt should be to work towards such a perspective in order to understand the

complexity of hegemonic structures in society. It is important to see from a Nadira's, Nasima's and a Nafisa's perspective who not only have to contend with the question of being poor and of belonging to a minority group, and subsequently with the oppression resulting from that position, but also as Muslim women having to face the oppression of the Muslim male inside' and 'outside' the household, which in turn is related to the question of being minorities, of having to be the symbols of custom and tradition of the community. That is, a Maimunissa ("Musuku") and a Zulekha ("Zulekha") should wear a *burkha* because they are told by their men not to expose their bodies "like the Hindus do" (Katpadi n.d., 126). Going to secular[1] schools is not allowed because they are 'Hindu' schools. Initially, it was the missionaries in Dakshina Kannada who set up English schools and colleges. The local people, majority of whom were Muslims, feared that this could be a medium for spreading Christianity. It was then that some of the scholars in the community founded *madrasas* to teach Urdu, Arabic and Persian (Norie 1997, 28). If the fear then was about assimilating Christian values, today the fear is about imbibing Hindu values. It became imperative that Muslim women not be sent to schools in order to protect' them from an alien culture, so that they could continue to be the bearers of Muslim tradition.

Oppression of Muslim women in India is a complex issue, which unlike that of Hindu women in India or of Muslim women in Pakistan, has to be addressed keeping in view their specific location as women of a minority community, which again is not a simple question of gender oppression plus minority oppression, as suggested in the introduction (pp. 12-13).

III

National and Communitarian Identity in Sara Abubakar's Texts

In examining Sara's writings, we find that her national identity gets foregrounded in relation to her regional identity or cultural identity. In the Kasargod agitation, for instance (which was about whether Kasargod, which now belongs to Kerala, should be part of Kerala or Karnataka), Kannada writers like Kayyara Kinhanna Rai were active participants, arguing for Kasargod to be made part of Karnataka. Rai asserted his Kannada identity by giving up writing in his mother tongue, Tulu (except for a collection of poems and an autobiographical work that he has published) to write in Kannada. Howeve,this issue does not feature in Sara's writings at all.

Then take the case of her Beary identity. In the last decade and a half or so, there has been an attempt to revive Beary culture and language.[11] However we do not find a construction of Beary identity in Sara's writings. Instead what gets foregrounded are her identities as Muslim and Indian.

Even in the construction of her Muslim identity, it is accompanied by an assertion of being secular and nationalist, of how 'we', Muslims are just like 'you' Hindus. Sara points to the fact that the Muslim community in India are not Urdu speakers but speak the language of whatever region they belong to, that they are as much part of the nation as the Hindus are (Abubakar 1997a, 104-105; Abubakar 1992a, 96). Her autobiographical piece, "Muslim Hudugi Shale Kalithaddu" (A Muslim Girl Goes to School), is woven around various loci which assert her nationalism. Here nationalism is not defined in relation to the colonisers, i.e., is not anti-colonial, but as 'secular', which is marked 'Hindu'. Sara invokes mainstream

evocations of nationalism During the 1965 Indo-Pakistan war her brother, Sara says, told the officials that if they did not send him to the front he would resign, for he had joined the army to protect his motherland (Abubakar 1984b, 101-102). Implicitly, Sara seems to be responding to the label that Muslims are Pakistani loyalists', Talangere (a village near Kasargod), Sara's birthplace, itself being called 'mini-Pakistan'. In Sara's constant assertion that Muslims are part of the mainstream culture, there is an anxiety in wanting to be accepted and included as part of the nation. We do not find in her writings a strong assertion of her Muslim identity because of the fear of being termed anti-national.

On the other hand, she refers to the anxiety she had about her community's reaction to her first novel Chandragiriya Theeradalli. She says that she had to consider the effects and consequences of writing about the oppression of Muslim women by Muslims because it could be read as an endorsement of the stereotypical notion of Muslim men as patriarchal (1991b, 38). Sara asserts that she has not disowned her Muslim identity (ibid., 41). As suggested earlier, she does not question or criticise the Koran directly. Her criticism is directed at *maulvis* and fundamentalists who interpret the Koran to legitimise patriarchy and commit atrocities on people (1984b, vi-vii).

