

# Triple Talaq: Bad in Theology but Good in Law

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**Abstract – The constitution of India guaranteed to every woman constitutional morality, dignity of women and the principles of gender equality, as also against gender equity. It is the duty of legislation would help in ensuring the larger Constitutional goals of gender justice and gender equality of married Muslim women and help subserve their fundamental rights of non-discrimination and empowerment. However constitutional rights would remain a dead letter if we do not understand the manner in which identity politics unfolds especially in case of women. contemporary issue of triple talaq has become a battleground for the culture versus modernity debate.**

**The issues dealt with by the Apex Court in reaching the verdict included, whether Triple Talaq was a matter of faith and thus protected under Article 14, 15, 21&25 of the Constitution? Whether the Court of law can interpret religious scriptures of any religious denomination contrary to the interpretation put on it by the religious books and authorities, held authentic by such denomination? Does the practice of Triple Talaq forms the part of personal law? Did the Muslim Personal Law (Shariat) Application Act, 1937 (Shariat Act) confers statutory status to the subjects regulated by it? Whether Instant Triple Talaq was bad in theology and good in law?**

**The first part of the paper shall analyze the Re: Muslim Women's Quest for Equality versus Jamiat Ulma-I-Hind[1] and Shayara Bano Vs. Union of India[2] petition and the argument put forward by the same. The second part of the paper shall deal with the alternative legal remedies available to the Muslim women in the current legal set-up. The author shall advocate that taking cue from third wave feminism, the identity of Muslim women must be understood at the intersection of gender and religion.**

**Key Words: - Triple Talaq, Sinful, Constitutional Rights, Gender Equity.**

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## INTRODUCTION

Niqah is an Arabic word to denote marriage in Muslims. The use of triple talaq in India has seen a focus of controversy and debate. According to 'Ashabah' - "Marriage is a contract underlying a permanent relationship based on mutual consent on the part of the man and woman". Islam treats the relationship of marriage in substance a civil contract bearing spiritual and moral overtones and undertones.

The practice of talaq-ul-biddat is said to have originated in the pre-Islamic Arabia, commonly known as the *Jahiliyya Period* or the time of Ignorance. Those questioning the practice have raised issues of justice, gender equality, human rights and secularism. The debate has intricate the Government of India and supreme court of India and is connected to the debate about a uniform civil code Article 44. However, with the advent of Islam and Prophet Muhammad in Arabia, the said practice was abolished but subsequently it was innovated by the second Caliph.

Concept of Triple Talaq is an ancient and a controversial Islamic practice followed by the Hanafi Suni is where the husband of a Muslim woman divorces her by uttering the word Talaq, thrice. Theoretically it should take three months to take effect but practically it is often instantaneous and the woman is forced out of her matrimonial home almost immediately. However the use of triple talaq in India has been a subject of utmost controversy as it's a issue of debate in our country.

## CONCEPT OF TRIPLE TALAQ:

Triple Talaq was neither recognized nor sanctioned by The Holy Book *Quran* and The Holy *Prophet*. It was not in practice during the span of first caliph but the second caliph brought this concept of instant divorce. It came into existence to meet some emergency situation and was not made a law permanently. Unfortunately, the Hanafi jurists on the strength of this administrative order of second caliph declared this form of divorce as valid.[3]

Triple-Talaq is also known as Talaq-UI-Biddat which gives a right to a man that whenever he thinks fit, he may give divorce to his wife anytime and which becomes void and irrevocable. This not only violates Muslim women rights but this also makes them inferior in the eyes of society as well as in the eyes of men.

Whereas Muslim marriage is one of the most modern union of man and women, the process of decoupling from this union is one of the most gender biased, exclusionary and regressive in nature. It is pertinent to note that there are many forms of divorces available to Muslims but the scales are heavily tilted in favor of Muslim men. In Quran divorce is bane and is prohibited in muslim law. In Quran establishes means to avoid hasty divorce. The three major type divorce include *Talaq* (available exclusively to men), *Khula* (delegated to women) and *Mubarat* (mutual consent).

