



Triple Denial

of
Justice,
Dignity
and Equality

TRIPLE DENIAL

OF JUSTICE, DIGNITY & EQUALITY

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Foreword

The pre and post independent societies of India saw a number of constructive social-cultural reforms that shaped the future course of India. These reform campaigns were elemental in freeing the Indian society from orthodox customs that had for long plagued the masses. The campaigns of Raja Ram Mohan Roy against the ills of Sati Pratha, Ishwar Chandra Vidyasagar's contribution in breaking the taboo of widow remarriage and Swami Dayanand Saraswati's achievement in awakening the masses against blind ritualistic practices were some of the notable changes of those times. It is noteworthy to mention here that even these noble attempts of delegating a constructive change to the society had to face oppositions from a section of the society, who from within their silos of patriarchy and orthodox dogmas took a reactionary stand against these reforms. In 1933-34, during the course of "Harijan yatra" by Mahatma Gandhi, he traversed almost twelve thousand kilometres in an attempt to raise awareness against untouchability. During this brief period, Mahatma Gandhi was in several instances shown black flags, but the society straightforwardly rejected such detrimental and reactionary behaviours and stood with the needs and aspirations of forming a more constructive modern society. This was the pivotal reason that all reactionary forces that opposed constitutional reforms had to face defeat in the society. Yet a primordial question remains unanswered in front of us,

What are the parameters of reforms for the Indian society? Whether, acceptance for constitutional reforms remains confined only to the Hindu society?

It is evident that the Hindu society has time and again displayed tremendous capabilities to initiate reforms against prevailing social ills and that this ability of constant introspection has empowered the Hindu society to prevail and cope progressively with the changing times. But other communities, particularly, the Muslim community had remained reluctant whenever the cause of social reforms came knocking at their doors. This attitude caused the successive governments in the post independence era to distance them from initiating any constitutional reforms as they were afraid of being painted as sacrilegious. The fear of disturbing this status quo was so prominent that even after successive judgements from various courts, governments in those times remained indisposed in providing equal rights to Muslim women. For instance, when the Hindu code bill was introduced in the 50's, demands for providing equal rights to Muslim women were also raised. But the Nehru government fearing political repercussions didn't dare to step out of their comfort zones and pursue the cause of Muslim women. J.B Kriplani, a

socialist leader, during a parliamentary debate accused the Nehru government of behaving in a partisan manner and that his government was working more on the lines of a theocratic state than a constitutional one. A vital question raised by Kriplani, as to if a bill for securing the rights of Hindu women was necessary, then why the same was not reciprocated for Muslim women not only remained unanswered, but the consecutive years saw a rise in the numbers of people who were more and more hostile towards constitutional reforms in the Indian political sphere. The cause of Muslim women remained confined within the purview of courts, RSS and BJP and any attempts to ensure equal rights to Muslim Women was branded as a sacrilegious attempt against Islam and since, the secular attributes of India had remained suffocated under the might of religious bigotry. In 1986, even after the historic judgement of the Supreme Court regarding the Shahbano case, the apologist government under Rajiv Gandhi sided with the fundamental and reactionary forces. While the entire nation was astonished on the prevalent hypocrisy, the intelligentsia yielded to the fundamental forces of religion under the guise of minorityism.

Even after generations of exploitation, apathy and neglect, the plight of Muslim women failed to draw the attention of the Marxist-Nehruvian intellectuals as for them appeasement held a higher place in the social order than equal rights. The recent uprising of oppressed Muslim women against these intolerant practices can be termed as maiden steps towards ensuring equal rights to Muslim women. The recent developments have been successful in startling the fundamentalist and pseudo secular forces; however this time the reactionary forces were no match to the determination presented by these women. The tremendous will power that the Narendra Modi led government has resonated in pursuing equal rights and equal status for women from every section of the society is a milestone undertaking, this will not only boost the morale of these women but will also be a huge leap towards upholding the constitutional spirit in its true sense. India policy foundation also participated in this quest for ensuring equal rights at social and academic level. In an attempt to voice legitimate concerns and demands, India policy foundation organised various seminars and undertook personal interviews of numerous victims. While the research team of IPF remained in constant communication with these victims, sometimes these victims were also invited to the premises of IPF for documenting their narrations.

The historic judgement of the honourable Supreme Court rendering the practice of Triple Talaq as illegal was the first step towards ensuring gender justice for Muslim women. In a landmark decision the Narendra Modi cabinet passed an ordinance based on the legislation rendering the practice as a punishable offence. The battle for Equal rights that

Shahbano pioneered can reach its final conclusion once the Muslim community in India wholeheartedly accepts this historic judgement and frees itself from the age old shackles of disparity. This document is a vivid description of a social discrepancy and strongly advocates for empowering those women who have been deprived of it.

- Rakesh Sinha

GLOSSARY

• NIKAH

Nikah is an Arabic word that is synonymous with 'marriage'. In Islam, marriage is a legal contract between two people. The bride and the groom are to consent to the marriage of their own free will. ¹

• NIKAHNAMA

Nikahnama is an Urdu word. It is a formal, binding contract considered an integral part of an Islamic marriage and outlines the rights and responsibilities of the groom and bride or other parties involved in marriage proceedings. In other words, Nikahnama is the contract that is executed by the couple during the 'Nikah' ceremony. ²

• MEHR

In Islam, a mehr (Mehir also transliterated as mehr, meher, mehrieh or mahriyeh) is a mandatory payment, in the form of money or possessions paid or promised to pay by the groom, or by groom's father, to the bride at the time of marriage that legally becomes her property. ³

• TALAQ

In Islamic law, Talaq means a divorce affected by the husband's enunciation of the words 'Talaq'. This constitutes a formal repudiation of his wife when the word is uttered thrice. In such cases, the consent of the wife is not required. ⁴

• HALALA

Halala is an Islamic marriage custom practiced primarily by certain sects of Sunni Muslims, which involves a female divorcee marrying someone else, consummating the marriage and then getting a divorce in order to remarry her previous husband. ⁵

• ULAMA/ULEMA

The Arabic term ulama ("scholar", literally "the learned ones", also spelled ulema), in its original meaning "denotes scholars of almost all disciplines". More specifically, in the context of Sunni Islam, ulamas are regarded as "the guardians, transmitters and interpreters of religious knowledge, of Islamic doctrine and law." ⁶

- **QAZI**

Qadi or Kazi or Qazi, is an Islamic legal scholar and judge. A Qazi is the magistrate or judge of the Sharia court, who also exercises extrajudicial functions, such as mediation, guardianship over orphans and minors, and supervision and auditing of public works.⁷

- **SHARIA**

Sharia is the Arabic word for Islamic law, also known as the Law of Allah. It is the code of conduct followed by Muslims and has its basis in two main sources: the Quran and the Sunnah of the Prophet.⁸

Executive Summary*

Equality, Justice and Dignity are three important pillars of a civil society. The history of human civilisation has been a history of the quest of aforesaid elements to progressively consolidate civil society. In our civilisation, liberty, equality and justice constitute fundamental ideas. Whenever all or any of them are missing from the social structure, progressive transformation as a corrective measure has taken place within the society, confronting and eventually defeating the forces of dogmatism and obscurantism.

We have witnessed how progressive perspectives were blocked in the context of Sati, Child Marriage and Widow Remarriage. In Independent India, the Government took progressive measures to bring about gender justice by codifying Hindu Laws. It was at this juncture that the progressive and secular leadership was dismayed to find that Indian parliament was initiating reforms for only one community while ignoring the medieval and blatant gender injustice in another community, i.e. the Muslims.

No less a person than Acharya J.B. Kriplani raised this question in the Lok Sabha during the debate on equal gender rights and attacked the government for its selective approach while debating on Hindu Code Bill. He went to the extent of dubbing the Nehruvian state as communal. It was at this juncture the demand for Uniform Civil Code was first raised. Much water has flown in the Ganga since then. It has been experienced that whenever the Hon'ble Supreme Court of India has pronounced a verdict upholding gender justice; democratic discussions have been dubbed as attack on 'personal laws' and 'freedom to practice one's religion'.

However, there has been a change in the socio-political environment in the country post the 2014 mandate. In the new political situation, pseudo-secular forces are marginalized, which has given Muslim women the opportunity to raise their voice and rebel against patriarchal and medieval forces. They have increasingly defied the obscurantist, religious and political leadership of the community.

In the present context, the India Policy Foundation (IPF) Research Team undertook the exercise of interviewing and meeting women who have been wronged by the discriminatory practice of Triple Talaq perpetuated by a mindset that attempts to subdue the female voice and forces them to be trapped in the swamp of sectarian fundamentalism. This exercise undertaken by the IPF Research Team was spread over a period of six months and also involved interaction with activists from the Muslim community, religious leaders, constitutional experts, political leaders, intellectuals, civil

society.

Experiences gathered in this journey saw the IPF Research team members undertake path less travelled. Some are worth mentioning. For instance, while locating the house of a religious leader through the bye lanes of Paharganj in New Delhi, two of our women team members, unable to trace the address as they climbed umpteen narrow circular stairs. Though they were hesitant, they still kept enquiring about the location by knocking at unknown doors. When guided, they were still unsure of undertaking the exercise while negotiating tapering walls and dark, narrow alleyways. However, on finding the desired location, they were given a warm reception and hence overcame their apprehensions.

To garner a wider opinion across states, the IPF Research team collaborated with the University of Rajasthan at Jaipur to hold a Seminar with the idea of providing a platform to Triple Talaq victims. Though the seminar was not publicised keeping in mind the courage Talaq victims had to muster to speak about their woes, the information reached the intelligence services and they posed queries about the motive of organising such an event. The team went ahead with the programme, though unsure of how many participants would turn up as the news had already spread. We were pleasantly surprised to see a large number of women from the community still participating and sharing their experiences.