Located in a context where the West and the Hindu Right characterise all Muslims as fundamentalists' and use the label of fundamentalism' to perpetrate atrocities on Muslims, we have to be careful in not representing Muslims in the same fashion. However we also have to contend with fundamentalism of Hindus and Muslims today. Responding to her Chandragiriya Theeradalli, the Muslim right wing said that the depiction of *talaq* in the novel was unrealistic. Sara wanted to start a

progressive Muslim forum, an idea she gave up when it was taken over by the *Jamat.* After her first stage appearance at Puttur, speaking on "Karavaliyalli Muslim Mahile" (Muslim Women in Coastal Karnataka), Muslim fundamentalists threw stones and eggs on her house (Lankesh Patrike 1985). This was a reaction of upper-class traditionalists and religious leaders to secular[1], modern writers belonging to the middle class who critique traditionalism and religious institutions endorsing patriarchy. (Kunhi was also not spared. He was excommunicated from the *Jamat* for his writings which were perceived as 'aggressive'.) In the case of Sara, that a woman was making such a critique heightened the reaction. Further, Sara claimed she was a true Muslim and criticised the patriarchal practices as un-Islamic. It is in this context that the critique of fundamentalism by Sara has to be noted. However, progressive writers too, Sara says reacted to her writings in an adverse manner. During the release of her novel Vajragalu, a Muslim male writer said that in his region neither *talaq* nor remarriage is practiced and that it existed only in Kerala perhaps (Abubakar 1991b, 39). This response, I suggest, only highlights the insecurity of Muslims in India who have been targeted by the state and the Hindu majority as oppressive and backward. In response to a question on her views on the Babri-Masjid demolition, Sara argued that Muslims should give up Babri Masjid because any struggle to reclaim it would have violent consequences. Muslims in India, she says, are very lucky. All their demands were fulfilled, one among them being Pakistan. Living in India, they must understand the limits of minority groups (Abubakar 1993, 82). Despite the deprived socio-economic conditions of the majority of Muslims in India today[12], the state has hardly come forward in any way to help them. Instead, they are being called 'outsiders' and asked to prove their Indianness* through a

shedding of their Muslim identity, as in the judge's statement in the Sarla Mudgal case or in the arguments for a UCC (Chapter Two p.33).

This insecurity that Muslims face is what makes people like Sara hardly critique the nation state. And even when she does it, it is through another person. She quotes Kunhi's critique of the nation-state in one of her essays (1992a, 100-101). In Tala Odedha Doniyali, when Ayesha asks if her husband can manage to get a transfer to the regular division at their village, Saifuddin laughs and asks, "Have you forgotten that we are Muslims? Do you think they would give us ducks that lay golden eggs? You must be mad..." (Abubakar 1997a, 143). In her essay on the UCC, she argues out her shift in position from being pro-UCC to advocating reform from within (at least for the time being) saying that after the Babri Masjid incident Muslims tell her they have been marginalised from the nation (1997b, 77-78).

Lately, however, if we look at the shift in concerns from her first three novels to the last three, her focus has shifted from a critique of the patriarchies' of community and state (1984a; 1985; 1988) to an explicitly middle-class critique of the state, thus foregrounding her class identity. In Pravaha Suli (1996a), the protagonist Mamooty is involved in drug and gold smuggling and works in close nexus with the politicians. Sara criticises the corrupt bureaucracy, police and legal system for being party to such activities. She also talks of the difficulty for honest and decent officers to survive in such an atmosphere (Pravaha Suli (1996a) and Tala Odedha Doniyali (1997a).