The question before the Hon'ble Supreme Court related to *Talaq*, more specifically *Talaq-e-Biddat*. *Talaq* is divided into three types and these are as follows:

- ***Talaq-e-Ahsan*** - It is the most approved form of *Talaq*, it is approved by the holy *Quran* and *Hadith*. It involves single pronouncement of divorce followed by a period of abstinence (*Iddat*), the period usually is of 90 days (three menstrual cycles when wife is menstruating) or three lunar months when wife is not menstruating. It is most approved form of divorce because the same is revocable and leaves room for reconciliation between the couple. The divorce becomes final and irrevocable if reconciliation fails and *Iddat* period is over.
- ***Talaq-e-hasan*** – It is approved form of *Talaq* which involves three successive pronouncements of divorce over the period of 90 days, one each at the end of every *Tuhr* (Period of purity). The divorce becomes final after the third pronouncement, it is pertinent to note that this form of divorce also leaves room of reconciliation and becomes irrevocable only after the *Iddat* is over and no resumption of conjugal relationship has taken place.
- ***Talaq-e-Biddat (Instant Triple Talaq)*** – It is the most disapproved form of divorce, and before the pronouncement of judgment in Triple Talaq Case it is was considered *Bad in theology, but good in law*. It is a *Talaq* by innovation. It entails single irrevocable pronouncement of divorce, which leaves no room for reconciliation and thus is disapproved. This type of divorce left the women completely at the mercy of the husband. This gave a unilateral power of

divorce to Muslim male which could be exercised at his whims and fancies. The only recourse available to resume conjugal relationship is *Halala* which involves marriage of the women with another and its consummation followed by *Talaq*. The question as to validity of *Nikah Halala* was also raised before the Hon'ble Supreme Court, but it was not entertained by it.

## IS IT IN CONFORMITY WITH THE ISLAMIC LAW?

Muslim Law rests on four -fold pillars of Fiqh, viz. the *Quran*, *Sunnah*, *Ijma* and *Qiyas*. There is no Quranic basis to establish that three pronouncements of divorce on a single occasion will amount to an irrevocable divorce. The *Quran* rather lays down only two kinds of divorce i.e., *Talaq Ahsan* and *Talaq Hasan*, the same being in conformity with the dictates of Prophet. The third form, *talaq-ul-biddat*, is considered be the most sinful, innovated form of divorce as it against the letter and spirit of *Quran* and was disallowed by the Prophet himself. It infers that the Holy *Quran* does not sanction triple *talaq* in one go. The word 'talaq' has to be spoken thrice over a period of three months and thus it demands time and patience in executing the divorce in the hope of making the union possible, knowing that the couple is bound to have differences. The Quranic procedure has been laid down with a rationale to establish that marital coverture cannot be terminated in a sudden provocation, jest or rage.

The Supreme Court in the case of *Shamin Ara Vs. State of UP and Anr.*[4] has upheld the view of *Quran* stating that there must be valid reasons someone for divorcing someone and there must be an attempt to reconcile.

It is submitted that Shariat laws aim for life long relationship among husband and wife and provide for all possible means to prevent break down of a marriage. It regards *Talaq* (Dissolution of Marriage) as the last resort. Shariat regards marriage as devotion and reward is promised on all activity's incidental to marriage so that Muslims consider it with due respect as any other worshipping activity. Unlike other personal laws, Shariat law does not keep marriage indissoluble or compel husband and wife to stay in marriage despite all unbearable hurdles from either side of marriage.

Before we move to the nuances of the judgments it is important to understand certain concepts which will make the understanding of the judgments and its imports even better. Muslim marriage (*Niqah*) is one of the few marriage ceremonies which is shorn of any religious requirement, and is in fact Muslim marriage is contract. It would be really hard to find any other union of a man and women that does not involve

or require any sacrament or religious ceremony. If one has to borrow a word from the Triple Talaq Case itself Astonishingly Modern is very apt to describe Muslim marriage.

## **WHETHER TRIPLE-TALAQ IS CONSTITUTIONAL OR NOT?**

### **Triple Talaq and Fundamental Rights:**

In the Qur'an, nikah is described as **Misaqan Ghaliza**, i.e., strong bond and has explained how and with whom one can enter into this strong bond and this strong bond cannot be dissolved without proper reason and method. It certainly cannot be dissolved whimsically. A man has to pass through different stages to bring about reconciliation either by persuading his wife to behave properly, or by appointing arbitrators as per Qur'anic injunctions (4:35). If all this fail only then recourse can be taken to divorce. Thus, according to the Qur'an, triple talaq is not only an arbitrary but also whimsical thing. In India three of five judges approved the ban on triple talaq and the panel discussed the ban on triple talaq. Three of India's neighboring country has banned the concept of triple talaq. Pakistan, Bangladesh, and sri-lanka are amongst the neighboring countries who has banned triple talaq.

