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## Social Justice: Triple Talaq and Muslim Men and Women in India

In our country, India, there are many social injustices, especially ones that are related to religion. Just like that, I will be dealing with the triple talaq bill which is one of the most recent issues. On 22nd August 2017, The Supreme Court of India declared the instant triple talaq or divorce as unconstitutional or arbitrary in a landmark judgment. The Islamic practice of men divorcing their wives by stating "talaq" or divorce three times - a criminal offense was introduced in the Lok Sabha. Law Minister Ravi Shankar Prasad called the "Muslim Women (Protection of Rights on Marriage) Bill" an attempt to deliver justice<sup>2</sup> and respect for women, and not about any religion or community. In August, a five-judge Constitution Bench of the Supreme Court had ruled that instant "Triple Talaq", which irreversibly ends the marriage, was unconstitutional.

In a split verdict, the three of five judges said that this practice of saying talaq three times in one sitting or over phone, email, messages etc. is the violation of Muslim women's right to equality and against gender justice. It is not mentioned in Islam, therefore, cannot be permitted to go on. Chief Justice of India and Justice A Abdul Nazeer argued for suspending the instant talaq and told the government to bring up a law to regulate the practice within six months. However, the majority verdict of three justices overrides their view. This law was against the Islamic religion and was against Islamic rule whereas, on the other hand, it also helped the Muslim women who were struggling to get this bill. In Islam, marriage is a social contract with clear conditions to be noted down in a nikah (marriage contract). Not only this, it offers for positive requirements for a bride such as Meher (dower). Triple talaq is mentioned nowhere in the Quran, and perhaps, this is the reason why it is illegal in most Muslim countries. The Quran gives equal right to both husband and wife to seek a divorce. Triple talaq should be abolished because it is un-Quranic and goes against the spirit of the Constitution and last but not least, it is unjust and inhuman.

### The petition against triple Talaq

The petition against instant divorce was filed two years before by Shayara Bano and four other women who were divorced by her husband through letter mentioned talaq thrice. Her children were taken away from her and faced many discrimination and threats to her life. The Supreme Court also made the Bhartiya Muslim Mahila Andolan a party in the case-taking cognizance of the survey that said that 92% of the Muslim women want the abolition of triple talaq. This is the first time in India that Muslim women challenged an Islamic practice as a violation of fundamental right. The Muslim women have come out in open to talk against the discriminatory practices in the name of the Islamic practices

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## Triple talaq and its aftereffects

According to Islamic law, the right given to a Muslim man to divorce his wife by the simple clear statement is known as talaq. There are three kinds of talaq – Talaq –e-Ahsan where husband states talaq once followed by abstinence of 90 days. If the couple resolves their differences within the period then talaq is canceled. Talaq-e- Hasan where husband pronounces talaq three times over three months with iddat or self-restraint of one month each. If differences are resolved within the stipulated time the talaq is considered revoked. If not then divorce becomes final after the third talaq. Talaq –e- Biddat is when the husband says talaq in one go and it becomes effective immediately. It is irrevocable the moment it is pronounced. The Supreme Court of India has struck down Talaq-e- Biddat as unconstitutional and against women's dignity and rights. Instant Divorce of Talaq-e-Biddat is banned in 22 Muslim countries as being arbitrary. It makes the pronouncement of talaq-e-biddat "void and illegal." According to clause three of the Bill, "Any pronouncement of talaq by a person upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal." This ruling is said to ensure justice for Muslim women who had been victims of domestic violence and harassment.

## Important points of triple Talaq

Under the suggested law, "any pronouncement of Talaq" by a person - either spoken, written or in electronic form or in any other manner of any kind - shall be invalid and illegal. It also seeks to punish a Muslim man, who tries to divorce his wife using "Triple Talaq", by jail for a maximum of three years and a fine.

But unlike most other criminal offenses that come with a three-year sentence, the bill makes the offense cognizable. This means that a Muslim woman will not need to approach a court but the police which can immediately arrest the man without a warrant. Also, the offense has been made a non-bail able offense which involves only the court - and not the police - can release the man on bail.

