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Towards a Muslim Family Law Act? Debating Muslim women's rights and the codification of personal laws in India

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ABSTRACT

Muslim personal laws in India have never been systematically codified, in marked contrast both to Hindu family laws in India and to Islamic family laws in much of the Muslim-majority world, both of which have been subject to a far greater degree of codification. This article examines the call being made by one prominent contemporary Muslim women's organisation, the Bharatiya Muslim Mahila Andolan (BMMA), for the wholesale codification of Muslim family laws in India as a pathway to protecting women's rights. Following a discussion of the wider context of India's uncodified Muslim personal law system, this paper offers a commentary on the BMMA's draft Family Law Act, first released in 2014. It demonstrates how this document synthesises discourses of women's rights drawn from a series of Qur'anic, constitutional and transnational reference points. By drawing from such diverse sources, and while legal codification in much of the Islamic world has instituted fundamentally patriarchal legal norms, the BMMA's proposed code articulates a distinctive, more gender-equal reading of Islamic family law.

KEYWORDS

Muslim personal laws; codification; women's rights; Muslim women; talaq-i-bid'ah/triple talaq

Introduction

In 2014, the Bharatiya Muslim Mahila Andolan (BMMA, or 'Indian Muslim Women's Movement') published the first draft of a document that has come to define its agenda: The Muslim Family Law Act. The Act opens with the statement that, across the world including Muslim-majority states, 'new legal codes have been introduced ... [to] introduce the rule of law in family matters, and to end arbitrariness and variances in judicial decisions' (BMMA 2014). It then laments the 'absence of codified law' applicable to Muslim family matters in India, which gives legal officials little firm ground on which to adjudicate Muslim personal laws, and allows the perpetuation of 'customary practices ... divergent from the values and principles of the Qur'an.' Thus begins a self-declared effort 'to consolidate, clarify and codify the provisions of Muslim law' in a way consummate with that achieved in much of the Islamic world (BMMA 2014). 'Almost all Muslim countries ... such as Morocco, Tunisia, Turkey, Egypt, Jordan, ... Bangladesh and Pakistan', the BMMA argued, 'have codified personal laws' (BMMA 2015b), and a comparable effort must now be made in India.

Since its foundation in 2007, the BMMA has established itself as one of India's most influential Muslim women's organisations.¹ It engages both liberal and Islamic discourses in its promotion of women's justice and equality, and it has become especially associated with the campaign for the reform of Muslim personal laws. In an exhaustive national survey of Muslim women's perspectives on family law in 2015, the BMMA claimed that 83% of respondents believed that the codification of Muslim personal laws would help to protect women's rights, with high numbers also supporting

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the reform of unequal personal laws relating to divorce, polygamous marriage, *mehr* (dowry) and inheritance (BMMA 2015a, 106–107 and *passim*).

Addressing what the organisation sees as a public need, this draft Act, the result of some six years of consultations among Muslim community leaders and women's associations, was intended to prompt community and political debate about the codification of Muslim family laws in India – and perhaps even provide an early blueprint for any such bill to the Indian legislature. In contrast to the occasional, piecemeal legislative tweaks made to Muslim personal laws since independence, the draft Act represents a systematic presentation of a codified Islamic family law that could stand as a parallel to personal law legislation that already exists for other communities. If any legislation on the lines urged by the BMMA were ever enacted, it would comprise the most significant legislative intervention into Muslim personal laws since the 1930s.

While the BMMA's proposed Act gleaned minimal coverage initially, it has subsequently garnered greater attention on account of the organisation's simultaneous success in demanding legislation upon specific Muslim personal law issues. In 2016, the BMMA's conveners co-filed a PIL (Public Interest Litigation) application to the Supreme Court, seeking the abolition of *talaq-i-bid'ah*, a form of instant Islamic divorce by which a husband can unilaterally repudiate a wife.² This PIL accompanied a court case filed in the court by Shayara Bano, a victim of the practice, and ultimately led to the Supreme Court's 2017 declaration of this practice to be unconstitutional and legally invalid.³ Following the court victory, the BMMA supported the government's attempts to legislate upon the court's decision. While a bill on the issue introduced by the government was quickly passed by the Lok Sabha (Lower House) in 2017, it only recently in July 2019 cleared the Rajya Sabha (Upper House). As a result, the Muslim Women (Protection of Rights on Marriage) Bill has finally been enacted, rendering *talaq-i-bid'ah* both legally inadmissible and a criminal offence. This development has both established the influence of the BMMA within recent public and political debates on personal laws and, moreover, has made the codification of individual or collective Islamic family laws a more conceivable prospect than it has been in decades.

This article examines the background and motivations behind the BMMA's push to codify Islamic family laws. It explores how the organisation has sought to formulate an original, progressive code Islamic family law that draws inspiration from an array of sources including the personal status codes of Muslim nations, modernist and 'Islamic feminist' readings of Islamic laws, Indian constitutional rights, and transnational women's rights discourse. Finally, it reflects upon the possible directions of Muslim personal law reform in contemporary India.

India's uncodified Muslim personal laws

Since before India's independence, the state has accepted that different sets of religious laws should be applied to different communities in their personal and family affairs, and the courts have always adjudicated family matters on this basis. However, by comparison with the laws applying to other communities, Muslim personal laws in India have never been systematically codified. While Muslim personal law (and its forerunner Anglo-Muhammadan Law) is sometimes talked about as a coherent body of law shaped by legal digests and case precedent (Kugle 2001; Abbasi 2014), there is very little in Muslim personal law that parallels the statutory acts that already determine the family laws of Hindu, Christian and other citizens.⁴ Even the few direct legislative interventions into Muslim personal laws, before and since independence, have been more notable for what they omit rather than include. For instance, the Muslim Personal Law (Shariat) Application Act (SAA) of 1937, while confirming that Muslims were subject to *shari'ah* laws in their personal and family matters, specified almost nothing about the content of these stipulations, nor about the legal bodies authorised to adjudicate them. For all but a few syncretic communities, the Act confirmed far more than it changed in the adjudication of Muslim family laws (Niaz 2016, 41). Even the Dissolution of Muslim Marriages Act (DMMA) of 1939, frequently taken as the most explicit and important government intervention into Muslim personal laws, only codified the nine grounds on which a woman can file for divorce (for

example, a husband's absence, neglect or cruelty). It said nothing about issues arising from divorce, like post-divorce maintenance, *mehr* (bridal dowry), marital property or child custody; nor did it change anything about forms of male-initiated divorce (Niaz, 42–43). Some later interventions have been similarly limited in their remit.⁵ While murmurs of more government intervention in Muslim personal laws have rumbled for decades, the usual reality has been of exempting these laws from legislative interference.