The IPF research team undertook the exercise of interviewing the victims of Triple Talaq. On one such occasion, when the IPF team reached the victims residence, many eyes in the neighbourhood gave an unwelcome reception. Though the victim was courageous and talked candidly about her sufferings, she wanted the team to be cautious while leaving her premises. Her apprehensions were substantiated when a bottle was thrown upon the team from the terrace of the building but had caught the glance of one of the members. Providence saved everyone, as the bottle landed on a car and broke its rear windshield. This goes to show that rising dissent has started ruffling the feathers of conservative resistance.

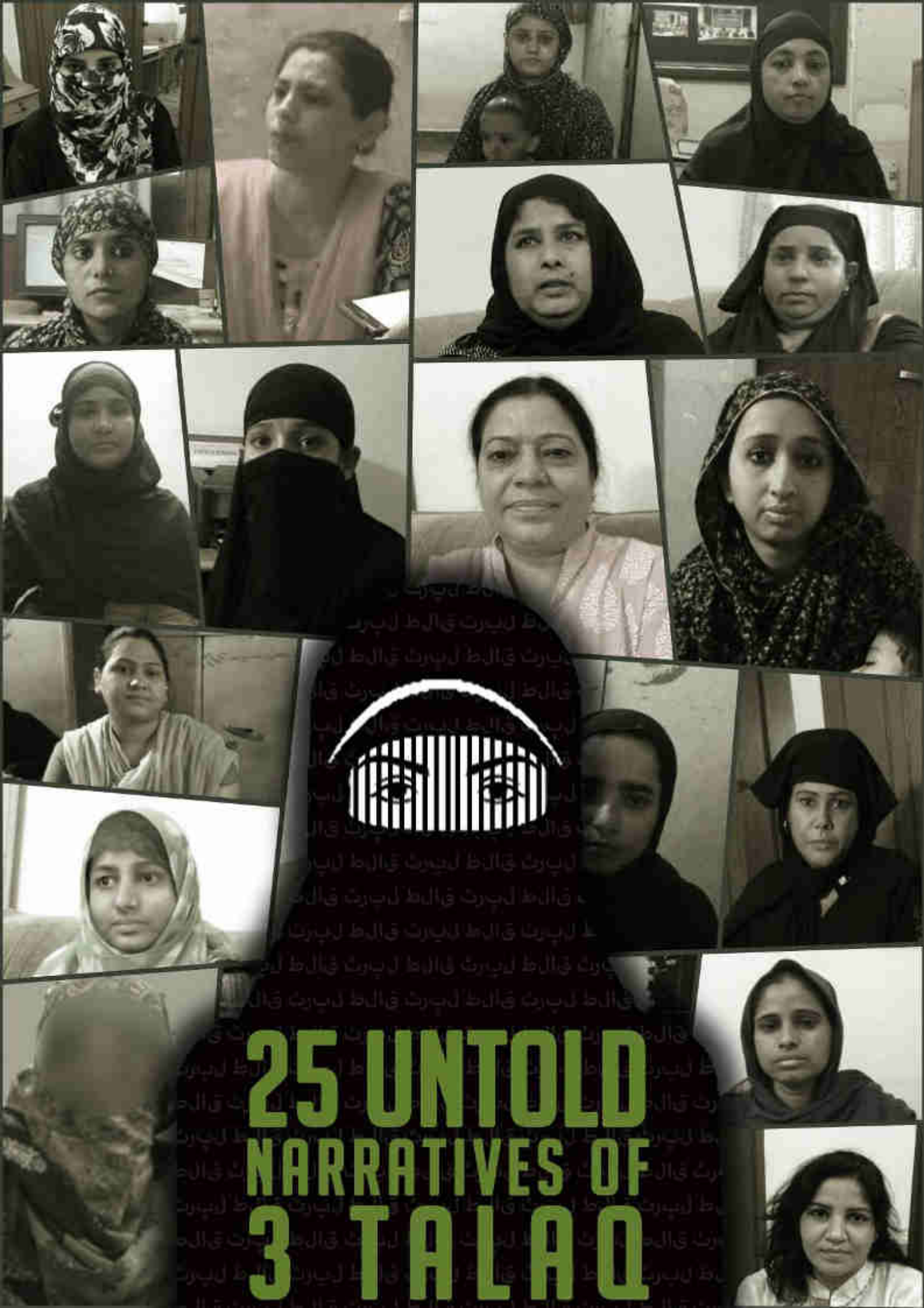
While the Constitution of our country is inclusive in providing the right against discrimination and right against exploitation in its ambit, it is still not adequate in providing equal marital rights to some due to their religious identity. Every society has its share of struggle for gender justice. When Ishwar Chand Vidyasagar collected 987 signatures and sent his petition to the Indian Legislative Council in support of Hindu

widow remarriage, it was countered by another signature campaign of 36,763 signatures headed by Radhakanta Deb.

In spite of the majority in the campaign opposing Widow remarriage, the righteous view prevailed among the masses and finally the Widow Remarriage Act of 1856 was passed. In the present context, Muslim society was also standing at a crossroad where Bharatiya Muslim Mahila Andolan had reportedly obtained fifty thousand signatures against Triple Talaq while the All India Muslim Personal Law Board had made claims of one crore signatures in its favour.

The historic verdict of the Hon'ble Supreme Court delivered on 22 August 2017, held Triple Talaq, also known as Talaq-e-biddat 'unconstitutional'. History has repeated itself and once more, the righteous view has prevailed. Onus of this victory lies with the Muslim women who did not give up on their struggle for self-respect and steadfastly took the inequity in divorce laws to the judiciary. It has been a moment of liberation for the Muslim women. However, the Jamiat Ulama-i-Hind, a religious organisation representing Muslim clerics has voiced its concern over the verdict, terming it as an "interference with religion". The statement of a minister from the State of West Bengal citing the judgement as an interference with the Muslim Personal Law speaks volumes about the impending social reforms and change in the mindsets still awaited in the Muslim society.

The Executive has pushed for social reforms by introducing Triple Talaq bill in the parliament which is presently stalled in the Rajya Sabha. Muslim women have to still contest medieval practices like Halala and Polygamy which stand no ground on the touchstone of gender equality and humanity. The community has to take a call and muster courage to overcome the burden of religious fundamentalism from within and carry out a crusade for social reforms and empowerment of women.



25 UNTOLD NARRATIVES OF 3 TALAQ

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'Triple Talaq', 'Halala' and 'Polygamy' have deprived women in the Muslim community of a life of dignity and respect. Though it has been widely criticised as a gross infringement of women's rights, it is being practised rampantly. Most of the Triple Talaq victims interviewed by the IPF Research team were in their early twenties. Their faces spoke volumes about the horrific experiences they have already been forced to confront in their young lives. The grim expressions of their children who instinctively knew that this would not be a happy discussion, the dejected look on the helpless parents of the women and their destitute living conditions, all testify the fact that the level of victimisation is beyond the personal realm.

It petrifies a soul to see these women in a situation where they have been exploited, beaten, threatened and have had their spirits crushed. It is an entire family, more than one generation and more than one woman who have fallen prey to this monstrous practice. These women are so dejected with their circumstances that they refuse to talk to anyone outside their limited social circle, let alone share the most humiliating experiences of their lives. We admire their courage to have come forward and shared their oppression. While documenting the narratives of these victims, somewhere between the discussions, it metamorphosed itself into something more than just case studies. It was a woman talking to another—revealing what we had only heard but never seen. It was much more than collecting data for a research or conducting surveys — it was about sharing of a burden, lending an ear, attempting to fade away a worry with comforting words.

Rahnuma

“Anyone can give Triple Talaq without ensuring security to the woman. Men have made a mockery out of it.”



I was married to Mohammad Kashif at the age of twenty one. For the wedding, my father provided me with as much dowry as he could. Immediately after my marriage, I was abused for apparently getting less dowry inspite of my parents giving gold jewellery, motorbike and other luxury items. I was tortured because my in-laws demanded more

Rahnuma was married to Mohammad Kashif. Her father provided her with as much dowry as he could. Yet she was harassed over dowry and eventually had to return to her parents due to continuous beating and abuse. Relations between her and Kashif became worse when she gave birth to a daughter. Her in-laws and husband were displeased at the birth of a female child. During a counselling session, Kashif gave her Triple Talaq. She is struggling to survive the social indignity. Custodians of faith are oblivious of her plight.

expensive gifts like a four-wheeler, among other things. They were displeased with the wedding arrangements as well. I was mercilessly beaten by my husband and at times by my brother in law. I was

forced to participate in unnatural sexual relations with my husband. More pain was in the offing for me when I got pregnant. I was sent to my parents' home where I gave birth to my daughter. My in-laws were extremely displeased with a female child, and they refused to take me back. My husband went to the extent of threatening to murder our daughter. When called for counselling at the Mahila Mandal, my husband gave me Triple Talaq in the presence of other women and my relatives. My Talaq was never documented nor was it witnessed by any of the maulanas and ulemas. It was simply pronounced. I registered a complaint against my

to the police station, I was dismissed with imminent threats.

I was hence forced to return to my parents' house with my daughter. My husband does not provide any maintenance to us and even my mehr has not been given. I am not educated enough to be self-reliant and have to depend on my parents for myself as well as my daughter's expenses. What can be worse than having to be a burden to your parents even after marriage? I am struggling with my three-year old child in a decrepit residential society and I appeal to the government to put a ban on the practice of Triple Talaq. I firmly believe that practices like Triple Talaq and Halala are means to exploit Muslim women and they should be stopped immediately. Their fate is worse than death. Women should be provided with adequate maintenance and property rights to ensure a life of dignity and security for them and their children.