What Sara depicts as the problems of the Muslim community falls in line with the state and hindutva discourse about the Muslim community—bigamy, *talaq,* Islam not allowing for abortion or the use of contraceptives. She accepts the

dominant discourse of the state about the Muslim community Kunhi, on the other hand, lashes out at both the nation-state and the community, an act for which he paid the price of being excommunicated from the *Jamat.* I suggest that Sara, as a Muslim woman, cannot afford to do that. The configurations she is caught in make it difficult for her to construct a ' radical' critique of either the nation-state or the community-

Sara Abubakar can engage in a critique of the nation-state and community only by foregrounding the question of gender, as we see in Vajragalu, or on her stand on the Muslim Women's (Protection of Rights on Divorce) Act, 1986. She criticises the Congress government for supporting Muslim fundamentalists' in depriving Muslim women of equitable maintenance (Abubakar 1993, 81-82; 1997b, 55). However, as I stated earlier, her critique is a complicitous critique which describes her location. As a middle-class Muslim woman in India and writing against a brahminical mainstream Kannada literary tradition, it is possible for Sara to work only within a liberal-humanist, secular-modern framework. As we saw in the earlier two chapters, this framework allows for only a limited space to critique the nation-state and other institutions of modernity and to address the question of the gendered-subaltern in any adequate manner. However, I would like to suggest that the sharpest critique of the nation-state and of modernity itself is in the very subduing of the voices of even middle-class Muslim women like Sara and Shabana Azmi who are anxious to project themselves as secular and nationalist and marks the failure of the nation-state, as Ranajit Guha puts it, to represent the Muslims adequately and protect their rights as citizens of the nation (1982b, 7).

Endnotes

[1] All translations in this chapter of Sara's writings and other writings in Kannada are mine.

[2] I would like to be cautious about the concept of 'being radical'. There is no easy marker for what radical' is, one, since agency' is determined by historical contexts and the subject's location vis-a-vis gender, community and caste, and two, because nature of oppression (for example patriarchy) differs from one community/caste/nation to another.

[3] In "The Nationalist Resolution of the Women's Question", Partha Chatterjee similarly argues that Bengali literature of the nationalist period addressed the middle-class Hindu woman, who is chaste and moral, as the normed 'Indian' citizen as against the lower-caste [and Muslim] woman, who is immoral and promiscuous (1993).

[4] Cited in Abubakar (1992a). See also Sabarada (1992).

[5] Any indication of Nissar Ahmed's Muslim identity is his use of Urdu idioms and phrases in his poems and songs. Only in one of his later poems does he talk about how Muslims are treated as second-rate citizens'. Both he and Akbar Ali write about day to day experiences, human feelings and emotions within a universal, liberal-humanist framework.

[6] In examining how dalits are represented in Kannada literature till the emergence of the Dalit-Bandaya writers, like Muslims they too are largely invisible. In some of the later writers, they are romanticised as in Shivarama Karanth (Chomana Dudi) and U.R.Ananthamurthy (Ghata Shraadha). In Ghata Shraadha the dalit is portrayed as more powerful and heroic than the brahmin. Dalits here become the means to critique the brahmin community. In writers like Panje Mangesha Rao, the depictions emphasise the need to see

and treat dalits as human beings. In his Holeyana Hadu. he talks of how deeds are more important than caste. None of these writers discussed the socio-economic problems of dalits.

[7] In Karnataka, during 1980, *a fatwa* was passed against Muslim women going to cinema halls. In 1997 a *similar fatwa* was passed in Hyderabad too. However it was not heeded by Muslim women.

[8] Under Muslim Personal Law, the father is the rightful guardian of the son over the age of seven and of the daughter over the age of fourteen (Abubakar 1984a, 30). Even in Hindu Law under the Hindu Minority and Guardianship Act, 1955 (read along with the Guardianship and Wards Act), the father is the natural guardian' of his legitimate child over five years. In case of conflict, custody of the child goes to him (Kishwar 1986, 8-9).

[9] The bill stated that the husband is obliged to maintain his wife only during the *iddat* period (the first three months after divorce). The responsibility of maintaining her after that fells on her parents, heir or relatives in that order, failing which the *Wakf* board will provide for her. See Chapter Two, pp. 29-30 for more details.

[10] Regarding maintenance under Hindu Personal law, it is stated that the woman should get one- third of the joint income of the wife and husband. But since this is a civil law, the procedures are lengthy and time consuming. The other alternative is to appeal under section 125, CrPC, which is for destitute women, where the maximum a woman can get is Rs.500.