By contrast with India, the formation of full or partial Islamic family law codes has been the major legal trajectory elsewhere in the Muslim world over the last century. Following the Ottoman Law of Family Rights (1917) that established an early template for a codified family law (Tucker 1996), the governments of many Arab nations endeavoured to codify Islamic family laws soon after their independence in the 1950s. Personal status codes were created by the early governments of newly-independent Jordan (1951), Syria (1953), Tunisia (1957), Morocco (1958), Iraq (1959) and others (Mahmood 1972b; Hallaq 2009, 443–499; Welchman 2007; Otto 2011). These codification initiatives aimed to promote a moderate, restrained vision of Muslim family conduct that could foster social stability, enhance national cohesion and promote the state's modernising agenda (Sfeir 1998, 27–28; Sonbol 2003, 34–39). Ultimately, less complete but nevertheless transformative legislative involvements spread to South Asia, notably the 1961 Family Laws Ordinance of Pakistan, later also retained and amended in Bangladesh.

Mirroring this treatment of family laws in newly decolonised Muslim-majority nations, there was considerable momentum in India for the codification of family laws after independence. Many post-colonial politicians and lawmakers demanded progress towards a Uniform Civil Code (UCC), a common body of civil laws which would nominally draw from shared legal values and apply to all citizens. In most cases, however, the constitutional directive for progress towards a UCC (Article 44) was placed into careful balance with religious personal laws, a provision maintained on the basis of the Constitution's parallel commitments to freedom of religion (Articles 25–29). As a result, and while Hindu personal laws were systematically codified via the Hindu Code Bills of the early-1950s, the personal laws of the Muslim minority were left relatively untouched by lawmakers, as a perceived concession to minority rights and wary public opinion (Hasan and Menon 2004; Williams 2006).

However, this overarching narrative somewhat forgets that, as Narendra Subramanian (2008, 2014) has reminded us, many prominent Muslim public figures and community leaders did support a full or partial codification of personal laws in the decades following Indian independence. Politicians like Abul Kalam Azad, Naziruddin Ahmad and Hussain Imam argued for constructive amendments or the full or partial codification of Muslim personal laws according to constitutional values (Subramanian 2014, 219–221). The national Indian women's movement, which included many Muslim women, pushed at moments for either a UCC or for the reform of particular personal laws, such as the abolition of polygamy and *talaq-i-bid'ah*, the raising of the minimum marriage age for girls and the implementation of a model Muslim marriage contract (Kumar 2011, 160–168; Tschalaer 2017, 8–12). The renowned legal expert and barrister Asaf Ali Asghar Fyzee called in the early-1960s for a 'root and branch' review of Muslim personal laws which could 'deal ... with the major needs of the community', as did many other Muslim judges (Saxena 2018, 426–428). Some Muslim activists also made powerful interventions in favour of amendments to Muslim personal laws or a common civil code that incorporated elements of Islamic family law. Among the latter was Hamid Dalwai, an often-forgotten social activist who in 1966 organised a march of Muslim women in Mumbai against *talaq-i-bid'ah*. He subsequently founded the Muslim Satyashodhak Samaj in 1970, a Muslim socio-political organisation that pressed for the legal prohibition of contentious Muslim family laws and the move towards a common civil code (Haygunde 2017; Guha 2011, 444–455).

The full or partial codification of Muslim personal laws was also advocated by some of postcolonial India's key specialists in Islamic family laws. In the early 1970s, the renowned jurist Tahir Mahmood compiled two companion volumes advocating the so-called 'progressive codification' of Muslim

personal laws, to bring them into line with common civil laws and abolish some of its practices (Mahmood 1972a). Arguing that such reforms had been implemented via existing personal status codes across much of the Islamic world, he referenced countries including Egypt, Iran, Singapore, Pakistan, Malaysia and Indonesia to claim the possibility of *shari`ah*-based laws 'adapting to contemporary social requirements' (Mahmood 1972b, 264). Mahmood's verdict was unequivocal:

It is unwise for the Muslims of India to shut their eyes to the tremendous progress in the fields of personal law and succession made in a major part of the world of Islam. A unified, codified and modernised law of personal status is now the order of the day in a large number of countries where Muslims constitute overwhelming majorities. In India, the Muslims have to live in the company of a dominant non-Muslim majority and other co-minorities, all of whom are now governed by largely modernised and codified personal laws. How can they afford to insist on an absolutely undisturbed continuance of their classical and uncoded personal law? And if they do so it would be to their own sheer detriment. (Mahmood 1972a, 92–93)

There were, therefore, several factors that might have created a sympathetic environment for the codification of Muslim family law after independence. The models of codified family law established in the wider Islamic world; the prior codification of Hindu family law in India; and the weight of significant Muslim community support for reform, might all have incurred legislative intervention. Why, then, did the legislature fail – or 'miss the opportunity' (Subramanian 2014, 288) – to substantially codify Muslim personal laws after independence?

One reason is that the Legislative Assembly first turned its attentions to Hindu religious personal laws, on the pragmatic assumption that regulating the family unit of the majority community was the priority for the postcolonial projects of nation-building and socio-economic regulation (Newbiggin 2013). Second, the overwhelming political need for community accommodation after partition incurred a strong emphasis upon the language of protections for minorities, including their distinct personal laws, rather than upon more assimilationist forms of civil integration (Ghosh 2007). Third, there remained an impression among lawmakers, inherited from the colonial era, that Muslims were uniquely attached to their religious personal laws and unwilling to accept any government interference in community regulations (Subramanian 2014, 202–206; Newbiggin 2013, 14–15). Fourth, the acrimony surrounding the Hindu Code Bill debates in the early-1950s, in which Hindu community, caste and female spokespersons clashed heavily on many issues, instilled fatigue among politicians and diminished their willingness to follow the codification of Hindu personal laws with a similar effort for Muslim ones. Nehru and his administration were thus pushed into retreat from enacting equivalent changes to Islamic family laws, despite awareness of the implications that this might have for Muslim women. Poignantly, when the journalist Taya Zinkin interviewed Nehru in the late-1950s, he stated that his greatest achievement had been 'securing rights for my Hindu sisters'; when asked next about his greatest disappointment, he said that he 'could not achieve the same for my Muslim sisters.'⁶

The state's distance from personal law reform was assured further from the 1960s by a series of *ulama*-led religious organisations that have consistently framed the state's constitutional obligations to 'secularism' in terms of its non-interference in the religious laws of the Muslim minority. In particular, the All India Muslim Personal Law Board (AIMPLB), founded in 1972, espoused unequivocally to safeguard Muslim personal laws from legislative intervention. Founded in response to the introduction of a proposed Adoption Bill into the Legislative Assembly in the 1970s that would have applied the same civil provisions on child adoption to all communities, the AIMPLB argued that the interpretation of Islamic laws (*ijtihad*) was open only to trained Islamic scholars, and that judges and legislators should have no role in shaping the contents of *shari`ah*-based stipulations (Rahmani 1974). The AIMPLB's pressure successfully prevented the passing of the bill. Comparable campaigns have likewise deterred successive governments from intervening in Muslim personal laws on some significant occasions. An especially renowned example arose from the Shah Bano affair of 1985–1986, in which religious organisations compelled the government to reject a verdict from the Supreme Court that would have entitled Muslim women to civil provisions for post-divorce maintenance.⁷ Instead, the government capitulated and passed the Muslim Women's (Protection of Rights on Divorce) Act

(MWPRDA), which re-stated the jurisdiction of Muslim personal laws over the maintenance question (Hasan 1989; Vatuk 2009; Williams 2006, 125–154).