Jahan Ara

The Rising Rebel

“I asked Ulemas what should a woman like me—who has been tortured beyond endurance, whose children have been snatched away from her—do? What are Islam’s provisions for me?”

a daily affair for them to beat and abuse me. My uncle (later father-in-law) who had several wives loved me dearly. So, my aunt (later mother-in-law) found sadistic pleasure in torturing me and taking her revenge for what she had once undergone. I endured this torture for twelve long years before I decided to step out of the marriage. During these years, I gave birth to two boys and two girls. I returned to my mother in 2010 and lived with her till her demise. After the demise of my mother, I stay with my sister and her family. I had decided long ago that I would not return to my husband. Though I have not obtained any divorce but according to



I got married to Mohammad Qamar at the age of seventeen in 1996. I believe he was around twenty-six at that time. He was a cousin and the family arranged the wedding. When I went to my husband’s house on my own after one year of marriage, my mother-in-law fell ill. Since then everybody started believing that I am unlucky and started torturing me. After seven months of my stay in my husband’s house, I was thrown out. I returned

Jahan Ara’s dream of a happy family life shattered even before she could realise that she has started a new chapter. She faced unimaginable physical and mental torture by her husband , Mohammad Qamar and mother in law. This was continued even after she became mother of four children. For a mother’s agony, she was disallowed to meet her children but all this could not shatter her. She emerged as a great rebellion challenging Ulemas, Shariya and the conservatism of the community.

to my mother and learnt that I was pregnant. I gave birth to my daughter and stayed with my mother for a year and a half before I returned to my husband. Once I returned, my ordeal continued and it became

the laws of Sharia my relationship with my husband is dissolved. My husband did not initiate any divorce because that would have deprived him of my property. My children do not

even acknowledge me. I wanted my children to stay with me but I was not allowed. They would not even greet me when I come to meet them. They have already conveyed that their mother is dead.

I had written to the ulemas seeking their advice. I pleaded with them to show me some light. I asked them what a woman should like me—who has been tortured beyond endurance, whose children have been snatched away from her—do? What are Islam's provisions for me? They replied that I should be patient and that Allah is All-Merciful and he would one day show me the way. After my mother had passed away, relatives came in flocks to advise me to go back to my husband, but I refused. I believed there was no reason for me to go back to the relationship that did nothing but destroy me. I had again written to the ulemas seeking their advice after explaining the entire situation. They said that I can send in a khula (procedure through which a woman can divorce her husband) and remarry if I want to. I was surprised that they could be so casual about the situation. According to Sharia, my marriage has been dissolved but the ulemas refused to accept it since I was aware of my husband's whereabouts. I am aware of the fact that in my situation I can get married again without Halala according to Islamic laws. This confusion could have been avoided had the laws of Quran been codified and I would have clearly stated my marital status as a divorcee.

My husband does not pay me any maintenance, and I did not demand any. Everybody in my family supported me and tried to convince my husband that what he did was wrong, but he refused to change himself. Relatives tell me that my husband has remarried and is living a happy life with his new family. But it has little effect on me. I believe he has no role in my life and what he does is not my concern. I find it difficult to rely on local gossips to determine the status of my husband and children.

I believe Halala is wrong and that it is not a part of either Islam or Sharia. I believe it is a form of mental and physical torture. Talaq should be done according to Quranic dictums and not in the facile pronouncement as it is done these days. Even if I have not faced the pronouncement of Triple Talaq, I have witnessed what it does to women who have faced it.

I appeal to the government to codify the Quranic laws. Evil practices which continue to take place as a part of Islam should be banned, and only the learned and wise maulanas should come to the forefront to explain the rules of Islam. A thoughtful and profound interpretation would help Islam to be viewed as a just, tolerant, humane and unaffected religion. Incomplete and limited knowledge is fatal for the society. Religion should be seen and shown in the right light as it is.

First Woman Qazi

The Sharia, which governs the religious practices and rituals in the Muslim community, has traditionally been a male bastion. It has taken almost fourteen hundred years for women to break the patriarchal domination and take over the traditional role of a Qazi, a judge in the Sharia law. Jahan Ara is one of the first woman Qazi in India, a registered degree holder who graduated after a two-year training from the Dar-ul-uloom Niswan; a centre for Islamic learning and theology in Maharashtra. Society needs to ponder why it took so long to break the shackles of gender repression in the Muslim community. Many from the community had out rightly rejected her and believed that women Qazi cannot perform certain religious rituals which a male Qazi can. However, Jahan Ara says that the Quran does not mention this gender bias. She takes pride in her degree and continues to counsel women of their rights and mediation. Though registered to perform marriages complying with Islamic law, she is still waiting for the D-day to happen.

3

Rizwana Bano

“Triple Talaq is grossly misused. He who dares to even utter it should be punished. Polygamy and Triple Talaq should be banned”

I was selected for a government job after completing my engineering degree in 2011. When I went to attend a party thrown by my friends to celebrate my success, I was shocked beyond belief when I was forced to marry a friend who threatened to kill me if I did not consent. My parents had no choice but to accept my marriage reluctantly. When I was ready to go to my in-laws place, they demanded a dowry of eighteen lakh rupees. I did not pay the dowry. Instead, I obtained an annulment in an out-of-court settlement. It took me four long years to come to terms with life before I got remarried in 2015 to Mohammad Khalid. He

Rizwana Bano underwent the tragic course of marriage thrice. She was forced into her first marriage, which was annulled when she refused to yield to dowry demands. Her second husband had married her solely because she was employed and wanted her to take care of his parents while he continued with his extra-marital affairs. After an official divorce and remarriage, even her third husband and his family started troubling her and now want a divorce. Fate and faith are testing Rizwana's patience.

was employed in the Air Force. After the wedding, when I confronted him with the revelation that he already had two wives, he appallingly said that it was none of my business. I was told to stay with Khalid's parents and bear their expenses while he would bring in another

wife. When I complained to the Air Force authorities, they dismissed the issue saying that it was a personal matter. I also had reasons to suspect Khalid's involvement in shady business with other women. He would continuously demand dowry and even used to withdraw money from my ATM. I tried complaining to the Mahila Thana but the authorities callously advised me to try and live with him. I offered to pay the rent of another house so that we



Photo identity concealed on request

25 UNTOLD NARRATIVES OF 3 TALAQ

against him to the Air Force. When Khalid refused to change his behaviour even after mediation at the counselling centre, a divorce was granted and Khalid returned my mehr of rupees 3.5 lakhs but not my dowry. At my parents' insistence, I got married to Anees through a matrimonial site. My parents were happy to see their daughter taking another chance with marital bliss. Anees was a divorcee, with a daughter who lived with her mother. When my family learnt that his divorce was still pending, they refused to proceed with the matter. But Anees and his family were quite persistent with the matter, and they quickly arranged for an engagement ceremony. During this time, I gave them my divorce papers and asked to make necessary enquiries for their satisfaction. Anees and his family simply dismissed the idea stating that it was time to put my past behind. Everything went perfectly for a few months. I got transferred to Delhi to stay with Anees. However, problems soon started creeping in. I was given a separate room from my husband, and I was not allowed to interact with him without the permission of my in-laws. My sister-in-law's husband, Islamuddin made inappropriate advances towards me. My sister-in-law told my husband to make enquiries about my divorce. Anees told me that my marriage with him was not legal and that he would divorce me.

My family members went to talk to Anees but they were not allowed to meet him. Instead, Islamuddin attacked me with a knife. When I called the police, he escaped. I lodged a complaint but no action has yet been taken. Khalid, my second husband is also adding to my problems. He not only interferes with my newly married life but also harasses me at my office. Since my in-laws have barred my entry into the house, I have been staying in a rented house with my mother for the last one year. All the

while that I battled against my uncertain future, Khalid has conveniently got married again, and Anees is on his way to a third marriage for himself.

At the mediation centre, I have been advised to give Anees my divorce papers but I fear that they will try to use them against me. Anees wants me to take my mehr of twenty-one thousand rupees and go away from his life. I have not lodged a case for maintenance because I am employed. I do not wish for a divorce and want to live with Anees. While relatives and neighbours are very judgmental about me, I feel lonely. Why does fate play the same cruel pranks on me again and again?

I am not in favour of halala and neither does Islam. I am of the firm opinion that people are misusing the concept of Triple Talaq and it does not take place according to Quranic dictums.

4

Shabanam

“Men and women should have equal rights to grant divorce.”

I was married to twenty-five-year-old Jaan Mohammad (Jonny) in 2008. I did not want to get married to him because he looked older than me but my parents forced me. Soon after marriage, Jonny started torturing me. He never treated me like his wife and never established a normal sexual relationship with me. He forced me to perform acts which he had learnt through pornography. His behaviour convinced me that he is either an impotent or has extra-marital affairs with other women. Most of the members of my in-law's family used to beat and torture me, and constantly demanded more dowry including a motorbike. Jonny used to threaten me with Triple Talaq though he never actually pronounced it. I was forced to leave the house when



Seeing my plight, my parents became ill due to stress. I have many siblings, and the entire responsibility of the family and my younger brother has fallen upon my shoulders. Jonny has neither given mehr nor provided me with any maintenance. I have even registered a case in the court, but that has yielded no result till date. I am not in a position to pursue the case due to my limited finances. I oppose evil practices like Triple Talaq and Halala. Parents with limited resources face a double edge sword, while getting their girls married and later fearing their Talaq. A Muslim girl has to face social

Shabanam was married to Jaan Mohammad against her wishes. Her husband refused to indulge in normal conjugal relations with her and forced her into unnatural sex. After her brother-in-law attempted to rape her, she returned to her parents' place and has been living with them ever since. Clerics and their doctrine were not in a position to render help to Shabanam.

my brother-in-law tried to rape me when alone. He said that he had his eyes on me for a long time and he would fulfil whatever void I had in my relationship with my husband. When I reported this incident to my husband, he did not take any action.

discrimination if she decides to fight for her rights. Men and women should have equal rights to grant divorce. I feel Triple Talaq should be banned and this is not a valid way to divorce someone.



Iram Bahar

“There should be a uniform law for both Muslims and Hindus as there is no difference in their religions and in the state of women.”

present, I stay with my parents who bear all my expenses. I have no means to support myself. My husband has conveniently got married a second time. I feel cheated and used. Life seems to be stagnant with no hope of the future. My family members are also stressed due to my insecure future. I firmly believe that Triple Talaq is being misused and Muslim women are being exploited because of this practice. Most of the divorce takes place due to demand for dowry and also due to a perverted urge in men to bring in a new wife. I feel stifled to see that a woman gets exploited at every stage of her marriage and I appeal to the government to give them justice. This rampant exploitation of women should be stopped, and even the Quran does not instruct anybody to marry for the sake of lust and money. Halala is an evil practice, and it should be banned.