[11] The Bearys Welfare Association held a Bearys Conference in Bangalore in 1997, following which they brought out a history of Bearys in Dakshina Kannada, and a collection of short stories by Bearys.

[12] See Chapter Two, note 9.

CHAPTER FIVE

After/words[1]: Towards a Praxis

> The concepts...from which we begin...are suddenly seen not to be concepts but problems, not analytic problems either but historical movements that are still unresolved.
>
> Raymond Williams[2]

This is anything but a conclusion, a neat, tying up' of the thesis. One, there is hardly anything neat' or that can be tied up' when it comes to the question of Muslim women's identity in today's context. However, I will try to canvass what I have attempted in this dissertation. Secondly, these concluding remarks are a beginning to interrogating the thesis and my location in particular, and the discipline of English Studies in general.

I

The dissertation examined conventionally disparate spheres of law, media and literature as sites of representation of Muslim women, where a particular discourse about Muslim women is constructed. In the context of the hindutva discourse prevalent in contemporary India, I examined how this ideology is constructed in and through representation and how similarities in representations in the three sites reinforce each other. The dissertation is an attempt to critique a state and civil

society, dominated by the upper-caste, middle-class Hindu elite, who are the subjects of hindutva. In interrogating the state and civil society which discriminates against those who do not identify with it in terms of caste/class/community/gender, I attempted to locate the gendered-subaltern. It is important to work towards a subaltern perspective, for it is only from the margins that we can scrutinise the structures of power. Addressing the Muslim woman's identity question in this thesis has just been a beginning to understanding the ramification of power structures and the complexity of social relations in which the subaltern is placed. The manner in which the identities of the Muslim woman are played out in the present historical context makes invisible the specificity of the Muslim woman's question. I examined how this is evident in the manner in which the judicial system and media discussed the UCC debate. Even some of the feminist[3] and minority[4] discourses have done the same thing in either supporting the code or in emphasising the minority location, respectively, both to the detriment of Muslim women. There are some feminist groups who have addressed the question keeping in mind the present historical context where a culture and ideology reinforces notions of hindutva, and who argue for the need to be cautious in addressing issues where caste, community and gender are involved. However, they seem to be caught in an impasse which they are unable to overcome.[5] Nellie McKay points to a similar predicament that black feminists face in the United States in addressing issues of black women where stereotypical notions of black men as patriarchal and oppressive are reinforced. She argues how there has been a great reluctance to address certain violences against black women because of certain historical stereotypes (of black women and black men) which have affected them badly (1995, 278). However, she says, we should not let.these questions go

unaddressed where black women are finally left with no support and stand alone as victims (ibid., 281). Realising the complexity of addressing the Muslim women's question in the present historical context and the limitations of speaking as a Hindu, upper-caste woman, I would still emphasise the need to ensure that a situation like Shah Bano's does not occur ever again, where neither state nor community nor feminists came to her support.

We need to explore strategies of resistance for subaltern politics. One is the recognition of the multiple identities of the subaltern which makes possible varied alliances—of caste, community and gender. As Chantal Mouffe argues, "the ensemble of subject positions linked through inscription in social relation...become loci of conflict and antagonism and [lead] to political mobilisation" (Qtd in Sunder Rajan 1994).

Two, as suggested in the introduction, sites of representation are not only spaces of reinforcing dominant norms, they are also spaces in which they can be resisted. Considering that the judiciary is a place where atrocities against the subaltern are legitimised, not to deny the exceptional cases, we should think of communities and other spaces where such atrocities can be fought. We should ensure that the state is not the sole repository of power.[6] However, I do not foreclose the option of legal justice. We have to make available multiple spaces to combat multiple hegemonies in society. I attempted to explore if ways of resistance can be worked out in sites of representation of media and literature, bound as they are by the frameworks of media and literature. This is the significance of Kunhi and Sara, for me, in their resistance to centralised forms of power, at the level of the family, community and nation-state, however limited it may be.