Community opposition to government interference, a lack of political will, and the conflation of the principle of personal law reform with the Hindu right's policy of a UCC, have thus together deterred governments from any serious legislative moves towards the codification of Muslim personal laws. Indeed, the political discord provoked by the issue from the 1980s led former advocates of government interventions into personal laws, including Tahir Mahmood, to turn away from this approach, fearing the prospect of communal division (Kumar 2011, 168; Subramanian 2014, 241).

The result is that, unlike the Middle East and even the rest of South Asia, India has maintained a substantially uncodified Muslim family law, one adjudicated according to a mixture of case precedent, sporadic legislation and the influence of community actors (Mahmood 1995, 1997). This context in turn has determined how Indian judicial officials and legal activists have attempted to pursue their objective of offering suitable legal safeguards to Muslim citizens, especially Muslim women, from some of the gender-unequal stipulations of Muslim personal law. While they have sometimes continued to call for legislative intervention, for the most part they have found pathways to work in the absence of codified personal laws, building alternative strategies to ensure Muslim women's access to protections within the existing legal framework.

For instance, advocates and court judges have in recent times amended judicial practice to decide cases in favour of Muslim women's needs without codified laws. As Subramanian (2008) emphasises, judges have found new ways in recent decades to build upon landmark case precedents and existing personal and statutory laws to covertly adjust the implementation of Muslim personal laws in ways that 'align' with civil laws applicable to other communities. They have managed to formulate verdicts on issues such as instant triple-*talaq*, payment of post-divorce maintenance and the right to adopt that favour Muslim women's rights, in spite of the absence of specific legislation.⁸

Likewise, many women's rights activists, who had in earlier generations pushed for legislative reform of Muslim personal laws or moves towards a common civil code, have increasingly found mechanisms to defend women's rights that do not necessitate extensive legislative involvement. This is embodied, for instance, by Flavia Agnes, one of India's most influential women's activists and the founder of the NGO Majlis in Mumbai in 1991. The political polarisation surrounding the issue of a UCC in the aftermath of Shah Bano led Agnes, like many other activists, to oppose the wholesale legislative overhaul of Muslim personal laws advocated by women's activists in earlier generations, arguing that such initiatives might foster social division and lack support within the community. She has consistently argued, instead, that existing Indian laws have the capacity to protect women, if used astutely.⁹ Likewise, her NGO in the last quarter-century has worked closely with lawyers, judges, academics and non-state practitioners like counsellors and community workers, finding ways to protect women's rights that do not depend upon the need for codification.

A blueprint for 'a progressive Islamic family law'

In its context, the BMMA's draft Family Law Act, with its call for the 'uniformity and certainty' that would come with codified laws, therefore rejects the implicit thirty-year consensus described above that Muslim personal laws should not be fully codified and that India's existing case-led adjudicative framework contains sufficient mechanisms for protecting Muslim women. The BMMA's draft Act received input, over a long consultation process, from a range of legal professionals, advocates, Islamic scholars and academics, most notably the late liberal Islamic scholar Asghar Ali Engineer, whose influence is evident throughout the work. Composed in a judicial style and running to several dozen pages, it is clearly designed to communicate authority and comprehensiveness, and to garner attention.

This section now provides a detailed assessment of the content of the BMMA's draft Family Law Act itself, comparing it with the statutory laws applying to other religious communities in India, and the personal status codes determining the content of Islamic family laws in much of the Muslim

world. Testifying to the draft's origins in a long and multi-pronged consultation process, the Act can be read as an inclusive template that amalgamates multiple lines of legal reasoning. The sources that the document invokes include Indian constitutional principles, especially those articles affirming religious and gender equality (e.g. Articles 14–15), and also, existing statutory legislation on civil and personal laws. Indeed, the BMMA states that its draft Act conforms with all existing legislation.¹⁰ Further, the text contains reference to international rights law and declarations, especially women's rights charters such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979. Critically, the draft Act also picks up elements from the personal status codes of some Muslim majority countries, suggesting the engagement of its authors' with examples of the constructive reformulation of Islamic family laws across the Muslim world.

Many of the Act's stipulations differ greatly from established interpretations and practices of Muslim personal laws. For instance, the bill overhauls provisions governing Muslim marriage. It demands compulsory civil registration of all religious marriages: a departure from existing realities where *nikahs* (marriages) often remain unregistered and are solemnised by *imams* (prayer-leaders) and *qazis* (religious judges/officiates) at community level. It demands that both partners declare 'unambiguous consent' to marriage, effectively eroding traditional norms of male guardianship (*wilayat*) within families (BMMA 2017, 11–13). It prohibits polygyny and *nikah-i-halalah*¹¹, while also specifying that a divorced couple may remarry without hindrance. It sets the minimum marriage age of 21(M)/18(F) to prevent juvenile marriage: a provision that aligns the Act both with existing civil laws in India (including the Prohibition of Child Marriage Act (2006) and the Special Marriage Act (1954)), but also, with age-of-marriage stipulations in other Islamic personal status codes, as in Tunisia and Algeria.

Like other such codes in the Muslim world, the Act also contains proposals for regulating *mehr*: the bridal dowry gift payable by the husband to the wife upon marriage. In reality in India, women often agree to 'forgive' this payment, with the husband either deferring it to a hypothetical future date or reducing the amount given to purely tokenistic status.¹² The Act, however, specifies that the *mehr* be paid to the wife immediately upon marriage, and that the sum must be equivalent to the husband's annual income (BMMA 2017, 13–14). This provision to secure a generous *mehr* would afford women some financial autonomy and protection from divorce.