I got married to Shahzad in 2013 at the age of twenty-two. Right from the beginning, my husband and in-laws started torturing me over dowry even though my parents had provided me adequately. I was treated very badly in my in-law's place and was even kept in starvation. After five days of my marriage, Shahzad abandoned me. In 2014, he gave me Triple Talaq by sending a registered post. I was forced to return to my parents' house. When my family demanded maintenance, he gave only a part of the mehr, which was not adequate. I mustered the courage to register a dowry case against my in-laws. At

Iram Bahar got married to Shahzad at the age of twenty-two. She was treated very badly by her in-laws. Her husband abandoned her after five days of marriage and gave her Triple Talaq through registered post. He gave only a part of her mehr but refused to pay her any maintenance. Sahzad has conveniently remarried. Fundamentalist mindset of the community has turned a blind eye to Iram's woes but she has mustered the courage to register a dowry case.

6

Nasim Bano

“Women should be given maintenance so that the cherished dreams for their children can be fulfilled.”

I have three children –two from my first marriage and one from my second. I got married for the second time after the demise of my first husband. My second husband, Mohammad Asif refused to accept my daughter from my first marriage. Asif also had a son from an earlier marriage. My in-laws were very abusive and life was not easy for me. When I became pregnant, no one was happy in Asif's family. I was forced to undergo an illegal abortion as my in-laws did not want another heir in the family. I went through extreme mental torture, unable to come to terms with the mindset of my in-laws. One day, I was randomly given Triple Talaq without any witnesses at my in-law's place. Then, my in-laws tried to force me into Halala to stay in the house. I refused to bow down to their demand. It was horrifying to even think of being with an unknown man in the name of religious practice. As a consequence, they threatened to give me a proper Talaq in the



presence of a maulana. Neighbours were sympathetic towards me but were helpless due to the Muslim personal laws. Innocent women have to pay a price without being at fault. Asif never bothered about the education or wellbeing of my daughter. I live with my mother in astute poverty. Having had no access to education, I do not understand procedural laws, but I want justice. It seems government and judiciary are constrained due to personal laws.

Nasim Bano got remarried after the death of her husband. Her second husband Mohammad Asif refused to accept her daughter from her first marriage. She was beaten and abused profusely by her husband and in-laws. She was also forced to undergo several abortions. She was randomly given divorce by her husband one day. Halala were forced on her by her in-laws but Nasim refused to bow down to the medieval practice.

Mohasina Rangrej

“I question the sanctity of the talaq which took place in the absence of witnesses when their presence is mandatory in the marriage ceremony.”



me. Seeing my condition, my father brought me back home where I gave birth to my daughter. When I returned with my child, my father-in-law used to provoke my husband to perform cruel acts on me. My father-in-law used to make inappropriate advances and touched my private parts, usually in the guise of helping me in taking care of my child. My father-in-law had taken away all my money including the money I had received from the government for my delivery and the amount of insurance policy which my father had taken in my name. My husband does not pay any maintenance to us. I am firmly against practices like Halala and Triple Talaq and want them to be banned as they are little more than means of exploitation of women. I question the sanctity of the divorce which took place in the absence of any

I was married to seventeen-year old Mohammad Shabbir at the age of fifteen in 2005. My harassment at the hands of my husband and in-laws began when I arrived at my in-law's place. Physical and mental abuse at the hands of Shabbir was a regular feature of my life. I was not given any food for days and kept confined to a room. At times, he used to hit me on my private organs. Shabbir even threatened to murder me. Shabbir used to force himself on me several times in a single night

Mohasina Rangrej was fifteen when she was married to Mohammad Shabbir. She was mercilessly beaten and tortured by her husband over dowry. His violent sexual behaviour would often cause her to faint. Sexual abuse by family members left her tormented. 'Triple Talaq' has taken away her right to live a life of dignity.

which would often cause me to faint. He would say that he would neither divorce me nor live with me. He was only interested in destroying my life. After the wedding, I learnt that they had also murdered my mother-in-law. Even after I became pregnant soon after marriage, my husband continued torturing

witnesses whereas weddings require their sanction. In the event of a divorce, a woman should be given all her rights, maintenance and compensation. I appeal to the government to make laws that will protect the rights and dignity of women.

8

Shania

“Law should instil such fear that no one dares to grant Talaq in the present form. Women are dying because of this practice”

I was married to Fahim in 2013 at the age of twenty-two. Due to loss of a jewellery piece on the wedding day, I was not welcomed nor given any food on my very first day at my in-law's house. Even after the lost jewellery was found, there was no change in the behaviour of my in-laws. They abused me mercilessly. I was forced to do all the household work and was never given proper food. I was not even attended to during illness. I was forced to return to my parents' house as my husband would often get violent with me. My in-laws stated before the panchayat that since they had not received any dowry, they would not accept me. Before my parents could register a dowry case, I was given a verbal Triple Talaq over the phone. Even though I got a part of my mehr, I am now completely dependent on my parents and feel uncertain about my future. I even attempted suicide. I am an educated girl with a postgraduate degree. Despite being educated, I



am forced to live a life of humiliation. I want to work but people are very judgemental and therefore it is very difficult for me to go out of the house. So, life has indeed become very difficult for me after Triple Talaq. The government should make more stringent laws on Talaq. There is no provision for humiliating women in Islam but the problem is in the Sharia. Muslim women should raise their voice against these practices, as the voices from outside the community may prove to be ineffective. All women are equal; the government should make uniform laws for all citizens.

Shania was harassed over dowry in her in-law's place. She was forced to do all the household work but was left unattended to during her illness. Before her parents could register a dowry case against her in-laws, she was given Triple Talaq over phone. As the choices in life get constrained in the name of faith, Shania wishes to earn a living for herself and not be a burden on her parents.



Mojzma

“I do not want any women to suffer the way I had.”

was severely damaged because of the pills. As soon as I fell sick, I was thrown out of the house claiming that I was a sickly woman who cannot give birth to children. I was heartbroken when my in-laws claimed that my family agreed to the marriage only because I was sick and ugly. I am now forced to stay with my sister. My in-laws had given written promises that they will pay maintenance and visit me at intervals. But they have done neither. Suddenly, I found one day that my husband has published in the newspaper that he has divorced me through the process of Triple Talaq. I registered a case against my in-laws though against my brothers' wishes. My in-laws do not turn up for the court hearings. They threatened to murder my

I did not realise that I was entering a life of hell when at the age of twenty-three I was married to forty-six-year-old Mohammad Zuber. I found out after the wedding that he was a clerk in a school and not a teacher as he had claimed. Mine is a big family with many siblings and my father had passed away years ago. My mother did not object

Mojzma was twenty-three-year-old when she was married to forty-six-year-old Zuber. He not only lied about his livelihood but also started torturing her over dowry. After she became pregnant she was tricked into taking abortion pills which caused permanent damage to her health. Her husband published in a newspaper that he has given her Talaq. Since then she has been struggling in life while staying at her maternal home.

to the fact that the bridegroom was physically challenged and much older to me. I became pregnant within two months of marriage. My in-laws tricked me into going to a hospital with them and there they force-fed me abortion pills. My kidney

brother if I do not take back the case. They want me to take my belongings and get out of their lives. My brother lost his job as a teacher in a madrasa when the police visited him in the premises and Maulana of the madrasa was

apprised of my case.

I want my rights and maintenance. I do not want to get married again and I will go back to my husband if he takes me back. Even if the process of Halala is right, I would not like to be subjected to it. I feel that if the elders and ulemas think Triple Talaq and Halala are the right ways of divorce and remarriage, then I find no objection to it. I do not want any women to suffer the way I had. I am now helpless living with my sisters, my health permanently damaged.

10



Husna (deceased on 15.01.2017)

This account is narrated
by her sister, Mantasha

Husna is no more in this world to tell her story. Her sister Mantasha and aunt narrate how the stress of taking care of the entire household and a wrongly imposed Talaq took a toll on Husna's health leading to her death. Husna was married at the age of twenty in an arranged matrimony. Since her husband did not have any permanent job, Husna would do menial jobs to support the family and her two children. Her husband though unemployed, did not like her working and used to beat and abuse her. Her going out of the house to earn a livelihood for the family was a necessity. While her relations with other family members were fairly good, her husband would leave her for days and visit her only at times. All of a sudden, Husna's husband pronounced Triple Talaq without any witness and abdicated himself of all responsibilities. Under social and financial burden, Husna's health deteriorated. Unable to afford her medical expenses she died. Husna's in-laws tricked her family into sending her children and did not allow them to go back. The children are not being taken care of, and Husna's sister and family want to have them back. They want the children to have a secured life. Mantasha tearfully tells how they long to see the children but Husna's husband refuses to let the children visit their mother's home.

11

Anwar Jahan

“Each time he uttered the word Talaq to me, I felt as if lightning had struck me”

I was only fourteen when I tied nuptial knot in an arranged marriage. Even though I belonged to an affluent family, I got married to a man who was not only incapable of providing for me but was also mentally unstable. I started working to support my family. My in-laws would force me to give them my money and would beat and torture me in more ways than one. I was depressed. My own family though sympathetic, advised me to endure the endless struggle for the sake of the marriage. My husband would not be content with only demanding more dowry but would abuse my deceased parents and me. This way, he would psychologically traumatise me at every level. I was not even fed adequately. When the level of abuse reached heights beyond endurance, I protested. My husband was so annoyed at this protest that he pronounced Triple Talaq and attempted to kill me. I was saved by the timely intervention of our neighbours. My husband and in-laws forced me



to leave the house. A victim of such vile crimes, I appeal to the government to make divorce laws more stringent to prevent the exploitation of women. I refuse to go through Halala and find the practice to be inhuman and a physical exploitation of the female body. I hold the ulemas, qazis responsible for these practices and appeal to ban them.