II

Now to address the question of working on such a project in the English department, I would locate myself in and speak from within the discipline. My dissertation, within the framework of representation, attempts to extend the reading of texts from the merely literary to journalistic writings and legal judgements. If Raymond Williams (1980) argued how literature is a social practice, the corollary is also true; social practices are also texts, since they are produced by the same set of historical forces that produce literature. In understanding the present moment, to which I respond, legal discourse, media discourse and literary discourse are equally important. Though I share an anthropologist's location in studying the 'other', a sociologist's concern for studying social practices, a historian's concern with historicising the subject, a literature student's concern with narrative analysis, the thesis does not strictly do any of the above. It is important to go beyond conventional definitions of disciplines to meet exigencies of our times. The dissertation is an attempt to study representations of Muslim women in order to examine why they are constructed in particular ways.

My concern has also been to examine the effects of these representations on 'reality'. We saw how stereotypical representations of Muslim women affected the manner in which judgements were pronounced. It takes cruder forms in the state asking government hospitals to control child-birth among Muslims by injecting Depo Provera into Muslim women without their permission, a drug known to have devastating effects on the women concerned.[7] Factors like illiteracy, over-population and conservatism are usually named as reasons for the poor socio-economic conditions of Muslims **and** are used by the government to legitimise its own

discriminatory practices and unequal distribution of resources. This is where we can evidence how representation has real effects. The area of culture, conventionally seen as that of representation, is not outside systems of medicine, law and media and it is in this sense that there is no reality outside representation.

I also want to locate myself within the English department for a more important reason. For sometime now, we have been talking about the 'crisis' in English Studies, interrogating the history of the discipline and its complicity with the project of colonialism. In Britain, English Studies addressed the liberal-humanist subject who is marked white, Anglo-Saxon and male. In post-independence India, the project of English Studies was linked to the nation-building project, the subject addressed by both being the upper-caste, middle-class Hindu male, also the subject of hindutva (Tharu 1998, 14-18). With the theoretical critique of English Studies which questioned its various exclusions', there was a certain compulsion to incorporate some of the changes called for by the critique, like the inclusion of Indian writing in English, translated regional literatures, women's writing, dalit writing etc. I would say that in these terms our department at the University of Hyderabad has been quite 'progressive'. However, we have to interrogate our location more carefully, in examining the kind of knowledge we produce about 'others', speaking of myself, as an upper-caste Hindu working on the Muslim woman's identity question, a project that sells in the academic market. With the 'accommodation' of regional and dalit literatures, for instance, we have become complacent with the thought that the questions raised by the crisis' have been addressed, when in fact we have tided over the crisis by making these token changes and not addressing the fundamental questions raised by the crisis. In the process, we also claim to be progressive' while

often reinforcing earlier dominant, upper-caste, middle-class Hindu norms. We have to articulate our 'progressiveness' in more than shifting curricular patterns.

Most of the students in the English department before the introduction of the Mandal Commission policy were upper-caste and middle-class and they had a cultural background where English was not alien to them (Natarajan 1998, 77-78). With the implementation of the Mandal Commission recommendations,[9] English departments now have to confront students who are rural and dalit and do not share the socio-cultural background of the upper-castes. Instead of interrogating the discipline to address their needs, we see dalit students who find themselves in unfamiliar contexts labeled 'unmerited' and 'incompetent'. We should realise that 'merit' and competence' are not outside one's location in society. As an upper-caste, middle-class urban woman, the kind of financial security and access to English language and education that I have would not be available to someone who is rural and dalit. I want to locate myself in the English department as an upper-caste, middle-class, Hindu woman who is privileged enough to complete my thesis when seven among the nine dalits who joined the department in the last two years have dropped out of their courses. This was because of the attitude of teachers and students and it marks our failure to address them adequately.[10] Our critique of English Studies, of upper-caste Hindu values has to be articulated, not merely in theory but in praxis, and only in this interrogation of our praxis' can we become 'political enough'.