Many of the draft Act's provisions about marriage are re-stated in the BMMA's proposed standard *nikah-namah* (marriage contract), which is included as an Appendix (BMMA 2017, 33–42). Many Muslim states, regulating Muslim marriages more directly than in India, have appropriated the *nikah-namah* as a means of enshrining women's marital rights: both by using it to affirm the personal details (age, marital history etc) of the spouses, and allowing the insertion of stipulations into the contract to uphold legal protections for the wife (Quraishi and Vogel 2009; El-Alami 1992).¹³ However, unlike many Muslim-majority countries, India does not have a standardised *nikah-namah*; instead, anecdotal evidence suggests that the issuing of *nikah-namahs* can be careless and inconsistent, and can favour the husband over the wife.¹⁴ It is for this reason that several women's organisations in the last 15 years have published their own 'model *nikah-namahs*' which include a variety of stipulations contractually affirming women's position in marriage (Tschalaer 2017, 104–133; Suneetha 2012). The BMMA's *nikah-namah* is the latest in this series of attempts to enshrine spousal rights. By demanding full background details from both spouses, such as their current marital status and age, it seeks to eliminate the possibility of polygamous or child marriages. It also demands a declaration of the spouses' earnings, and the husband's signed commitment to the upfront payment of *mehr*. Finally, it records the details of the officiating *qazi* and declares him responsible for registering the marriage with the civil authorities.

The draft Act is equally path breaking in its treatment of divorce. It prohibits instant triple-*talaq* (a practice which, as noted above, has now been made illegal). It reaffirms a Muslim woman's grounds for divorce as stated in the DMMA; however, it adds to these 'irretrievable breakdown' (17–19). This provision, which is more akin to the *shiqaq* provisions in the personal status codes of Arab countries such as Morocco and Jordan (Sadiqi 2014) than to any existing Muslim divorce legislation in India,

widens the grounds on which a woman may file for divorce. The Act maintains a wife's right to initiate a *khula`* (separation) from her husband, and unambiguously gives her the ability to do so without her husband's consent; it also scraps the condition that a wife divorced by *khula`* should return her *mehr*. Provisions like these, widening women's abilities to dissolve a marriage while also curtailing men's, tacitly equalise male and female rights to divorce, within the framework of a reinterpreted Islamic matrimonial law.

The draft Act also offers full instruction on proper divorce procedure. Based on the principle of the so-called 'rightful' divorce (*talaq-i-ehsan*) which is believed to derive from Qur'anic commands (Q4:35), it envisages a staggered, multi-stage process of compulsory arbitration over a minimum of three *`iddats* (menstrual cycles). These arbitrators can be family members, or otherwise, appointees from a 'registered organisation' or 'welfare agency': by implication, this could be a registry office, family court or NGO, reflecting the NGO-background of the BMMA's leaders and their history of working with such institutions (BMMA 2017, 8, 40). The appointed arbitrators are empowered to facilitate marital reconciliation, or if divorce is unavoidable, then to negotiate the settlement of residual issues such as dower, division of property, child custody and maintenance payments. Once again, as above, these arbitrators are legally responsible for formally registering the separation as a civil divorce.

The document also deals with a range of other issues. It amends laws on child custody, demanding that traditional norms of the father assuming custody rights from age seven are replaced by increasing consideration for the preferences of the child, and a formal role for arbitrators (BMMA 2017, 29–30). It gives Muslims an unequivocal right to adopt children (BMMA 2017, 31), something that is not currently established in statutory law. It also substantially reworks policies of inheritance, which have traditionally promoted unequal distribution between males and females. Affirming the Qur'an's instruction to pass inheritance to wives and daughters (Q4:11–12), the Act seeks to equalise women's rights as heirs. It grants a wife equal share in marital property 'in lieu of her housework contributing to the conjugal home and property creation' (BMMA 2017, 31).¹⁵ Significantly, the document also encourages parents to equalise a daughter's share in their estate by giving *hiba* – an Islamic law of gift that is not gender-specific and can thus been used to circumvent inheritance stipulations (BMMA 2017, 31). This mechanism had been used historically, both in South Asia and elsewhere in the Islamic world, in situations such as those of fathers wishing to maximise the estates provided to daughters (e.g. Fyzee 2003, 252–273). Once again, the BMMA's instrumentalisation of this legal tool alludes to their selection of useful legal devices from across the Islamic world to find creative reparations to the patriarchal character of Muslim personal laws.

Looked at in its entirety, the draft Act has several core implications. First, reflecting the wider ethos of the BMMA, the document applies arguments from both Qur'anic and constitutional lines of reasoning. Arguing that the existing structures of Muslim personal have both 'denied [Muslim women] their Quranic rights as well as their rights as equal Indian citizens' (BMMA 2015b), it argues that the values underpinning both sources mutually affirm each other. This claim reflects their approach of returning to the Qur'an alone as the source of Islamic law, discounting the later traditions of Hadith and *fiqh* (jurisprudence) which have formed the basis of Islamic personal status codes elsewhere. The simultaneous recourse to two sources of rights is seen as essential to the BMMA. To argue only from the constitution, its founders argue, would lead in the direction of a UCC; while engaging both together paves the way for the BMMA's desired end, namely, a codified Islamic law that also functions in accordance with constitutional standards of equality and justice.

Further to this, the Act is easily read as a specific manifestation of the global movement of Islamic feminism, which has sought to rethink Islamic family laws from within the Islamic tradition via an autonomous re-reading of the scriptures and the abandonment of later jurisprudence.¹⁶ The introduction to the Act notes the inspiration of renowned Islamic feminists including Amina Wadud, Ziba Mir-Hosseini, Zainah Anwar and Fatima Mernissi (BMMA 2017, 3): thinkers to whom some of the BMMA's leaders often refer.¹⁷ Indeed, like the works of some of these figures, the BMMA's draft Act does not seek to apply identical legal stipulations to men and women. It acknowledges,

for instance, that the legal mechanisms available in Islam to each gender are different. Instead, it establishes interpretations of these stipulations that are largely equalising in their impacts and that remove the androcentric bias of some traditional interpretations.¹⁸

A further feature throughout the Act is the intention to bring Islamic family laws under the clear jurisdiction of official bodies. It is widely acknowledged in India that Muslim marriages and divorces area in practice often handled exclusively within communities, in the form of unregistered *nikah* marriages and non-judicial Islamic divorces, which can make eventual judicial reparation difficult (e.g. Vatuk 2017). However, under this proposed Act, Islamic marriages, divorces and other family transactions would all be filed officially, giving aggrieved individuals easier recourse to the courts. Simultaneously, the Act would erode the autonomy of local practitioners of religious laws, like community elders, *imams* and *qazis*, by obliging them to follow set procedures and register religious transactions with the civil authorities. It would thus bring a deregulated world of local legal practice under increasing regulation.