Anwar Jahan was married to a mentally ill man who would constantly torture her and make her do all the household work and at the same time, earn money for their livelihood. She was advised to endure it for the sake of the marriage. But her husband uttered Triple Talaq to her and she was forced to leave his house. She refused to undergo Halala and holds the clerics responsible for such an inhuman practice.

Rafat Jahan

“Society is quick to marry us off but at the time of Talaq no one stands by you — even your own family members become your enemies.”

might act violently with our infant daughter. I managed to lodge a complaint against my husband with the help of my neighbour. The dispute at court continued for several years but no action has yet been taken.

Frustrated with the ongoing tension, I pleaded with my husband to grant me a Talaq. My family members do not support my decision and often blame me for the ugly consequences of my life. After my Talaq, I worked for some time at an Anganbari Kendra and later joined ICICI Bank where I met a financier with whom I got married again. I am firmly against the practice of Triple Talaq and believe it to be a mean of exploiting women. I want Triple Talaq to be banned.

I was married to Sirajuddin in 1998 at the age of nine teen. My husband treated me in an inhuman way. He would always beat and abuse me. My life took a worse turn when I gave birth to my daughter and Sirajuddin was displeased at the birth of a female child. He would not see our faces for days. I was forced to sleep on the terrace with my baby even during the cold winter nights. He claimed to love another woman and wished to marry her. Seeing my husband's behaviour, I felt insecure and was afraid that he

Rafat Jahan's husband treated her in the most inhuman way. Things turned worse when she gave birth to her daughter and her husband did not want a girl child. Her husband wanted to marry another woman. When things went became beyond endurance, she pleaded with her husband to give her a Talaq. She then started her life afresh with her daughter. She got remarried and is now contend with her present situation.

13

Najmin

“No one pays attention to my plight after Talaq. Was this the fate I awaited all my life?”

I got married at the age of twenty-two to a man who resides in the Ajmeri Gate area, Delhi. He started abusing me soon after our marriage. His day wouldn't be complete without beating or abusing me. My husband is an alcoholic and keeps illicit relations with other women. When I protested against this outrageous behaviour, my husband gave me Triple Talaq, communicating it through a neighbour. It has been six years since I got my Talaq and I now reside with my mother. I have filed a case in the court. I have two small children who stay with my in-laws. They do not allow me to visit my children. My husband mistreats the children. They are neglected and lead a life of poverty. I feel helpless. When I go to the police to file a complaint, they dismiss my plea saying that since the matter is sub judice, they cannot interfere. I find it highly unacceptable that Triple Talaq takes place without the consent of the woman and yet when a woman



wishes to get divorced, she has to take the permission of the husband. I believe that in a situation like this, stronger divorce laws need to be implemented in order to make the process of divorce more transparent. I am of the firm opinion that Triple Talaq should be banned.

Najmin was married at the age of twenty-two. Her husband would beat her mercilessly. He gave her Triple Talaq after the birth of two children. He refuses to pay any maintenance. Her children have been taken from her and she is not allowed to meet them. Her consent has been inconsequential in decisions which have devastated her life.

Rajina

"I believe that divorce is extremely detrimental for a Muslim woman as she has to face the society which blames her for the divorce and never judges the man."



I was nineteen years old when I got married to Bhura. We became parents to four boys and three girls. After the marriage of our two daughters, Bhura suddenly divorced me through Triple Talaq. He accused me of having illicit relations with our son-in-law. I filed a case against him under Section 125 Code of Criminal Procedure (CrPC). Bhura did not attend any of the court pro

ceedings. The court gave its ruling in my favour by declaring it to be a one-sided case. After four long years, Bhura was forced to appear for the case. He promptly pronounced Triple Talaq to me in the presence of my lawyer in the latter's chamber in Luxur. Bhura did not pay any maintenance or compensation to me. I did not receive my mehr of Rs. 2,500. After his divorce

from me, Bhura got married again. He entered into his third marriage after divorcing his second wife. I am now facing dire poverty and my young sons have been forced to give up their education to work as labourers. I have to do menial works to provide for my family. Since it is hard to provide for such a big family, we often have to go without food. Stress and poverty have taken a toll on my health. I am further isolated by my judgemental neighbours who often blame me for the present situation in my life. My brother, Ehsaan who was born after I got married, often visited me at my in-law's place. He had seen the unhappiness in my life over the last five years when Bhura started illicit relations with other women. Ehsaan is saddened to see me face such hardships and feels stifled not to be in a position to

Rajina's husband Bhura gave Triple Talaq to her after the marriage of their daughters. He accused her of adultery. He paid her no maintenance and she and her children have to live in dire poverty. She has been struggling hard to make ends meet. None of the clerics who advocate orthodox practices have rendered help to Rajina.

ceedings. The court gave its ruling in my favour by declaring it to be a one-sided case. After four long years, Bhura was forced to appear for the case. He promptly pronounced Triple Talaq to me in the presence of my lawyer in the latter's chamber in Luxur. Bhura did not pay any maintenance or compensation to me. I did not receive my mehr of Rs. 2,500. After his divorce

help me. I believe that divorce is extremely detrimental for a Muslim woman as she has to face the society which blames her for the divorce and never judges the man. I believe Triple Talaq should be banned.

15

Nasreen

“Where does a woman go after Talaq? She neither belongs to her husband nor to her parents.”

I was married in the year 2000 to Aslam when I was around nineteen years old. After marriage, I learnt that my husband was often arrested for theft. Aslam started abusing me within a month of marriage, for dowry. He was not only an alcoholic but had many extra-marital relations. Since I opposed my husband's bad habits and demanded a healthy environment for the children, he used to physically abuse me. I have two daughters who need constant care and support. The domestic violence left me shattered and then I was given Talaq.

Aslam refused to pay any maintenance for my daughter and me. Being forced to witness my emotional turmoil and hardships took a toll on my father's health and he passed away. The practices of Triple Talaq and Halala are damaging and dishonouring for women and should be banned. These are exploited and misused against women. The sword of Halala



and Triple Talaq dangling over Muslim women leaves them with no choice but to silently bear many hardships. The government should ensure that women get proper divorce and maintenance. The husband should take full responsibility for the children's well-being and education. Women should be assured complete marital security and the man should not get an easy escape route.

Nasreen was abused and beaten over dowry after her marriage to Aslam. She was left with no choice but to obtain Talaq. Her husband refused to pay any maintenance to her and her two daughters. Her emotional turmoil and hardships took a toll on her father's health and he passed away. Protectors of faith are thick skinned to her hardships and struggle.

Bilkis

“Your entire existence is devastated when one utters Talaq. I am sure Allah must not be pleased with this word.”

My sister-in-law also abused me in many ways. After the birth of our daughter, Naseeb went to work in Saudi Arabia for three years and I was left to fend for myself and my child. He called me one day and uttered Triple Talaq to me over a phone. One phone call took away my right to live in my husband's home. I was forced to move in with my sister who bears all our expenses. He provides no maintenance for my daughter and me. This is a challenging phase of my life -both financially and socially. I do not have any source of income. Relatives and neighbours are also not sympathetic towards my condition. I want to be independent and provide for my daughter. I firmly believe that Triple Talaq and Halala are horrific crimes and should be banned as they

I was first married off at the tender age of thirteen. None of the Ulemas and maulanas who officiated the wedding raised any objection over my minor age. I have a fifteen-year-old son from this marriage. I do not want to talk about this marriage. I was remarried to Naseeb. After my marriage, I found out that my husband already

Bilkis was married for the first time at the tender age of thirteen. Religious figures who solemnized it did not object to her tender age. Scars left by that marriage has traumatize Bilkis so much that she doesn't want to talk about it. She married for the second time to Naseeb with whom she has a daughter. Naseeb went abroad and pronounced Triple Talaq over phone. Bereft of resources, she has no means to support her daughter. Community has turned a blind eye to her woes.

had one previous wife, a fact which he had concealed at the time of my marriage. After six months of marriage, my husband started favouring his first wife and began torturing me.

cause severe damage to women's lives and dignity. I refuse to believe that Islam supports this evil practice. I feel threatened by Naseeb's first wife and fear for my own life. I appeal to the government to provide for me and my daughter.

17

Imrana

“Triple Talaq ruins lives. One doesn’t even know whether she is married or divorced. All future prospects of a woman get destroyed.”

I was married to forty-six-year-old Raees at the age of seventeen years without my consent. My parents had arranged for the match. My husband started abusing me immediately after marriage. I had to return to my parents’ home just after three days of my marriage. After I had mustered courage to go back, all my jewellery was taken away and I was beaten mercilessly by my husband and sister-in-law. When I resisted, my parents were called and told that I tried to run away and had been creating trouble in the family. My husband brought illegal weapons into the house and threatened to



health, and me. I am completely dependent on my ailing father and brothers, one of whom is physically challenged. I am worried for my young son as my husband is in the habit of taking loans from various people and they come to my house to threaten me. Whenever I try to get in touch with him, he lies to me about his whereabouts. Raees claims in the

Imrana was seventeen-year old when she was married to forty-six-year-old Raees. Her husband and in-laws would torture her, beat her and starve her even when she was pregnant. She has been forced to return to her parents’ house. Not only has her husband refused to pay any maintenance but has also abandoned her.

murder me. My insensitive father-in-law abused me, demanded exorbitant dowry and sold all my belongings. They even accused me of adultery. I was forced to return to my parents’ house. For the last two years, I have been staying with them while my husband does not bother sending me any maintenance or bear expenses of my son, who does not keep good

community that he has divorced me over a phone and refuses to take any responsibility. I do not accept this divorce and want a proper divorce in the court of law or panchayat. I refuse to let this incident turn my life into a sob-story. I want to get married again and start a new life with my son but am unable to do so because of the uncertainty created deliberately by my husband. I believe that

25 UNTOLD NARRATIVES OF 3 TALAQ

the present practices of Triple Talaq and Halala are evil and should be banned. I question the clerics who never offered to help me undertake my son's expensive treatment. I feel very helpless as my parents are very old and their economic condition is getting worse by the day. I wish to educate my son and earn a life of dignity for myself.