But in recent times the various various came before court, *the issues dealt with by the Apex Court in reaching the verdict included, whether Triple Talaq was a matter of faith and thus protected under Article 25 of the Constitution? Whether the Court of law can interpret religious scriptures of any religious denomination contrary to the interpretation put on it by the religious books and authorities, held authentic by such denomination? Does the practice of Triple Talaq forms the part of personal law? Did the Muslim Personal Law (Shariat) Application Act, 1937 (Shariat Act) confers statutory status to the subjects regulated by it? Whether Instant Triple Talaq was bad in theology and good in law?*

One of the most inclusive benches in year 2016 delivered its judgment in

**Re: Muslim Women's Quest for Equality versus Jamiat Ulma-I-Hind[5]** vide which the Hon'ble Supreme Court set aside the practice of instant triple talaq followed by Muslim men for parting ways with their wives by a majority of 3:2. What appears to be divided verdict on the face of it, is actually unanimous when it comes to upholding the dignity of women and furthering the cause of gender justice in India.

The Hon'ble Supreme Court in Triple Talaq Case concerned itself validity of Instant Triple Talaq i.e., *Talaq-e-biddat*. The question of validity of Instant Triple Talaq is contentious not only because it involves the questions of equality as enshrined in

Article 14 of the Constitution but also because of present election mode politically charged landscape of India.

The real test of the Hon'ble Supreme Court was to throw the political considerations out of the window and deal the issue as essentially a constitutional one. A divided verdict notwithstanding, the Apex Court did exactly that. The issues dealt with by the Apex Court in reaching the verdict included, whether Triple Talaq was a matter of faith and thus protected under Article 25 of the Constitution? Does the practice of Triple Talaq forms the part of personal law? Did the Muslim Personal Law (Shariat) Application Act, 1937 (**Shariat Act**) confers statutory status to the subjects regulated by it? Whether Instant Triple Talaq was bad in theology and good in law?

### **THE CASE OF SHAYARA BANO**

The current debate around triple talaq is centered on the Sharaya Bano and several batches of petitions as well as Supreme courts own suo moto PIL to consider whether certain aspects of Islamic personal laws amount to gender discrimination and hence violates the constitution.

The petition was hence challenging the validity of triple talaq on the touchstone of article 14, article15, article21 and article25.

It states:[6]

It is submitted that religious officers and priests like imams, maulvis, etc. who propagate, support and authorise practices like talaq-e-bidat, nikah halala, and polygamy are grossly misusing their position, influence and power to subject Muslim women to such gross practices which treats them as chattel, thereby violating their fundamental rights enshrined in Articles 14, 15, 21 and 25 of the Constitution.

Then the petition goes on to explain the plight of the Muslim women who is suffering due to the abhorrent practice of triple talaq. Further it avers that:[7]

The Muslim personal laws of India permit the practice of talaq-e-bidat or talaq-i-badai, which includes a Muslim man divorcing his wife by pronouncing more than one talaq in a single tuhr (the period between two menstruations), or in a tuhr after coitus, or pronouncing an irrevocable instantaneous divorce at one go. This practice of talaq-e-bidat (unilateral triple-talaq) which practically treats women like chattel is neither harmonious with the modern principles of human rights and gender equality, nor an integral part of Islamic faith, according to various noted scholars. The practice also wreaks havoc to the lives of many divorced women and their children,

especially those belonging to the weaker economic sections of the society.

It is important to note that though the petition mentions several judgments which have dealt with the triple talaq conundrum; it does not rely on the ratio of any of the judgements but rather challenges the constitutional validity of the triple talaq. Further the petition discussed that as triple talaq is not an essential tenet of the religious belief of the Muslims it is not saved by article 25 of the Constitution of India. However, the petition nowhere questions the inherent discretion given to the Muslim husband to pronounce talaq to the wife, rather it only challenges the practice of triple talaq. Hence the Shayara Bano petition does not bring out the ills of triple talaq as it stands today.

Further in the public interest litigation here is no mention of Protection of Women from Domestic Violence Act, 2005 when it was clear that the woman had been subjected to worst kind of cruelty ranging from dowry demands to abandonment. There are several stipulations in the said act which provide for easier dispensation of justice especially considering the facts and circumstances of this case.