There is one further very significant point to make about the overall worldview embodied in this draft Act. The BMMA puts faith in the codification of Muslim family laws as the path towards Muslim women's legal empowerment. Codifying laws, the BMMA's leaders argue, would liberate women from the whims of male relatives and community patriarchs, and give their claims substance in the courts. Yet, while the draft Act quotes a range of Islamic family law provisions from other countries, the codifications of Islamic family laws outside of India have often been interpreted in academic work as having had the opposite effect, regulating and subordinating women rather than empowering them. The Islamic personal status codes extant in many Arab nations have often entrenched a covert form of 'state patriarchy', since the regimes of these nations have implemented laws that uphold the primacy of men's authority within the family unit to ensure societal constancy (Sonbol 2003; Elliott 2015; Welchman 2007). Family law codes have thus tended to take paternalistic or protective approaches to women, and confirmed male dominance within the family. Even many of the twenty-first century changes in family law hailed as victories for women's rights across the Muslim world, such as the widening of women's judicial access to *khula'* divorce in Egypt in 2000 (Sonneveld 2012) and the suspension of male guardianship stipulations in the Moroccan Personal Status Code of 2004 (Elliott 2009) – both of which were presented as transformative advances in women's rights – have in reality been relatively small concessions within wider codes that bestow fundamentally unequal rights upon men and women.

The impacts of codified family laws in much of the Muslim-majority world therefore differ considerably from the outcomes that are anticipated by Muslim women's groups in India, who consider a code to be a means to promoting women's equality. Yet, perhaps this is because the architects of the code in India are operating in a context of unusual interpretative freedom. Outside of India, Islamic family law codes emerged out of long negotiations among established lawmakers and politicians. They therefore ultimately took on conservative, patriarchal tones that reflected the process of their legislative creation and upheld the residual social patriarchies upon which these states depended. With these codes in place, women's rights campaigners in these societies have only been able to urge amendment to existing stipulations, rather than proposing their own alternatives from scratch. By contrast, since India has so few statutory Muslim family laws, India's Muslim women's activists have been able to pick-and-mix different woman-friendly stipulations from a range of Islamic, transnational and constitutional sources. India's existing environment of uncodified laws, in other words, has given the BMMA considerable interpretative freedom to formulate its own, unbound vision of a code of Islamic family law.

Explaining the push for codification

Why, then, has this push for the codification of Muslim family law gained force in the last few years, after decades of quiet acceptance of uncodified personal laws? Speaking broadly, underpinning the draft Act is a wider sense of social transition in India. Some of the social power of the *'ulama* and

religious organisations, who have acted in the past as a force blocking state intervention in Muslim personal laws, has been eroded. Equally, a range of lay thinkers and organisations – in this case, women’s organisations such as the BMMA – have felt empowered to interpret religious teachings on their own terms, consulting the Qur’an themselves and refusing to accept the jurisdiction of clerical figures. In this sense, the debate over personal law reform is one manifestation of the wider democratisation of knowledge across the Islamic world, as debate on critical issues of Islamic law and conduct is opened up to a marketplace of intellectual, political and professional stakeholders (e.g. Kramer and Schmidtke 2014).

The most significant factor, though, is the wider growth of women’s rights activism in India. National, cross-community women’s movements have grown hugely in recent years, spurred by social and generational change, the prolific use of social media. These have combined in the last few years with the effects of the #MeToo movement and the so-called ‘fourth wave’ of global feminism, together with the huge public outcries about rape and violence against women from 2012 to 2013. Muslim women’s movements represent just one distinct trajectory within this recent upsurge of national women’s activism. A new generation of Muslim women’s organisation such as the BMMA are marked by a highly educated and articulate leadership, well-organised grassroots branches, and strong strategic knowledge of India’s legal structures and mechanisms for defending rights (Vatuk 2008; Kirmani 2011, 2013; Schneider 2009; Tschalaer 2017). They have displayed a willingness to propose radical new solutions to Muslim women’s problems.

As well as this enhanced influence, a second reason that Muslim women’s groups have looked afresh to codifying personal laws is the sense that existing legal and political strategies for handling Muslim affairs have done little to improve the predicament of the community generally, or its women especially. Consultations like the government’s Sachar Committee Report confirmed that government measures had not succeeded in facilitating the community’s socio-economic development and integration, with the effects of marginalisation impacting upon women in particular as the ‘torch-bearers of community identity’ (Sachar Committee 2006, 12–14). This has prompted Muslim women’s groups to think beyond earlier strategies and push for alternative solutions. The codification of laws is just one bold measure among several which embodies a new determination by these groups, and their willingness to break boundaries.

Another factor that has opened up the debate on personal law reform is the changing political and legal climate in India. The election of successive BJP governments in 2014 and 2019 have forestalled a more muscular tone of political debate on the issue, and created greater legislative will to intervene in Muslim personal laws than had existed under previous administrations (Khan 2017; Agnes 2018; Punwani 2018). Moreover, the huge public debate about Muslim divorce laws prompted by the Shayara Bano court case and the parliamentary bills that followed has forestalled a newly receptive environment for the BMMA’s codification campaign.

However, the contemporary climate of political debate has simultaneously created problems for the BMMA. Many activists and community leaders have interpreted the government’s recent enthusiasm to legislate on personal laws as illustrative of a wider agenda of eroding minority rights, and have expressed apprehension about the MWPRMA’s criminalisation of an exclusively Muslim practice. The BMMA, therefore, has been placed in a delicate position, simultaneously supporting the government’s legislation against *talaq-i-bid`ah* as a necessary measure for protecting women, while refraining from implying any sympathy for the wider agenda of the government. Nevertheless, while the BMMA has been criticised for being overly supportive of the government’s bill, the organisation’s demand for the codification of a distinct set of Muslim personal laws is fundamentally different from the BJP’s long-standing political commitment to a UCC for all citizens. In this sense, notwithstanding a momentary convergence of interest between the BMMA and the government on the single question of triple-*talaq*, the BMMA’s call for the codification of a separate code of Muslim family laws ultimately represents a very different vision for how personal laws should be handled. The organisation upholds the existence of distinct bodies of minority personal laws as a constitutional necessity, while simultaneously transforming the contents of these laws themselves.

Conclusions: prospects for a Muslim Family Law Act

This paper has argued that the BMMA's draft text for the codification of an Islamic family law in India marks a major shift in the strategies employed by some Muslim women's activists in India. Drawing upon high levels of intellectual confidence, media exposure and grassroots support, the BMMA has been more forthright than some earlier Muslim women's organisations in its willingness to formulate its own body of *shari'ah* stipulations, creatively rethinking Muslim personal laws in ways that combine constitutional and Islamic, national and transnational mechanisms for promoting women's rights. Indeed, while the draft Act incorporates some women's rights-oriented legal provisions from other Muslim majority countries, the freedom that the BMMA has enjoyed in compiling this document has allowed it to create a 'code' of Islamic family law that is far less patriarchal, both in its tone and possible impacts, than the personal status codes in place in many Muslim-majority nations. As a far more explicitly equalising code than its counterparts in the contemporary Muslim world, it takes its place in the global Islamic feminist movement to reformulate Islamic family laws.