18

Farjana

“Halala is absolutely wrong. Triple Talaq is given by men whenever and however they wish. It is a massive injustice to women.”

I was twenty years old when I entered an arranged marriage with Mohammad Khadeem in 2009. He was a plumber. Within three months of marriage, he started physically and mentally abusing me. I was shocked to find out that my husband was not the real son of my so-called mother-in-law and that the imposter 'mother-son' duo was having an illicit affair. My real in-laws were settled in Bihar and my husband and his fraud 'mother' had no contact with them. Due to regular beatings and mental abuse, I had to return to my parents' house. When I was pregnant, my husband sent me a hand-written Triple Talaq through the police. It contained no official stamp or signature of any witness. I was also threatened with murder and



my present situation does not allow me that home. I do not want to get remarried and I want all my rights and maintenance to be provided by my husband. I feel the practice of Halala is an extreme form of humiliation to the Muslim women which must be banned. I appeal to the government to stop the practice of Triple Talaq, and even if there is a divorce, it should take place with the consent of both the parties.

Farjana, after her marriage, learnt that her husband Mohammad Khadeem is not the real son of her mother-in-law. She was shocked beyond belief to know that the fake mother-son duo was having an illicit affair. Forced to return to her parents' house with her daughter, 'Triple Talaq' has left Farjana helpless and uncertain about her future.

other dire consequences by my husband. My father and I tried to reach an amicable settlement with Khadeem with the help of relatives, but it was in vain. Now, I do not want to go back and want a proper divorce so that I can start life afresh with my daughter. A girl's real home is with her in-laws, but

If this is the state of the life of a Muslim woman after marriage, then they should probably never get married. At present, I stay with my parents and support my daughter and myself through handiwork.

Naseem Akhter

“Triple Talaq is like an open sword to the Muslim women. It’s a source of constant fear for them. It is against the Quran.”



I was married at sixteen and became a mother at eighteen. The marriage arranged by my family was initially happy. After an initial cordial relationship with my husband, it deteriorated with the passage of time as he was jobless and alcoholic. My husband used to beat and abuse

family that I managed to recover. I completed my education and started working to support my children. At present, I work along with my son in a private company. My daughter is a teacher in a prestigious private school. Both of my children are well settled and I am happy with the present status of my life. I never wanted to get remarried and directed all my energy into giving my children a steady life. Triple Talaq has never been mentioned in Quran and it is necessary to codify Quranic laws. Muslim women face constant fear for their lives because their families are at best unsupportive and at worst violent on them. It is this fear which does not allow them to express themselves in public. I appeal to the government to settle all the pending Triple Talaq cases and give the women adequate maintenance. I am

Naseem Akhter’s initial happy family life turned into pathetic state of affairs. Abuse, beating, insults became part of her daily life. She finally was given ‘Talaq’ but she re-emerged as a powerful woman

me. Even with two children, I was forced to do all the household work, look after my two children and also earn our livelihood. After twelve long years, I got separated from my husband when the torture became beyond endurance. My mother and brother supported me in bringing up my children. I suffered severe bouts of depression and it was only with the help of my children and

happy that the Supreme Court has taken up the issue of Triple Talaq. I am against the practice of polygamy and Halala system.

20

Shazia Khan

“There should be a uniform law for both Muslims and Hindus as there is no difference in their religions and in the state of women.”

I was married to Aslam Khan in 1996 at the age of sixteen according to the wishes of my parents. My husband was a habitual drinker who used to abuse me over dowry. When I realised that Aslam had started selling my dowry, I protested. When I bought some of the things again, Aslam again tried to sell them. I stayed my ground and refused to let him do so. He did not like it and gave me Triple Talaq. I thought my marriage was beginning of a happy journey. Instead, it was the beginning of a tragedy. After the divorce, I went to my parents' place in Aligarh, and my brother registered a case in the High Court. In the meantime, my husband issued a fatwa through the Shahi Imam Bukhari stating that the Talaq has not been



when I was traded to another man like a market commodity at a price of Rs. 1,000. But I refused to undergo Halala. Since the Halala was not consummated due to my uncompromising stand, the maulanas refused to accept the nikah when I wanted to get married to Aslam the second time. The family decided to get us married at a dargah by giving false details. I

Shazia Khan was married to Aslam Khan as per the wishes of her parents. Aslam began torturing her over dowry and later gave her verbal Triple Talaq. She was forced to undergo a prima facie Halala, even though she refused to comply. Since the Halala was not solemnized, she remarried her husband by lying to the Qazi. After the birth of her two sons, she learnt that her husband had illicit relations with a transgender. Religion had tied Shazia to the shackles of orthodoxy. For the sake of her sons, Shazia decided to separate from Aslam.

granted. I was happy to return to my husband's place against my brother's wishes. Once I returned, I came to know that they had issued a false fatwa and that I would have to go through Halala in order to remarry Aslam. Those were the worst days of my life

have two sons from Aslam. However, the tragic events in my life took a turn for the worse when my husband tried to force me into prostitution. During this time, I also found out that my husband had a relationship with a transgender.

25 UNTOLD NARRATIVES OF 3 TALAQ

After this incident, I separated from my husband and started a new life with my sons, with the help of a friend.

Sharia has been made only to exploit women and keep them at the mercy of men. I believe that Prime Minister Modi has raised a good issue and this can help give Muslim women their much-deserved rights. A tough law needs to replace practices like Triple Talaq and Halala. The deprived women should get maintenance from their husbands.

21

Nagma Naz

“Police insists that according to the Muslim Personal Law my marriage has been dissolved. I firmly believe that Triple Talaq should be banned.”

I was married to Shujauddin in 2012 at the age of seven teen years. Shuja was a man of suspicious nature. He would always suspect me of having illicit relations. I was not allowed to go out of the house, since my husband would cast doubt over every man I passed by. Even though my in-laws were very supportive, my husband would beat me constantly. When I protested, I was thrown out of the house. I was, thus, forced to return to my parents. My mother earned her living as a cook. I met one of her clients Asif and we became friends. I became intimate with Asif and wanted to marry him. Asif had even proposed to me in writing. We got married. After enjoying a considerable time of conjugal life, one day Asif



divorced as soon as possible. I lodged a complaint against Asif but no action has been taken and I believe the police are under the influence of Asif's family. For the last two years, Asif has not attended a single court hearing but the police have insisted that according to the Muslim Personal Law my marriage has been dissolved. I firmly believe that Triple Talaq should be banned. Many Muslim women are suffering like me due to this practice.

Nagma Naz was victim of abuse, torture, harassment in her first marriage. Her loyalty was suspected by her husband which became a reason for her 'Talaq'. In the second marriage she was a suspect of her loyalty towards her in-laws and she again met the same fate.

ran away from home. A complaint was registered, and the police succeeded in bringing Asif back. But later, he ran away again. After some time, Asif returned and told me that he would pay me a sum of ten lakh rupees in exchange for a Talaq. He insisted that since we are from different communities his family refuses to accept the marriage and we should get

Nazma Khan

“I believe that Halala is a fate worse than death and Triple Talaq, if at all, should be practised only when both the parties consent.”

and me worsened because of his relationship with another woman which he continued after the marriage. I was prohibited the marriage. I was prohibited from going out of the house and communicating with the outside world. I was physically, mentally and financially exploited for eight long years before I decided to take matters into my own hands. My husband threatened to murder or sell my sons. I was regularly beaten, and my husband even questioned the paternity of my sons. I got divorce after ten years of marriage through witnesses. I was given Talaq when I was observing Roza (fast) in the holy month of Ramzan. This is strictly against Sharia law. If the man is not good enough, one should not have so many children. I believe that Muslim



I got married at the tender age of sixteen to Dildar Khan, complying with the wishes of my family in 1985. My husband was engaged in the transport business. I continued my studies after marriage and completed high school. The reality of Muslim marriages is that no permission is taken from the girl to sanction the marriage. The nikah is read in front of the bridegroom and not the bride. The latter is just asked as a part of

Nazma Khan's apprehension eventually proved right when after ten years she was contemptuously compelled to accept divorce. Her story unravels vulnerability of a woman in a patriarchy legitimised by religion and institutionalized by Ulemas and perpetuated by the silence of moderates and so-called modern people.

formality. I had no knowledge about physical intimacy at the time of my wedding and was afraid of my much older husband. I did not enjoy sexual relations and felt exploited after the act. I have four sons. Relations between my husband

women are forced to endure the torture of their husband as they are left with no other option. Muslim women feel that it is better to put up with one man instead of being tossed from one person to another. After the divorce, I was provided with

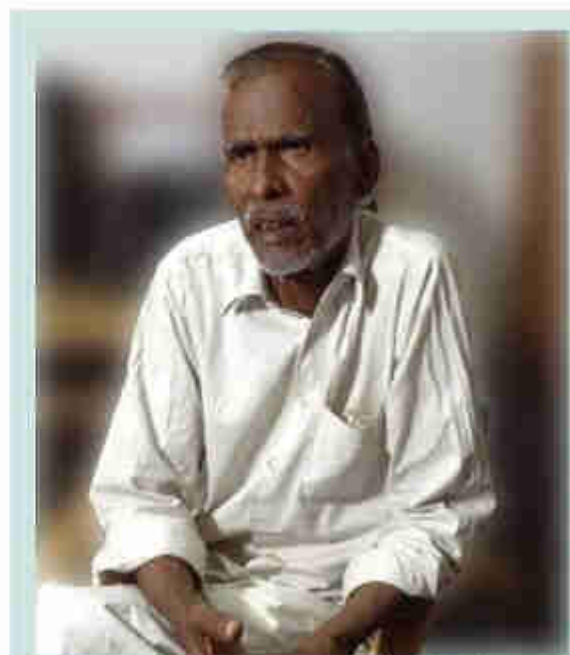
no mehr or maintenance.