The above resulted in a predictable reaction from the Muslim Personal Board which saw this move as a question on their Muslim identity. The counter-affidavit by the All-India Muslim Personal Law Board (AIMPLB) to plead that the Supreme Court has no jurisdiction to adjudicate over Muslim Personal Law since it is inextricably interwoven with the religion of Islam, which is based on Quranic injunctions and is not a law enacted by Parliament, only serves to render the proceedings contentious and add to the controversy.[8]

However, such an argument does not hold good as the Supreme Court has in innumerable cases intervened in personal laws. Be it either *Shamim Ara v. State of U. P*[9] or *Mohd. Ahmad Khan v. Shah Bano Begum*[10] or *Danial Latifi v. Union of India*[11] the Supreme Court has been instrumental in reforming the personal legal position.

From the above it is clear that the petition has created a discourse whereby rights of the Muslim women can be only guaranteed by confrontation with the Muslim identity. It is important to note that both the ignorance of the legal development in the Muslim personal laws by the lawyers as well as the illogical intervention by the Muslim Personal Law Board has gone on to construct this divide of 'us' versus 'them'. Such a divide has always proved to be detrimental to women as somewhere in this meta-truth of good and evil, oppressive and civilized the experiential realities of women are obliterated. It is important to understand that the Muslim women subject is formed from the very community which allegedly subjugates her. It is important for the courts to understand that constitutional rights would remain a dead letter if we

do not understand the manner in which identity politics unfolds especially in case of women. The whole triple talaq issue has become a battleground for the culture v. modernity debate. It is important to realize that women's experiences cannot be understood in these reductive binaries as "she" is produced from the very power relations which subordinate them.

The best example of confrontational politics leading to actual victimization of the woman in question was the *Shah Bano* case.[12] The case pertained to maintenance to the Muslim wife after talaq had been pronounced. The court while upholding the abovementioned right under section 125 of the CrPC observed that:[13]

It is also a matter of regret that Article 44 of our Constitution has remained a dead letter. It provides that "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India".

There is no evidence of any official activity for framing a common civil code for the country. A belief seems to have gained ground that it is for the Muslim community to take a lead in the matter of reforms of their personal law. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue. It is the State which is charged with the duty of securing a uniform civil code for the citizens of the country and, unquestionably, it has the legislative competence to do so. Recently on 30<sup>th</sup> July 2019 the parliament of India declared the practice of triple talaq illegal and unconstitutional and made it a punishable act from 1<sup>st</sup> 2019.

The plea to invoke UCC and the adverse comments made by the court against the Prophet and Islam resulted in to a backlash from the Muslim community. It was seen by them as an attack on their cultural beliefs and faith and was perceived as a means to impose the hegemonic idea of uniformity and universality on them. Therefore, a statute based on Islamic jurisprudence was demanded. During this period the Muslim woman was situated within these sharply drawn binaries and was called upon to choose between her religious beliefs and community affiliations at one end and her gender claims at the other, which was indeed a difficult choice for her.[14]

Such discourses led to *Shah Bano* renounce the maintenance given to her by the court under section 125. Ironically, the fury which was whipped up seemed to be divorced from the core component of the controversy, a paltry sum of Rs.179.20 per month, far too inadequate to save



the middle-aged, middle class, ex-wife of a Kanpur-based lawyer, from vagrancy and destitution.[15] However *Shah Bano* declared that she would instead be a devout Muslim rather than claim maintenance.

Such a statement warrants introspection from both the side of the controversy. The woman who was presented as the face of oppression of the Muslim community declined the relief given to her. It is important to appreciate her subject position of not just being a woman but a Muslim woman. Her identity was multifaceted and she wanted to achieve empowerment within the boundaries of her faith. Such an example brings us back to the question put forward by Gayatri Spivak that “can subaltern speak?”

The issues that tilted the tide in favor abolition of practice of Instant Triple Talaq are as follows:

### **BAD IN THEOLOGY, BUT GOOD IN LAW**

The Hon'ble Supreme Court discussed at length the vexed question whether Instant Triple Talaq was *Bad in Theology and good in law*? The Hon'ble Apex Court went through plethora of cases to determine the theological and legal sanctity of Instant Triple Talaq, the two judgments which put forward the contentious view point are that of The Privy Council (PC) in *Rashid Ahmed v. Anisa Khatun*[16] which held the practice of Instant Triple Talaq to be valid. In this case the PC held the triple talaq to be final and irrevocable even after the couple had cohabited for 15 years after pronouncement of divorce. The contrary view in relation to triple talaq's validity comes from *Jiauddin Ahmed v. Anwara Begum*[17] (**Jiauddin**) in the said case the Hon'ble Guwahati High Court held that the observation made in earlier cases regarding Instant Triple Talaq i.e., *Bad in theology, good in law* were based on wrong premise the same being treating women as chattel belonging to husband.