End-Notes

[1] This is part of a title of an afterword to a collection of essays by black women, "After/words: '...and this is what we've decided to tell you after everything we've shared...' " (Busia 1994)

[2] Quoted in Con Davis and Schleifer (1991)

[3] The positions of AIDWA (1995), FAOW (1995) and Vimal Balasubrahmanyan (1995) for instance which argue for a UCC. (See Chapter Two, p.29)

The position of Asghar Ali Engineer, for instance. See especially his "Reform and Social Context" (1995) where he criticises Nasreen's critique of Muslim patriarchy arguing that in the context of the West and the Hindu Right maligning Muslims, she should be more cautious. If she has to critique patriarchy, it should be within the framework of Islam or secularism and not as an athiest (1995).

The Anveshi Law Committee's position (1997) for instance, where concentrating on the context and the multiple identities of the gendered-subaltern creates a political impasse where no politics seems possible.

[6] Flavia Agnes talks of the various legal reforms between 1980-89 which were supposed to be steps towards gender-justice. However, the laws enacted invested more power with the state without improving the state of women which, as she significantly argues, has proved very detrimental to women (1992, ws-19).

[7]This was cited by a doctor from a hospital located in the heart of a Muslim locality in Hyderabad. In an interview with her, she said that she could not talk to these women about contraceptives, not to mention the side effects, because they were not educated. This is a

common enough attribution, underlying which is the implication that Muslims do not have the tools to confront modernity.

[8] Some of the early important studies are Rethinking English (Joshi 1991), Lie of the Land (Sunder Rajan 1992) and Masks of Conquest (Viswanathan 1989).

[9] Tejaswini Niranjana examines the moment of anti-Mandal mobilisation in the University of Hyderabad and through this "the significance of the critique of English for present-day cultural politics in India" (1998, 128).

[10] Srividya Natarajan, Nigel Joseph and S.V. Srinivas point to how access to elite post-graduate institutions in India is first limited because of the requirement of a minimum of 50% at the B.A level. If we take the case of dalits who get into the English department of these institutions, they have to confront a syllabi which is structured such that only convent-educated students who are culturally familiar with 'English' can relate to it. What is more difficult to cope is the hostile attitudes of teachers and students towards them. All these put together contribute to the high drop-out rates of dalit students in the various disciplines at the MA level, especially English (Natarajan 1998, 81-83). See also Aniket Javre's essay on the invisibility of the ' subaltern' rural student to the teachers at universities (1998).

APPENDIX I

The media depicted Ameena as 'innocent', 'beautiful' and 'respectable' thereby imaging her as the heroine of a "national romance'.

Ameena with her family

Despit Ameena, Kaneez

Source: "Despit (sic) Ameena, Kaneez."
The Telegraph 18 December 1993.

Ameena was often shown with her head bent, thus marking her as 'feminine' and 'respectable'.

OM Farooq tracks down the girl who had rocked the nation two years back

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Ameena in a court in Hyderabad

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Source: "The Ameena News Story" by O. M. Farooq
<u>The Pioneer</u> 28 November 1993.

APPENDIX II

The media constructed Amrita Ahluwalia as the protector and custodian of Ameena.

To spend award money on Ameena

dence in her chauffer driven car on Wednesday. Unlike her previous visit, there were neither police nor crowds around to cause any embarrassment to Ameena's family.

After presenting gifts to Ameena and her little sisters, the air hostess drove to the residence of Mr. Yaseen Ali Saber, a well wisher of the girl's family, at Yakutpura. Mr. Saber and Ms. Ahluwalia discussed the difficulties in the transfer of Ameena's court cases from Delhi to the city.