The attitude of maulanas towards women can be understood through one single incident. When I spoke in favour of women's rights at a workshop of Ulemas in Jamia Milia Islamia University, they decreed that such women should only be given as 'Khairat Zaqat' (as charity). I thought of going to the court complaining about the decree but people within the community protested and withdrew their support. I believe that Halala is a fate worse than death and Triple Talaq, if at all, should be practised only when both the parties consent. Halala and Triple Talaq should be banned, and Muslim women should be educated so that they recognise their rights and privileges. The government should ban these practices and provide maintenance for the destitute women.

Shayada Parveen

“Triple Talaq has made me and my daughter a burden on my old father.”

the government to help me in obtaining maintenance from my husband, a share in his property and means for my daughter to study. I want Triple Talaq and Halala to be banned so that other that other women do not face the fate as me. I dream of educating Sumbul and make her self-reliant. My father says that it is a joy for every parent to see that his daughter is happy at her in-law's place but he is not blessed to see this. He is worried not only for my future but also his granddaughter.



Shayada Parveen's father Babu



I got married to Rahimuddin in 2002. While I was eighteen, my husband was twenty-eight years old. Though my parents gave considerable dowry at the time of my marriage, I was still tortured for it. I have a twelve-year-old daughter, Sumbul. I have been living with my parents for the last twelve years along with my daughter. I asked for maintenance, but I was never given anything. My elderly father, Babu, a carpenter by profession, does not keep good health and is unable to bear the expenses of both my daughter and me. My daughter was born at my parents' place but she and her father have not yet seen each other. I want

Shayada Parveen was beaten and abused over dowry by her husband Rahimuddin. She was eventually sent back home when she was pregnant and since her husband and his family did not approve of the birth of a female child, they refused to take her back. She and her daughter Sumbul are now completely dependent on her elderly father, and filed a PIL against 'Polygamy' and 'Halala'

24

Nargis

“I want my rights. I want Farid to divorce me the same way he married me- in presence of witnesses.”

I got married to Farid, and immediately after the marriage, he started demanding dowry and often blackmailed me with threats of bringing another wife. Farid took away all my jewellery. When I asked him to return them, he started beating and abusing me. A habitual philanderer, Farid had extra-marital affairs with many women including some from my neighbourhood. I was embarrassed and emotionally disturbed when my parents and neighbours talked of seeing Farid with other women. When I confronted him, he denied all allegations. His insolence was reflected in his actions. When I dared to accuse him of such misdoings, he immediately decided to give me



me when I was pregnant and even beat me. He accused me of adultery and tried to force me into physical relations with other men. Farid's brother-in-law who had arranged for the match, aided him in his extra-marital affairs. He did not even let me interact with my family. If any of his own family members tried to help me, he would accuse me of having illicit relations with them. When he rampantly uttered Talaq, his

Nargis was married to Mohammad Farid at the age of twenty-three. Her husband was not only a philanderer, thief but also a sexual pervert. She was forced to return to her parents when her husband pronounced Triple Talaq. No one is offering her any monetary support. Orthodoxy is playing havoc in the life of Nargis.

Talaq. He even sent a false Talaq Namah to my family. Relations between Farid and me worsened when I became pregnant. Instead of rejoicing our baby, he continued to torture me. He threatened to prove me to be insane so that he could bring another wife. He was heartless enough not to feed

brother-in-law went and arranged for proper documents for it. He used to utter 'Talaq Talaq Talaq' whenever and wherever he met me. I had no choice but to return to my parents' house. Since then, Farid has not paid a single penny for the maintenance.

25 UNTOLD NARRATIVES OF 3 TALAQ

of either my son or me. I am not sure whether I should blame the state, clergy or destiny for my plight.

Farid had proved himself to be the lowest form of human existence when he was arrested for sexual assault. In prison, he claimed to miss my son and me but once he was bailed out by my brother, he went back to his old ways. He got into stealing money and announced in the community that he had no relation with my son and me. I have lodged a complaint against him with the police but no action has been taken against him. I am unable to find direction in life for my son and me. I want someone to take charge and deliver justice. I do not want to stay with my vagabond husband anymore. I am not aware if he has remarried but there is a presence of other women in his life. I want a proper divorce and maintenance for myself and my son. I believe women are exploited in the name of Triple Talaq and Halala and these should be banned in the country. Triple Talaq is nothing but an easy escape route for men. Even if the government does something to help me, I want Farid to take responsibility.



Nargis's mother, Mehr-un-Nissa listens with anguish while her daughter shares her life story

25

Sameena Begum

“Triple Talaq must be banned and awareness should be spread through a nationwide movement, so that women’s rights can be secured.”

I was a promising poet when I was forced to marry my first husband, Javed Anwar. My husband threatened to kill me and forced me to marry him. I belong to an educated family and my father was a school teacher who could have provided me with a comfortable life and could have got me married in a better situation. I did not even know my husband before the wedding. Soon after, my husband would torture and beat me regularly over trivial issues. During this time, I got pregnant; yet, the torture did not cease. Having enough of my husband’s torture, I returned to my parents’ house and gave birth to a son. After the birth of my son, I went back to my husband and later had another son. But my husband continued to ignore me. Instead of



them. After I had managed to overcome the shock and struggles of a traumatic marriage and a hasty divorce, I met Riyaz in Bulandshahr. An active politician, Riyaz was already married and he tricked me into marrying him. When I was pregnant, he abandoned me and issued a Triple Talaq over the telephone. I went to the ulemas and maulanas to seek their help. They casually dismissed my plea. I have read extensively on Islam and its views on Triple Talaq. Gender

Sameena Begum was forced to marry her first husband, Javed Anwar. Soon after her marriage, her husband started torturing her. Even after the birth of their two sons, he continued to abuse her. Then suddenly, he gave her Talaq through a letter. She managed to pick up the pieces of her life but was again tricked into remarriage with Riyaz. However, after the birth of their son, Riyaz pronounced Triple Talaq over phone. She was left with no means to provide for herself and her sons. A determined soul, she has decided to fight for the cause of Muslim women and filed a PIL against ‘Polygamy’ and ‘Halala’

celebrating the birth of his sons, he issued me a divorce through a letter. I started struggling with two young boys with practically no means to provide for

justice is well supported in Quran. As far as the issue of Talaq is concerned, both women and men have equal opportunity to put forward their

25 UNTOLD NARRATIVES OF 3 TALAQ

views before the Qazi. Triple Talaq is not supported by either Allah or Islam. The government is also to be blamed for its callous handling of the issue of Triple Talaq. It is nothing but a tool to use women under the garb of marriage. I vociferously support a ban on Triple Talaq, Halala and polygamy. Both men and women should have equal rights to child adoption. Women should have equal rights as far as a succession of a property is concerned. As far as maintenance for women is concerned, it is mentioned in Quran that it will be provided according to the financial status of a husband. Women need to be provided with equal rights irrespective of any religion.

LEGAL STRUGGLE FOR GENDER JUSTICE

Archana Pathak Dave, Advocate at Supreme Court of India is the voice seeking justice and dignity for the Muslim women who have been victims of orthodoxy and subjected to the twin atrocities of Polygamy and Halala. She has filed a Public Interest Litigation (Annexure B) on behalf of Triple Talaq victim, Sameena Begum. Abhineet Kalia captured her motivation and spirit and shared the excerpts from the interview :

IPF- What was your motivation to file the writ petition against the draconian practices i.e. Nikah Halala and Polygamy?

APD- Thirty Years ago the Hon'ble Supreme Court urged the central government to frame a Uniform Civil Code to "help in the cause of national integration" in the Shah Bano's case. There is no dispute, that different religious communities can have different laws, but personal laws must meet the test of constitutional validity and constitutional morality, in as much as, there cannot be violation of Articles 14, 15, 21 of the Constitution. This was my motivation.

IPF- You filed it post 'Triple Talaq' judgement by the Supreme Court? Any specific reason?

APD- Yes, since in para 10 of the case of Shayara Bano Vs. Union of India & Ors. (2017) 9 SCC 1, the then Hon'ble Chief Justice of India Mr. Justice J.S. Khehar, as his lordships then was, held "it was decided to limit the instant consideration, to 'talaq-e-biddat' – triple talaq. Other questions raised in the connected writ petitions, such as, polygamy and 'halala' (-and other allied matters), would be dealt with separately. The determination of the present controversy, may however, coincidentally render an answer even to the connected issues." Since the judgment itself mentions about 'Nikah Halala' and 'polygamy' and also because of the sensitive nature of the



Archana Pathak Dave, Advocate at Supreme Court

issues, we thought it to be better to file the same before the Hon'ble Supreme Court itself.

IPF- How did you meet the petitioner, Sameena Begum, and why did she decide to file writ petition before the Hon'ble Supreme Court?

APD- During the research, I met many victims and Sameena Begum was one of them. Unlike many others, I found her very bold and assertive. During discussion, she checked if she could challenge these practices in court as she was agitated on this social sin and the vulnerable state of Talaq victims. I must admit that SHE is one of the most bold and courageous ladies I have ever met. She made up her mind and decided to face the challenges posed by the orthodox of her own community. I decided to fight for her.

IPF- So, did filing of writ petition by her, created a stir as you apprehended?

APD- Well, as soon as the notice was issued, and the Hon'ble Court agreed to hear the matter, there were

sharp reactions from the Maulanas and Muslim clerics. During panel discussions in media, Sameena ji and myself have faced the ire of Muslim scholars and clerics.

IPF- Has Sameena Begum been targeted because of the PIL?

APD- Sameena ji was bullied, targeted and even asked to withdraw her writ. She was thrown out of the house with her three children on the road with her entire belongings. She has received threats to her life as well as to the life of her children. At one point in time, I even asked her if she really wanted to continue her fight. She emphatically said 'YES'. She, being a victim of polygamy herself, has gone through a lot and has emerged stronger. She wants to do something for the women of her community who are not bold enough to come forward to fight for their rights.

IPF- What is the stage of the writ petition now?

APD- The matter has to be heard by a Constitution Bench of the Hon'ble Supreme Court. It will be listed as soon as the Constitution Bench is formed.