What are the prospects, then, for the codification of Muslim family laws in India, as desired by groups like the BMMA? While, as noted above, lawmakers and legal practitioners in India have become increasingly adept at protecting Muslim women's legal rights in the absence of such a code, several recent developments mark a shift towards partial codification of Muslim personal laws. This is not just on account of the increasing willingness of the legislature to intervene in personal laws, as discussed above, but a tangible shift in approach within the judiciary. Certainly, the Supreme Court's instruction to parliament in 2017 to legislate on *talaaq-i-bid'ah* divorce marked a recognition that Muslim personal laws should not be placed above the constitution, and should be subject to amendment where they are discriminatory. Nevertheless, significantly, and in contrast to its approach in 1985–1986, the Supreme Court judges did not in their judgement call for a move to a Uniform Civil Code.¹⁹ Instead, they seemed to uphold the recognition of the distinct personal laws of religious minorities as a constitutional necessity.²⁰

Similar support for piecemeal codification of personal laws can be detected in the advice given by the Law Commission of India, the government body charged with steering legal reform. Following a 2016 request for the body to initiate a consultation regarding the implementation of a UCC, its report of August 2018 declared that a UCC was 'neither necessary nor desirable' (Law Commission 2018, 10). Instead, it supported the principle of codifying particular personal laws, as a means of producing legal consistency 'within communities' rather than between them. For Muslim personal laws, for instance, it suggested abolishing *talaaq-i-bid'ah* and polygamy; fixing the age of marriage at 18; making adultery a ground for a wife to seek divorce; allowing a divorced wife to make a claim on marital property; and confirming the right of Muslims to child adoption. It also insinuated that codifying different bodies of religious personal laws could bring Hindu, Muslim and other laws to 'arrive at certain universal principles that prioritise equity' (Law Commission 2018, 18). It thus appears that India's judicial elites are turning towards selective personal law codification as a preferable approach to a UCC on the one hand and the non-statutory, case-led adjudication of personal laws on the other.

However, the barriers to the codification of Muslim family laws are ultimately political. Personal laws have become so deeply enmeshed with questions of minority rights over many generations that any suggestion of legislative involvement has become politically difficult and potentially provocative. A lack of political consensus means that any wholesale overhaul of Muslim personal laws along the lines proposed by the BMMA's Family Law Act remains a distant prospect. However, the draft has been more successful at prompting discussion and building community awareness, in turn changing the dynamics of public and political debate on the issue. Indeed, in the aftermath of the *talaaq-i-bid'ah* judgement, the BMMA has invigorated its campaign for full codification while also seeking further incremental reforms to personal laws, such as bans on polygamy and *nikah-i-halalah*. To do this, it is emulating its earlier strategy, planning to file relevant PILs (Public Interest Litigation) to the Supreme Court and linking them to particular court cases.

If the BMMA is to build the necessary public support for its campaign for codification, however, it is essential that the organisation succeeds in presenting the campaign as expressive of a general demand within the community, rather than as the agenda of lawmakers hostile to minority rights. A sense remains that any push for codification generated from outside of the community itself is likely to lead to a climate of suspicion. Memory remains fresh of the Shah Bano debacle in the 1980s, when liberal and women's voices within the community supporting the legislative reform of personal laws were silenced following the communalisation of the debate (Hasan 1989; Vatuk 2009). Since the publication of its draft and its survey of women's opinion the following year (BMMA 2015a), the BMMA has largely succeeded in presenting Muslim family law codification as an aspiration pursued from within the community, by Muslim women themselves. In 2017, the press frequently remarked that the most striking feature of the public debates about *talaq-i-bid'ah*, especially when compared retrospectively to the events of 1985–1986, was the visible and vocal role of Muslim women's groups in pushing for legislative change, and the wide support that they elicited from the Muslim public. As Zoya Hasan (2017) claimed at the time, 'the new development in the past decade is the emergence of Muslim women's activism ... Non-party, autonomous women's groups ... have taken the lead and carried the momentum for change on their shoulders.'²¹ Whether the BMMA's early success in controlling the narrative can withstand the often acrimonious debate over personal laws in contemporary India, however, remains to be seen.

Notes

1. Rather than being a typical women's rights NGO, the BMMA self-characterises as a 'movement' that operates via a range of autonomous state- and local-level women's groups, although it also has up to 100,000 directly enrolled members. For further background on the BMMA, chiefly in its formative years, see Kirmani 2011, 2013; Vatuk 2017, 164–167; Tschalaer 2017, esp. 66–71; Zaman 2013.
2. For background on *talaq-i-bid'ah* in India and beyond, see Ahmad 2018; Ahmad 2009; Khurshid 2018.
3. *Shayara Bano vs Union of India*, No.118/2016.
4. These include the four Hindu Code Bills of 1955–1956; the Indian Christian Marriage Act (1872) and Indian Divorce Act (1869) and the Parsi Marriage and Divorce Act (1936).
5. Including the Muslim Women (Protection of Rights on Divorce) Act (MWPRDA) of 1986, which deals exclusively with post-divorce maintenance.
6. This interview has been quoted on multiple occasions by the celebrated Supreme Court Justice Arif Mohammad Khan. E.g. *The Economic Times* (Mumbai), 20 October 2016; *Hindustan Times* (Delhi), 25 August 2017.
7. In this landmark court case, the Supreme Court had upheld a divorced Muslim woman's entitlement to claim post-divorce maintenance from her husband in perpetuity (as under civil laws), rather than for the three-month 'iddat period stipulated in Muslim personal law.
8. As illustrated by the following cases: *Daniyal Latifi vs Union of India* (2001), which extended a woman's entitlement to post-divorce maintenance from her ex-husband beyond the three-month period required by Muslim Personal Law; *Shamim Ara vs State of UP* (2002) which invalidated *talaq-i-bid'ah*; and *Shabnam Hashmi vs Union of India* (2014), which confirmed that civil laws on child adoption would prevail over Muslim personal laws.
9. E.g. see the interview with Agnes in *India Today* (online edition) 20 February 2017, <https://www.indiatoday.in/magazine/the-big-story/story/20170220-triple-talaq-flavia-agnes-womens-rights-activist-interview-985731-2017-02-16> [last accessed 14/7/2019].
10. Existing laws invoked in the text include the SAA, the DMMA, the Child Marriage Restraint Act (1929), the Special Marriage Act (1954), the MWPRDA, the Protection of Women from Domestic Violence Act (2005), and Juvenile Justice Act (BMMA 2015).
11. This refers to the practice by which, for a divorced couple to re-marry, the woman must contract and consummate an intermediate marriage with another husband, which must then be terminated. See Stowasser and Haddad 2004.
12. For instance, this may be a paltry sum like the 'pious' figure of 786 rupees, or a 'traditional' sum fixed by ancestors and never updated.
13. These might include clauses demanding the husband's fair treatment of his spouse; prohibiting other actions from the husband such as unilateral divorce, polygamous marriage or the withholding of *mehar*; or delegating to the wife the ability to issue divorce proceedings against her husband (*talaq-i-tafwiz*) in certain conditions.
14. Before independence, *nikah-namah* certificates were often not even completed, with *nikahs* merely being witnessed in person. Even today, the written contracts are often not completed with much seriousness. Copies