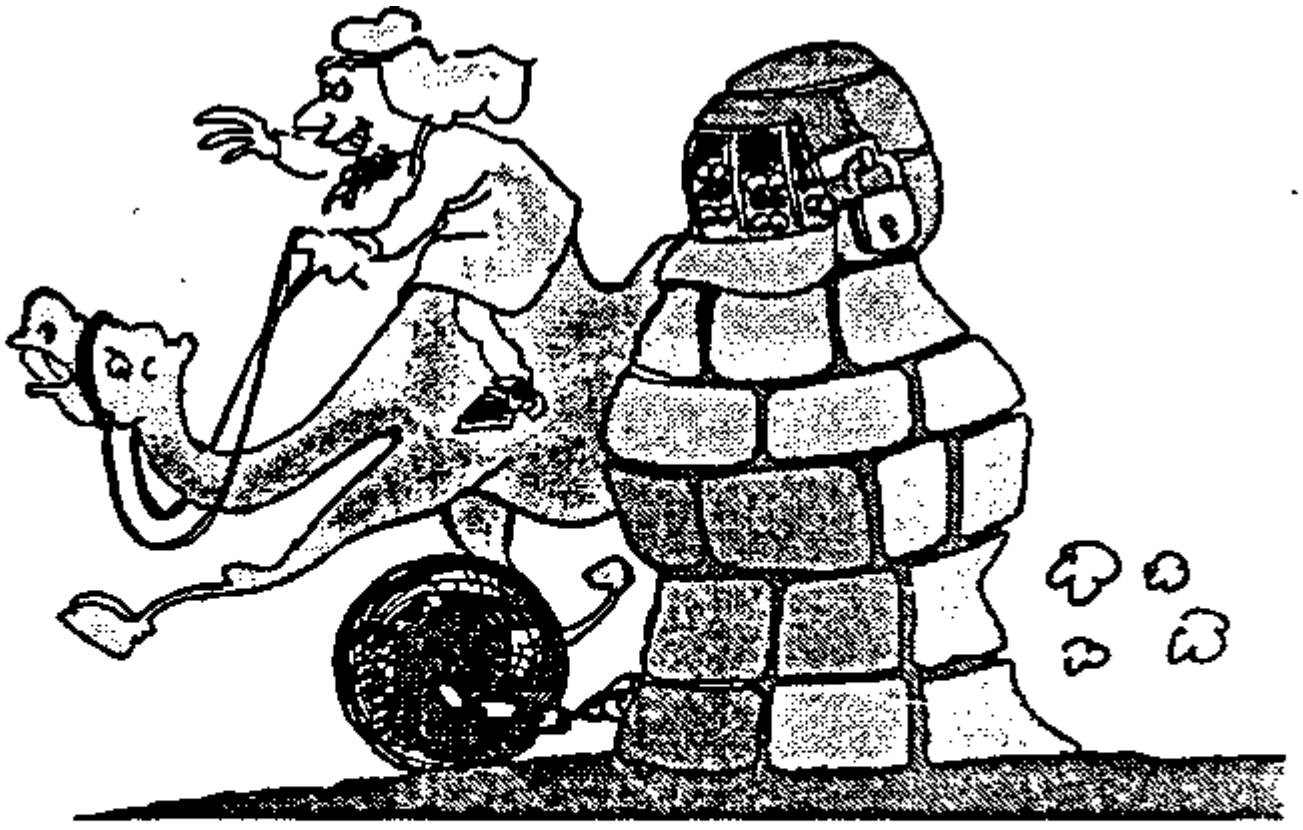
The air hostess has recently been transferred to the city and has since settled down here. She has also floated the 'Social Welfare Organisation for Indian Children (SWOIC) in the city to take up the cause of hapless children.

Reacting warmly to the sad plight of Madras-based graduate S. Mohan which was published in these columns recently, Ms. Ahluwalia told ENS that she will soon find a suitable placement for the talented youth through her connections.

Source: "Amrita to Spend Award Money on Ameena." <u>The Indian Express</u> 17 September 1992.

APPENDIX III

Illustrations reinforced stereotypes of Arab-Muslim men as villainous and Muslim women as oppressed.



Women still do not play a large role in the political life of the Arab world. **Leila Deeb** *and* **Jumana Tamini** *report on women's representation in some Arab nations*

ernments is a lack of democratic institutions in states still ruled by royal families.

Neither Bahrain, Oman, Qatar, or Saudi Arabia have any ype of elected ational assemblies, according to a report prepared by the United Nations' Economic and Social Commission for Western Asia (ESCWA).

While Kuwait and the United Arab Emirates do have small national assemblies, comprised of 50 and 40 members respectively, women are not allowed to vote or run for office.

But even in countries where women have the right to stand as

occupied by women.

