

Political and Economic Notes:

Triple Talaq

A Small Victory for Muslim Women

The Supreme Court in a judgement with far reaching consequences declared Triple Talaq illegal, against the Constitution of India and against the tenets of Islam. This is a small victory won by Muslim women. Yet they have to traverse a long way in their struggle for equality.

Five Muslim women victims of Triple talaq practiced by a section of Sunni Muslims, namely Shayara Bano, Afreen Rehman, Gulshan Parveen, Ishrat Jahan and Aatiya Sabri along with a Muslim women's organisation appealed to the Supreme Court seeking abolition of Triple talaq, polygamy, domestic violence and other discriminatory practices. The Supreme Court only took up *Talaq e Biddat* (bad divorce), where a man can divorce his wife by merely uttering the word talaq thrice. The five judge bench delivered three separate judgements. Justices R.F. Nariman and U.U. Lalit held that the Triple talaq is against the Constitution of India; so illegal. Justice Kurien Joseph held that the issue was settled in an earlier case by ruling that Triple talaq had no legal sanction, and said that "what is held to be bad in the Holy Quran cannot be good in Shariat"; so it should be set aside. Other two justices J.S.Khehar and Abdul Nazeer held that as the triple talaq is included in Muslim personal law it enjoyed Constitutional protection; so courts cannot intervene. They suggested that a separate law should be enacted by the government to address the problems of Muslim women. Though there were separate judgements, all the justices had agreed that the Triple talaq has to be removed.

These women should be applauded for their persistence despite all odds they faced. These women first knocked the doors of All India Muslim Personal Law Board (AIMPLB) which ignored and mocked them. In spite of this they fought courageously to take the case up to the Supreme Court. The AIMPLB remained indifferent to the fact that the Triple talaq played havoc with the lives of women, most of them, young. It has no heart to feel the pain and suffering of victims of triple talaq. It looked the other way when they needed to see the reality that majority of Islamic countries discarded this atrocious practice long ago. Even in India a tiny section of Muslims take recourse to it. This situation is not going to continue unchallenged. The Muslim women are becoming aware and are getting organised. They formed a separate All India Muslim Women Personal Law Board. They are ready to defy the conservative leaders of their religion.

The question of implementation of this judgement comes to the fore now. Justices Khehar and Nazeer stressed the need for new law. The BJP government in an affidavit before the Supreme Court committed itself that it will enact a law once the Supreme Court rules against the talaq. Now, while welcoming the judgement as an instrument that empowers the Muslim women, it went back on its commitment to enact a law. It raised the plea that of the minority judgement is not binding the government and it only can write letters to the Chief Secretaries and DGPs of states asking them to take steps to implement the judgement.

This clearly shows that the BJP is not interested in the implementation of the judgement and in putting a stop to a bad practice and custom for which they had been clamouring all these years. Its only interest is to gain narrow political gains. Its frequent utterances on uniform civil code are also of the same nature. It *wants to* improve its vote bank by rousing anti-Muslim hatred.

The Congress party cannot wash its dirty hands. Rajiv Gandhi, when he was the Prime Minister, stained his hands by reversing the judgement of the Supreme Court granting the right to alimony to Muslim women, by vociferously supporting the present judgement on triple talaq.

Such undemocratic and oppressive customs and practices followed by any religion should be relegated to the dustbin of history as they are regressive in nature and are impediments to development of society at large and women in particular. This problem cannot be solved by the legislations alone. It is necessary to kindle awareness among the people against such practices and then only the enactment a law will help the process of their elimination. This is the historical experience of

many reform move-ments in India which raised their voice against the inhuman practices and customs that oppressed women generations together.

Take the case Muslim women in India. The problems they are facing are common with those faced by the women of other religions. There may be differences in forms, but the essence is no less oppressive. Instead of creating awareness against such practices, the BJP-RSS combine used the Triple talaq and uniform civil code for Muslim bashing which pushed them into the clutches of Muslim clergy by creating the feeling of discrimination and insecurity among them. The Congress too did the same by treating the Muslim clergy as the true representative of Muslim people and pampering and succumbing to them. This had further strengthened the hold of Muslim clergy on the Muslim people.

This situation had crippled the voices of the democratic forces both inside and outside the Muslim population. Their fear that if they were to point out the bad customs of Muslims and demand for reforms, the communal forces may utilise it to intensify their attacks on Muslims had forced them to be silent.

One should not lay more emphasis on the Courts as they are not in a position to deliver positive judgements in every case because of inherent class bias built into legal system. The present ruling on talaq made illegal just one form of talaq practiced by a section of Sunni Muslims. The fight against oppressive customs and practices that prevail in the Muslim community cannot be fought by the Muslim women alone. All the women belonging to all the religions who are facing the oppressive and discriminatory practices should be united. This task rests with the democratic forces and proletarian parties in India.