may be only provided to the husband's family, or only kept by the officiating *imam*, or neither. Sometimes, major details are not recorded; sometimes, provisions that might protect women are scribbled out. In any case, women are often not provided with a copy.

15. This instruction echoes recent Islamic feminist efforts to reformulate the Qur'anic legal concepts of male guardianship (*wilayah*) and husbandly ownership (*qiwamah*) of women away from a sense of dominance or charge, and towards one of mutual spousal responsibility and contributions to the partnership (Mir-Hosseini, Al-Sharmani, and Rumminger 2015). This argument is propounded by Musawah and other global Islamic feminist movements.
16. For general introductions to Islamic feminism, see Badran 2009; Aslan, Hermansen, and Medeni 2013; Mir-Hosseini et al. 2013.
17. One even describes the edited volume *Men in Charge?* (Mir-Hosseini, Al-Sharmani, and Rumminger 2015), which reevaluates *wilayah* and *qiwamah* (see above, note 15), as the BMMA's 'Bible'.
18. For instance, as noted above, the Act still affirms the distinctions between *talaq* and *khula`* (male- and female-initiated divorce), but respectively restricts *talaq* and widens *khula`* in ways that move men's and women's rights to divorce closer together.
19. In its 1985 verdict, the Supreme Court had argued that Muslims, 'instead of wasting their energies ... to secure an 'immunity' for their traditional personal law from the state's legislative jurisdiction ... will do well to begin exploring ... how true Islamic laws ... can enrich the common civil code of India'. *Mohammad Ahmed Khan vs Shah Bano Begum* (1985).
20. The judgements of the Supreme Court noted that personal laws were 'a constitutional necessity' and enjoyed 'constitutional protection'. *Shayara Bano vs Union of India*, Nos.146, 163, 170.
21. This interpretation was also common to much newspaper coverage, e.g. *Hindustan Times*, 23 August 2017; *The Indian Express*, 23 August 2017.

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References

- Abbasi, Zubair. 2014. "Islamic Law and Social Change: An Insight into the Making of Anglo-Muhammadan Law." *Journal of Islamic Studies* 25 (3): 325–349.
- Agnes, Flavia. 2018. "The Politics Behind Criminalising Triple Talaq." *Economic and Political Weekly* 53 (1).
- Ahmad, Nehaluddin. 2009. "A Critical Appraisal of 'Triple Divorce' in Islamic Law." *International Journal of Law, Policy and the Family* 23 (1): 53–61.
- Ahmad, Aijaz. 2018. *Triple Talaq*. Delhi: K.K. Publications.
- Aslan, Ednan, Marcia Hermansen, and Elif Medeni, eds. 2013. *Muslima Theology; The Voices of Muslim Women Theologians*. Frankfurt: Peter Lang.
- Badran, Margot. 2009. *Feminism in Islam: Secular and Religious Convergences*. Oxford: Oneworld.
- BMMA (Bharatiya Muslim Mahila Andolan). 2014. *The Muslim Family Law Act, First Amendment* (7.12.2014), <https://bmmaindia.com/2014/12/07/the-muslim-family-act-1st-amendment-prepared-by-bharatiya-muslim-mahila-andolan/>.
- BMMA (Bharatiya Muslim Mahila Andolan). 2015a. *Seeking Justice within Family: A National Study on Muslim Women's Views on Reforms in Muslim Personal Law*. Belgaum: Omega Publications.
- BMMA (Bharatiya Muslim Mahila Andolan). 2015b. "Letter to PM Demanding Codification of Muslim Family Law." <https://bmmaindia.com/2015/11/27/letter-to-pm-demanding-codification-of-muslim-family-law/>.
- BMMA (Bharatiya Muslim Mahila Andolan). 2017. *Muslim Family Law, 2017: Draft for the Bill*. Belgaum: Omega Publications.