The judgment in *Jiauddin* discusses various Quranic verse and commentaries of contemporary scholars on the subject. Divorce if becomes inevitable must be followed by a period of reconciliation, a valid reason should be assigned for the same, it can never be in secrecy and it can never be arbitrary. Justice Kurien in the Triple Talaq case relied heavily on *Shamim Ara v. State of UP* (**Shamim Ara**) and others[18] which endorses *Jiauddin*, and stated that it would be wrong to suggest that there is no *ratio decidendi* in *Shamim Ara*. [19]

### **ARBITRARINESS IS ANATHEMA TO THE EQUALITY:**

Justice Nariman attacked the practice of Instant Triple Talaq on the grounds of Arbitrariness and held it to be violative of Article 14 of the Constitution. Justice Nariman cited plethora of judgments of the

Apex Court which have held that Arbitrariness is nothing but an anathema to Equality. The practice of Instant Triple Talaq which rests solely on the whims of a Muslim man do not deserve the sanctity of law and was rightly held to be falling foul with the test of Arbitrariness as put forth in *E. P. Royappa v. State of T. N.*[20] In the present day and time restriction of Article 14 to mere test of classification would amount restriction of what is actually a very wide right, which allows the State to not only omit but also act. Further Article 14 forms with Article 19 and Article 21 this holy troika which gets destroyed if even any one of them is disturbed. Thus, Hon'ble Supreme Courts application of Article 14 and eventual striking down of Instant Triple Talaq does a great service to the rights movement in India.

Some issues were dealt with by the Hon'ble Supreme Court, yet the same remain undecided:

### **STATUTORY COLOR TO THE PRACTICES MENTIONED IN SHARIAT ACT:**

During the arguments in the present case, one line of argument that was taken by the Petitioners was that the Shariat Act, has in a sense codified Muslim law and all the provisions contained in the same, thus if any of its provision abrogates or takes away any fundamental right the same can be set aside as per Article 13 of the Constitution. The crux of the argument being, after the passing of the Shariat Act, it no longer remains part of personal law and thus opens itself to challenge for violation of the Constitution. The Apex court however was split on this issue while Justice Kurien agreed with the view of Justice Kehar that the Shariat Act is not a legislation regulating Talaq, thus the same cannot be tested at the anvil of Article 14, Justice Nariman held it otherwise. It can be safely said the Hon'ble Supreme Court missed an opportunity to decide with finality whether Personal laws can be tested on the grounds that they violate fundamental rights. The Court could have probed the complex relationship between the Constitution and Religion and come up with answers. The question as to whether personal law is law within the meaning of Article 13 could have been dealt with in greater detail. This was an opportunity for course correction as some quaint judgments held personal law (uncodified) not to be 'law' within the meaning of Article 13 and therefore, exempt from constitutional scrutiny. The issues become highly important in the light of the fact that even if one considers Personal laws as fundamental rights as enshrined and safeguarded under Article 25[21] of the Constitution the same is subject to other provisions of part III (Fundamental Rights) of the Constitution. As things stand today Shariat Act does not regulate Talaq in India, thus Shariat Act has not codified the practices governed by it rather Shariat Act is rule of decision[22] in contentious issues in Muslim Law including matter of Talaq. It is

an act passed to abolish, inhumane practices and customs against Muslim women.

Another bone to pick with the judgment would perhaps be the judgment written by Chief Justice Kehar Justice Nazeer wherein they dissented, holding that the practice of triple talaq as a part of Islam, and asked Parliament to bring about its reform through legislation. The six-month injunction against exercise of this right was a little baffling and of tenuous legal standing, as it is almost tantamount to saying that 'X' practice is a constitutionally protected right, but its practice is being enjoined for an 'X' period.