The bill also allows women, upon whom Talaq is pronounced, the custody of her minor children. The woman can also seek a subsistence allowance from herself and her dependent children. A magistrate will decide on the amount of this allowance keeping in view the husband's income.

Law Minister Ravi Shankar Prasad said the jail term had been incorporated in the provision because cases of instant divorce by Muslim men continued to be reported despite the top court's ban. Ravi Shankar Prasad told the Lok Sabha that the government had been able to track 300 cases of instant "Triple Talaq" in India this year.

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Nearly 100 of these cases were reported. The Congress has backed the government on the bill but suggested some changes to make the provisions to protect Muslim women. During the debate in the Lok Sabha, many opposition leaders have asked the government to revisit the provision for a jail term for the Muslim man who attempts to divorce by instant "Triple Talaq". It was pointed out that the man would not if he is jailed, be able to provide a subsistence allowance.

The government has finished this fear, saying that the courts were free to release the man on bail. Also, the magistrates have been given a free hand to send the man to jail for a shorter duration. The law does not specify a minimum jail term that those found guilty would have to serve.

## **Present status**

Out of an example of 4,710 women, 525 had been divorced. Of these, 346 women were divorced orally, 40 women were sent a letter of divorce by their husbands, and 18 women were divorced on phone, one via SMS, three through email and 117 through other methods. In the same study, 92% of the people who were accused called for a legal ban on the practice of oral, individual or triple divorce. Case studies of how women were left homeless overnight, left helpless with no help for the children either, after being divorced orally, in an instant. Most women are shocked for life and find it difficult to recover from the shock. Some even came to Delhi to the public hearings and provided evidence in person. In most cases, the women were not even present when the husband stated talaq thrice. Some of them told how they did not find help from any of the existing religious bodies that they approached. The report has annexures also consisting scanned copies of verdicts by various qazis (Muslim cleric), safeguarding this talaq as valid.

The Bill makes all declaration of talaq, including in written and electronic form (by phone, text or email), to be void and illegal. It makes a declaration of talaq a cognizable and non-bail able offense. The bill also makes instant triple talaq a criminal offense and proposes a three-year jail term for a Muslim man who divorces his wife by pronouncing the word "talaq" three times. This effectively means that if a Muslim woman goes to the police station and lodges a complaint that her husband has pronounced triple talaq to her, the police officer can arrest the 'accused' husband without certification. If proven guilty, he can be held in jail for up to three years along with a fine. This effectively means that if a Muslim woman goes to the police station and lodges a complaint that her husband has pronounced triple talaq to her, the police officer can arrest the 'accused' husband without a warrant. If proven guilty, he can be held up in jail for up to three years along with fine.

The woman against whom instant triple talaq has been pronounced being allowed for

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maintenance allowance from her husband for herself and her children. The woman is also allowed to seek guardianship of her minor children. Defeating all amendments to the bill, the BJP government disregarded all the opposition coming from opposition parties like the RJD, the BJD, All India Muslim League and AIMIM. This bill led to the rights of Muslim women whereas on the other hand it also made many Muslims angry since it was against the Islamic law and belief. So this law leads to many protests. While much has been talked about the lack of rationale and logic in structuring a law like this, it is also important to look at the politics of legislating and criminalizing triple talaq. In the last three and a half years of the BJP rule, most of their policies and politics have been openly anti-Muslim.

The atmosphere of non-stop hatred against Muslims, pulling them out of trains and buses and killing them anywhere at any cause, from cow protection to “Love Jihad”, has created a feeling of terror and insecurity among the Muslim community. Most of these self-appointed ‘protectors’ of Hindu religion go unpunished and at times enjoy the hidden support and patronage of the ruling powers. Now by framing this Triple Talaq Bill and turning Muslim husbands into criminals, it will only be an extension and continuation of the demonization of the Muslim men. We can safely conclude that the Triple Talaq Bill is a politically motivated act and is an attempt to consolidate the Hindu vote. We can safely conclude that in my opinion the Triple Talaq Bill is a politically motivated act and is an attempt to consolidate the Hindu vote.

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