- El-Alami, Dawoud Sudqi. 1992. *The Marriage Contract in Islamic Law: The Shari'ah and Personal Status Laws of Egypt and Morocco*. London: Graham Trotman.
- Elliott, Katja Zvan. 2009. "Reforming the Moroccan Personal Status Code: A Revolution for Whom?" *Mediterranean Studies* 14 (2): 213–227.
- Elliott, Katja Zvan. 2015. *Modernizing Patriarchy: The Politics of Women's Rights in Morocco*. Austin: University of Texas.
- Fyzee, Asaf Ali Asghar. 2003 [1949]. *Outlines of Muhammadan Law*. 4th ed. Delhi: Oxford University Press.
- Ghosh, Partha. 2007. *The Politics of Personal Law in South Asia: Identity, Nationalism and the Uniform Civil Code*. Delhi: Routledge.
- Guha, Ramchandra. 2011. *Makers of Modern India*. Cambridge: Harvard University Press.
- Hallaq, Wael. 2009. *Shari'ah: Theory, Practice, Transformations*. New York: Cambridge University Press.
- Hasan, Zoya. 1989. "Minority Identity, Muslim Women Bill Campaign and the Political Process." *Economic and Political Weekly* 24 (1): 44–50.
- Hasan, Zoya. 2017. "'Triple Talaq' Abolition is Only the Start of a Larger Campaign for Gender Justice in India." *The Conversation*, September 7. <https://theconversation.com/triple-talaq-abolition-is-only-the-start-of-a-larger-campaign-for-gender-justice-in-india-83089>.
- Hasan, Zoya, and Nivedita Menon. 2004. *Unequal Citizens: A Study of Muslim Women in India*. Delhi: Oxford University Press.
- Haygunde, Chandan. 2017. "Maharashtra: 51 years ago, Hamid Dalwai Took out First March against Triple Talaq." *The Indian Express* (Delhi), April 18.
- Khan, Hasina. 2017. "Criminalising Talaq-e-Biddat." *Economic and Political Weekly* 52 (51).
- Khurshid, Ahmad. 2018. *Triple Talaq: Examining Faith*. Delhi: Oxford University Press.
- Kirmani, Nida. 2011. "Beyond the Impasse: Muslim 'Feminism(s)' and the Indian Women's Movement." *Contributions to Indian Sociology* 45 (1): 1–26.
- Kirmani, Nida. 2013. "Strategic Engagements: Analyzing the Relationships of Indian and Pakistani Women's Movements to Islam." *Asien* 126 (January): 10–25.
- Kramer, Gudrun, and Sabine Schmidtke, eds. 2014. *Speaking for Islam: Religious Authorities in Muslim Societies*. Leiden: Brill.
- Kugle, Scott Alan. 2001. "Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia." *Modern Asian Studies* 35 (2): 257–313.
- Kumar, Radha. 2011. *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India 1800-1990*. Delhi: Zubaan.
- Law Commission of India. 2018. *Consultation Paper on Reform of Family Law*.
- Mahmood, Tahir. 1972a. "Progressive Codification of Muslim Personal Law." In *Islamic Law in Modern India*, edited by Tahir Mahmood, 80–98. Bombay: N.M. Tripathi Ltd.
- Mahmood, Tahir, ed. 1972b. *Family Law in the Muslim World*. Bombay: N.M. Tripathi Ltd.
- Mahmood, Tahir. 1995. *Statute Law Relating to Muslims in India: A Study in Constitutional and Islamic Perspectives*. Delhi: Institute of Objective Studies.
- Mahmood, Tahir. 1997. *Islamic Law in Indian Courts since Independence*. Delhi: Qazi Publishers.
- Mir-Hosseini, Ziba, Mulki Al-Sharmani, and Jana Rumminger, eds. 2015. *Men in Charge? Rethinking Authority in Muslim Legal Tradition*. London: Oneworld Publications.
- Mir-Hosseini, Ziba, Kari Vogt, Lena Larsen, and Christian Moe, eds. 2013. *Gender and Equality in Muslim Family Law: Ethics in the Islamic Legal Tradition*. London: I.B. Tauris.
- Newbiggin, Eleanor. 2013. *The Hindu Family and the Emergence of Modern India: Law, Citizenship and Community*. Cambridge: Cambridge University Press.
- Niaz, Noorjehan Safia. 2016. *Women's Shariah Court, Muslim Women's Quest for Justice: an Alternative Dispute Resolution Forum for and by Muslim Women*. Chennai: Notion Press.
- Otto, Jan Michel, ed. 2011. *Sharia Incorporated: A Comparative Overview of the Legal Systems of Muslim Countries*. Leiden: Leiden University Press.
- Punwani, Jyoti. 2018. "Triple Talaq Judgment and After." *Economic and Political Weekly* 53 (17).
- Quraishi, Asifa, and Frank Vogel, eds. 2009. *The Islamic Marriage Contract: Case Studies in Islamic Family Law*. Cambridge, MA: Harvard University Press.
- Rahmani, Minnatullah. 1974. *Mutbinni Bill 1972: ek ja'izah*. Mumbai: All India Muslim Personal Law Board.
- Sachar Committee. 2006. *Social, Economic and Educational Status of the Muslim Community of India: A Report*. http://www.minorityaffairs.gov.in/sites/default/files/sachar_comm.pdf.
- Sadiqi, Fatima. 2014. "The Potential Within: Adjudications on Shiqaq (Discord) Divorce by Moroccan Judges." In *Adjudicating Family Law in Muslim Courts*, edited by Elisa Giunchi, 121–135. New York: Routledge.
- Saxena, Saumya. 2018. "Commissions, Committees and Custodians of Muslim Personal Law in Post-Independence India." *Comparative Studies of South Asia, Africa and the Middle East* 38 (3): 423–438.
- Schneider, Nadja-Christina. 2009. "Islamic Feminism and Muslim Women's Rights Activism in India: From Transnational Discourse to Local Movement, or Vice-Versa?" *Journal of International Women's Studies* 11 (1): 56–71.
- Sfeir, George. 1998. *Modernisation of the Law in Arab States*. San Francisco: Austin and Winfield.
- Sonbol, Amira al-Azhary. 2003. *Women of Jordan: Islam, Labor and the Law*. Syracuse, NY: Syracuse University Press.

- Sonneveld, Nadia. 2012. *Khul' Divorce in Egypt: Pubic Debates, Judicial Practices and Everyday Life*. Cairo: American University of Cairo.
- Stowasser, Barbara, and Yvonne Yazbeck Haddad. 2004. "Tahsil Marriage in Shari'a, Legal Codes and the Contemporary Fatwa Literature." In *Islamic Law and the Challenges of Modernity*, edited by Barbara Stowasser and Yvonne Yazbeck Haddad, 161–182. Lanham: Altamira Press.
- Subramanian, Narendra. 2008. "Legal Change and Gender Inequality: Changes in Muslim Family Law in India." *Law & Social Inquiry* 33 (3): 631–672.
- Subramanian, Narendra. 2014. *Nation and Family: Personal Law, Cultural Pluralism and Gendered Citizenship in India*. Stanford: Stanford University Press.
- Suneetha, A. 2012. "Muslim Women and Marriage Laws: Debating the Model Nikahnama." *Economic and Political Weekly* 47 (43): 40–48.
- Tschalaer, Mengia Hong. 2017. *Muslim Women's Quest for Justice: Gender, Law and Activism in India*. Delhi: Cambridge University Press.
- Tucker, Judith. 1996. "Revisiting Reform: Women and the Ottoman Law of Family Rights, 1917." *Arab Studies Journal* 4 (2): 4–17.
- Vatuk, Sylvia. 2008. "Islamic Feminism in India: Indian Muslim Women Activists and the Reform of Muslim Personal Law." *Modern Asian Studies* 42 (2/3): 489–518.
- Vatuk, Sylvia. 2009. "A Rallying Cry for Muslim Personal Law: The Shah Bano Case and Its Aftermath." In *Islam in South Asia in Practice*, edited by Barbara Metcalf, 352–367. Princeton, NJ: Princeton University Press.
- Vatuk, Sylvia. 2017. *Marriage and Its Discontents: Women, Islam and the Law in India*. Delhi: Women Unlimited.
- Welchman, Lynn. 2007. *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy*. Amsterdam: Amsterdam University Press.
- Williams, Rina Verma. 2006. *Postcolonial Politics and Personal Laws: Colonial Legal Legacies and the Indian State*. Delhi: Oxford University Press.
- Zaman, Rafia. 2013. "(Re)framing the Issues: Muslim Women's Activism in Contemporary India." *Asien* 126 (January): 26–44.