Huyam Kalimat, director of Jordan's National Committee for

lost due to a lack of financial support. Currently, just one women sits in Jordan's 80 member lower

arena.

In a re where fa ties carry g weight, t opinions ha huge influ on the sions wo make a their lives.

At a Nov ber regi meeting in man, held advance of UN's Fo World Co: ence on W en sched for next tumn in ing, more 400 dele agreed that of the top p ities for women in coming de must be to guard rights to pe ipate politics.

"Decision making means er. Power means opportun equality. Power means wo

Source: "A Consequence of Traditions, Not Islam" by Leila Deeb and Jumana Tamini. The Economic Times 29 January 1995.

APPENDIX IV

As in the case of Ameena, the media depicted Kaneez too as the 'innocent', 'charming' and victimised Muslim girl.

Regum: The latest victim

for those to marry

get mixed

There is no law or act restricting or banning such a marriage. If you have objections, you should ban foreigners from marrying Indians. Till

guest with an offer that the latter would readily accept. The Arab has to be simply patient: if his taxi driver himself is not a broker, he is bound

in pres to cert girl's cess, i

Source: "Of Pimps and Concubines" by O. M. Farooq.
The Pioneer 26 December 1993.

The media represented Mohammad-Al-Elausi as 'ugly', 'mentally deranged' and as having bought Ameena, thus imaging him as the villain of the Kaneez narrative.

The "child" bride. Kaneez Begum, and her Saudi "husband". Mohd Al-Elaiusi, being produced in the Patiala House courts in the Capital on Thursday. Kaneez was allegedly bought for Rs 20,000 from her parents in Hyderabad.

Source: "I Want to Go Back Says Kaneez."
<u>The Statesman</u> 10 November 1993

APPENDIX V

Illustrations reinforced notions of Islam as a barbaric and intolerant religion persecuting innocent people.

Source: "Campaign against Taslima: Fundamentalist Plot in Bangladesh' by Hiranmay Karlekar. The Indian Express 29 June 1994.

soaked alleys of Algeria to the arid waste-lands of Arabia, it is the lust for conquest

Bangladesh and Pakistan itself in suitable Islamic hanging body of a Willia in retrospect 'a symbolic fury of an artificial god.

The Revolution has distance from the gravey And no revolution is com ing power in Bang ards it, increasing Oct principal political rite at-e-Islami in the nes

All to get an absolute fou ctions. But it can imi olitical force if no tio majority -- which wo and it becomes an sta a coalition gov- nin combine use of a ith sustained vio- de countryside, either ed fundamentalist mu r and establish a wh gladesh. Anybody us no as exaggerated Tas e fundamentalists mi ganised, heavily ex unds.

pe readers were col- Stanis during the bar. Organised into for Badar, Al-Shams, e instrumental to and thousands of g of thousands of key role in the iters, intellectuals f their prominent Azam, currently fled to Pakistan ion. Others went to the open after neral amnesty in organising them- ther parties. The Sheikh Mujib in turbulence and followed, enabled are their position. itary dictator, H.

mittee. At a mammoth rally in Dhaka on March 26, 1992, a people's court convened by the Nirmul Committee proclaimed Azam guilty of war crimes and declared that he deserved to be executed.

Since then the agitation for Azam's trial and execution has continued alongside an aggressive campaign by the Jamaat and its allies for action against the Nirmul Committee leaders whom they have accused of being Indian agents. The fundamentalists

have also launched a vicious campaign in the countryside against all secular and

and the Hindu has been lappe known to be h figures, who sh not dared to be her for her co

The fundame the BNP Gove her defence. I passport for i profession as j doctor in gove relented recent abroad, it cle criticism abroac Hindu minorit followed the de jid and her fu fundamentalist- offend becaus

Besides, whil ist party, the damentalist fr bias. It was E President Zia first steps to Bangladesh a return from damentalists h prosecuting T nalists for off ments of the taken no actio ists demandin publicly annou her. This has call for a natio 30 to press th sentence.

While the been disgrace organisations,

Source: "Prisoners of God: Islam's Jihad against Imagination" by S. Prasannarajan. The Indian Express 23 June 1994.

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