## VALIDITY OF TRIPLE TALAQ IN OTHER COUNTRIES:

It is pertinent to note that triple talaq has been declared illegal in theocratic States like Pakistan, Bangladesh, Indonesia, Turkey, Cyprus, Tunisia, Algeria, Iran, Sri Lanka, Jordan, Qatar, Sudan, UAE, Morocco, Egypt, Iran and Malaysia.

## CONCLUSION

It is a good riddance to an abhorrent practice called *Talaq-e-Biddat*. A practice which was neither consistent with words of the Prophet nor with the provisions of the Constitution. Equality in the matter of divorce, which was earlier denied, to Muslim women has somewhat been provided, Muslim Divorce is no longer whimsical and capricious rather it would now be governed by reason.

It is important to understand that identity subversion is a very complex phenomenon. The problem with identity politics is that it does not transcend difference but is rather shaped by the very difference. Drawing upon the post-modern scholarship the subjectivity of the Muslim women has to be understood to be constructed within the same socio-cultural context. For example, pious Islamic women may contest patriarchal regimes of Quranic interpretation home, while at the same time articulating a sort of global solidarity.[23] It has to be understood that the identity of a Muslim woman is intrinsically linked to her Muslim-ness and cannot be divested from it. Therefore the law reforms cannot take into account the linear narrative of victimization through the patriarchal Muslim community but rather also has to provide space for assertion of multilayered identities like these.

Constitutionally speaking, it is evident that triple talaq is a gross violation of the rights of Muslim women as the religious freedoms applies equally to both masculine and feminine gender. It nowhere gives males citizens to oppress their female counterparts. The Muslim women have been denied for decades their Quranic rights owing to misinterpretations and interference of patriarchal orthodox bodies. Therefore, the Supreme Court described and ibid

talaq-ul-biddat as being retrograde and unworthy of protection after ensuring that the scrapping of practice remains absolved both from the touchstone of constitutional principles and Quranic injunctions.

It is now unequivocally established that the practice which runs counter to the general jurisprudence, the principles of equality, international human rights law and the Quran- is not fundamental to the religion of Islam in India. It is truly un-Islamic and is a departure from the tenets of Quran.

After delivering the judgment in the case of *Shayara Bano Vs. Union of India and others*, the Supreme Court has put a six months' stay on the practice of Muslim men giving their wives instant divorce through triple talaq. If the law does not come into force, then the Supreme Court's injunction on triple talaq will continue. After a very long discussion the muslim people finally got verdict and it made it finally clear that triple talaq is finally banned in our country and a new the muslim women protection of rights on marriage act 2019 passed on July 2019 is given to all muslim women.

Supreme Court owes duty on parliament to a law on triple talaq to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and to provide for matters connected therewith or incidental thereto. So, parliament recently passed the bill from both houses in the Sixty-eighth Year of the Republic of India. In order to prevent the continued harassment being meted out to the hapless married Muslim women due to talaq-e-biddat, urgent suitable legislation is necessary to give some relief to them. The Bill proposes to declare pronouncement of talaq-e-biddat by Muslim husbands void and illegal in view of the Supreme Court verdict. Further, the illegal act of pronouncing talaq-e-biddat shall be a punishable offence. This is essential to prevent this form of divorce, wherein the wife does not have any say in severing the marital relationship. It is also proposed to provide for matters such as subsistence allowance from the husband for the livelihood and daily supporting needs of the wife, in the event of husband pronouncing talaq-e-biddat, and, also of the dependent children. The wife would also be entitled to custody of minor children.

The legislation would help in ensuring the larger Constitutional goals of gender justice and gender equality of married Muslim women and help subserve their fundamental rights of non-discrimination and empowerment.

After the passing of bill still there are so many questions unfold which need to address to common people of India like parliaments lacks legislative competence, bill lacks legislative coherence, and it violates Article 15 of the Indian

Constitution. Instant talaq has been declared null and void already. It lacks rational nexus as sections under IPC exist. There is also the EP Royappa case of SC[24] to show that the bill is constitutionally not valid. This bill will be injustice to Muslim women in the aspect panel clause in bill. The law minister who is the drafter has failed to distinguish between civil law and criminal law. In section 3,[25] the law minister accepts that triple talaq will be void, then how can you punish him? Something which is void cannot be punished as it has no legal force.

Indian government is in a lot of hurry. The standing committee recommendations needed to have been taken on board. This can be made a better law. This law is being drafted in a very hurried manner. When the man is in jail how they can sustenance be given to a woman in the meantime?

The cloud of confusion let it be clear.

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