THE BRAVE TROIKA

Shayra Bano, Atiya Sabri, Aafreen Rehman

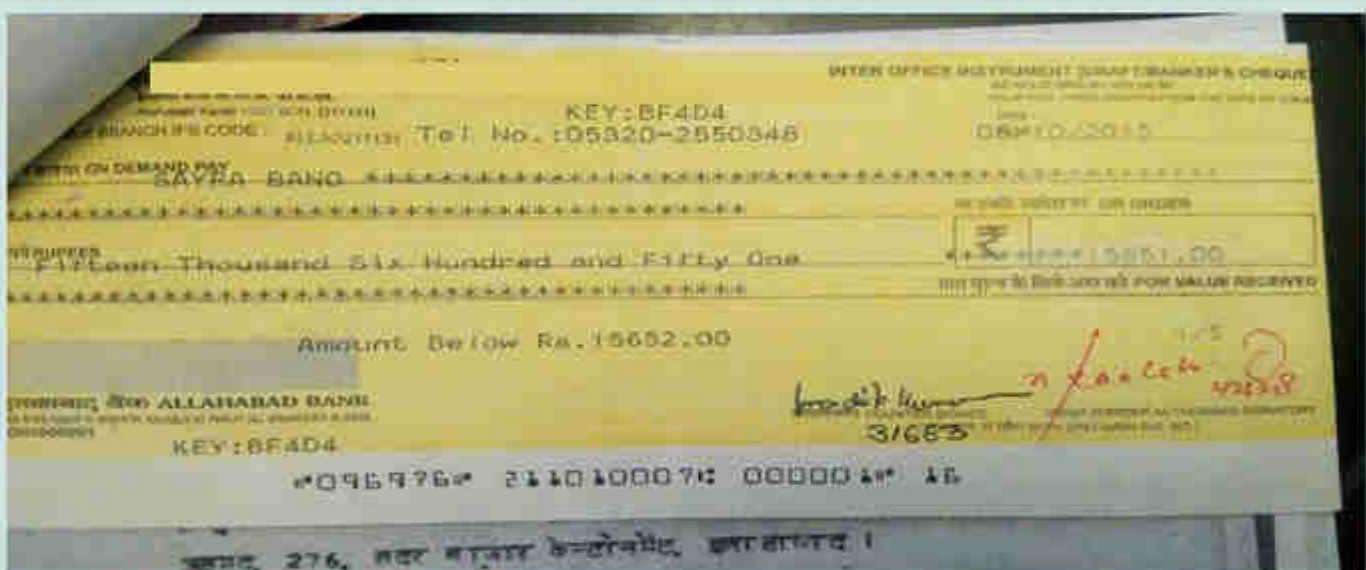


Shayra Bano on her wedding day

I

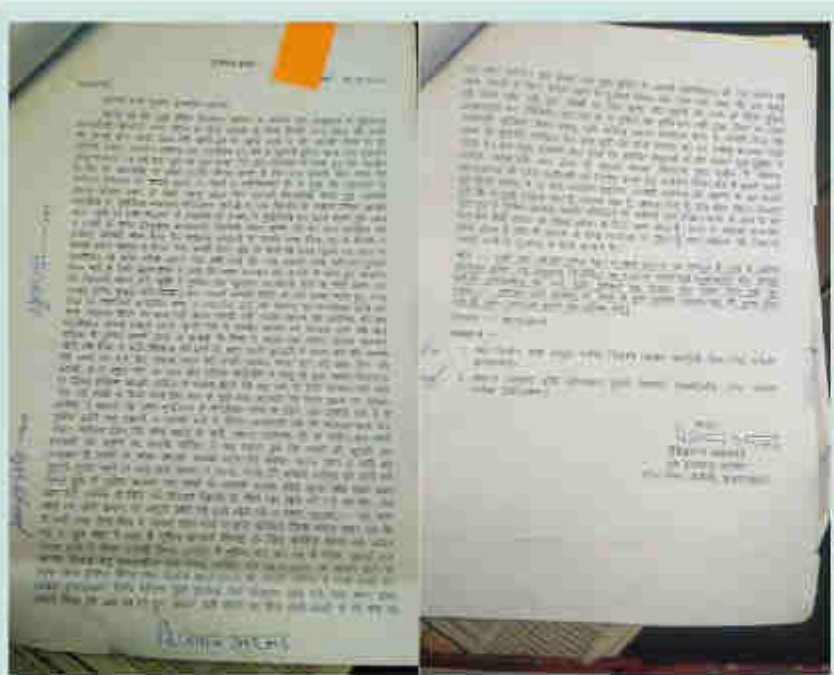
Shayra Bano was married to Rizwan Ahmed in 2002 at Allahabad, Uttar Pradesh as per Sharia Law. Shayra's husband and in-laws started harassing her over dowry from the very first day of her marriage. They would physically abuse her while demanding luxury items. After the birth of two children, Shayra was forced to undergo seven abortions. She used to be starved along with forceful administration of non-prescribed drugs, which not only caused her loss of memory but also severely damaged her kidney and liver.

In April 2015, she was forced to leave her husband's house and return to her parents. Since then she has been residing with her parents at their ancestral home. Shayra was then given triple talaq by Rizwan, which was confirmed by the deed of divorce dated 10th October 2015 issued by Rizwan along with a demand draft of Rs. 15,651/- (which has not been cashed till date) as mehr. The papers were received by Shayra through registered post. In the meanwhile, Shayra's husband had also filed a petition for restitution of conjugal rights; against which Shayra moved a transfer petition before the Supreme Court to transfer restitution petition to her current place of residence being Kashipur, Uttarakhand. The Supreme Court found the transfer petition to be infructuous, given the fact that the petition for restitution in respect of which transfer has been sought does not survive in view of subsequent development in the form of granting the alleged "Triple Talaq" by the husband.



Rs. 15,651/- demand draft given to Shayra as mehr after Triple Talaq has not been encashed till date

As Rizwan had denied Shayra to take their children, she filed a petition for visitation rights. In reply, the Supreme Court in its order dated January 1, 2017 directed her to take up the matter with the concerned family court at Kashipur, Uttarakhand. With regard to the application seeking visitation rights, the Supreme Court directed the estranged husband to co-operate for early disposal of the application.



Talaqnamah sent by Shayra Bano's husband Rizwan Ahmed by registered post

Shayra Bano while fighting all the odds with the support of her brother and family members had filed a Writ Petition no. 118 of 2016 under Article 32 of the Constitution of India seeking writ or order or direction in the nature of mandamus declaring the practices of Talaq-e-bidat, nikah halala and polygamy under Muslim personal laws as illegal and unconstitutional for being a violation of Articles 14,15, 21 and 25 of the Constitution and provide Muslim women with a much-deserved security.



Shayra Bano, the crusader

The writ petition (C) No.118 of 2016 vide Supreme Court's order dated 03.03.2016 was tagged along Writ Petition (Civil) no. 2 of 2015, Muslim Women's Quest for Equality Vs.Jami-at-Ulema-i-hind, which triggered an outrage against the unjust and ill-treatment of Muslim women who are deprived of their rights and are subjected to such prejudiced behaviour. Shayra Bano was one of the petitioners to the historic judgement which pronounced Triple Talaq illegal.

“I want justice. I felt this step of approaching the court will help other Muslim women here after.”



Before Bad Weather



Existential Crisis

II

Atiya Sabri was married to Wajid Ali Ahmad on March 25, 2012 at Saharanpur, Uttar Pradesh as per Sharia Law. Her husband and in-laws started harassing her over dowry from the very first day of her marriage. They beat and abused her while demanding luxury items like a car for dowry. She was prohibited from visiting her parents. She was kept confined in the house without the company of her relatives. Such perpetual mental and physical torture continued and her condition became critical. She was starved for days and continuous administration of drugs caused her loss of memory and further damaged her kidneys and liver.

In June 2014, she was forced to return to her parents' house and is still living with them for the last three years. Atiya's father-in-law, Sayeed Ahmed and mother-in-law, Mehraj accused her of adultery. They alleged that Atiya's daughters, Sadiya and Sanaa were not from her husband but were born from Atiya's brother, Mohammad Rizwan. She was then unlawfully divorced by Wajid Ali

through Triple Talaq which was confirmed by the Talaq Namah prepared by him in November 2015 and received by Atiya in July 2016. The divorce was granted on baseless and sickening allegations of an incestuous relationship between her and her brother Mohammad Rizwan who runs an NGO in Sultanpur in Haridwar, Uttarakhand.

Atiya Sabri while fighting all these odds and with the support of her family members had filed a Writ Petition No. 118 of 2016 under Article 32 of the Constitution of India seeking directions from the Supreme Court to conduct a D.N.A test of Atiya herself as well as her brother and husband to free her innocent children of such despicable allegations by determining their parental identity. She had also filed a writ petition in the nature of Mandamus declaring the practices of Talaq-e-bidat, nikah halala and polygamy under Muslim personal laws as illegal and unconstitutional and violation of Articles 14,15, 21 and 25 of the Constitution so as to reinstate the status of women and provide a life of dignity to Muslim women. Her writ petition(C) No. 43 of 2017 was part of the recent Supreme Court hearing and judgement on Triple Talaq.

III



Then

Aafreen Rehman's stoned face silently portrays her agony. A resident of Jaipur, Aafreen met Syed Ashhar Ali Warsi through a matrimonial portal in August 2014 and married him as per Muslim Sharia law rites and customs. Warsi is from a well-to-do family from Indore. A lawyer himself, Warsi repeatedly beat her over dowry demands for months. Aafreen's parents were compelled to give dowry before the marriage. Not satisfied, her husband and his family demanded additional dowry in the form of a car and cash which was not within the reach of Aafreen and her parents. In January 2016, she got a letter via speed post where her husband questioned her character and declared divorce through Triple Talaq.

In the meantime, Aafreen had lost her parents and brother in a tragic accident. Though armed with a MBA degree, she has been left at the mercy of relatives after meeting with a serious accident herself. Barely able to manage two meals a day, she decided to approach the Supreme Court of India against Triple Talaq.



Now

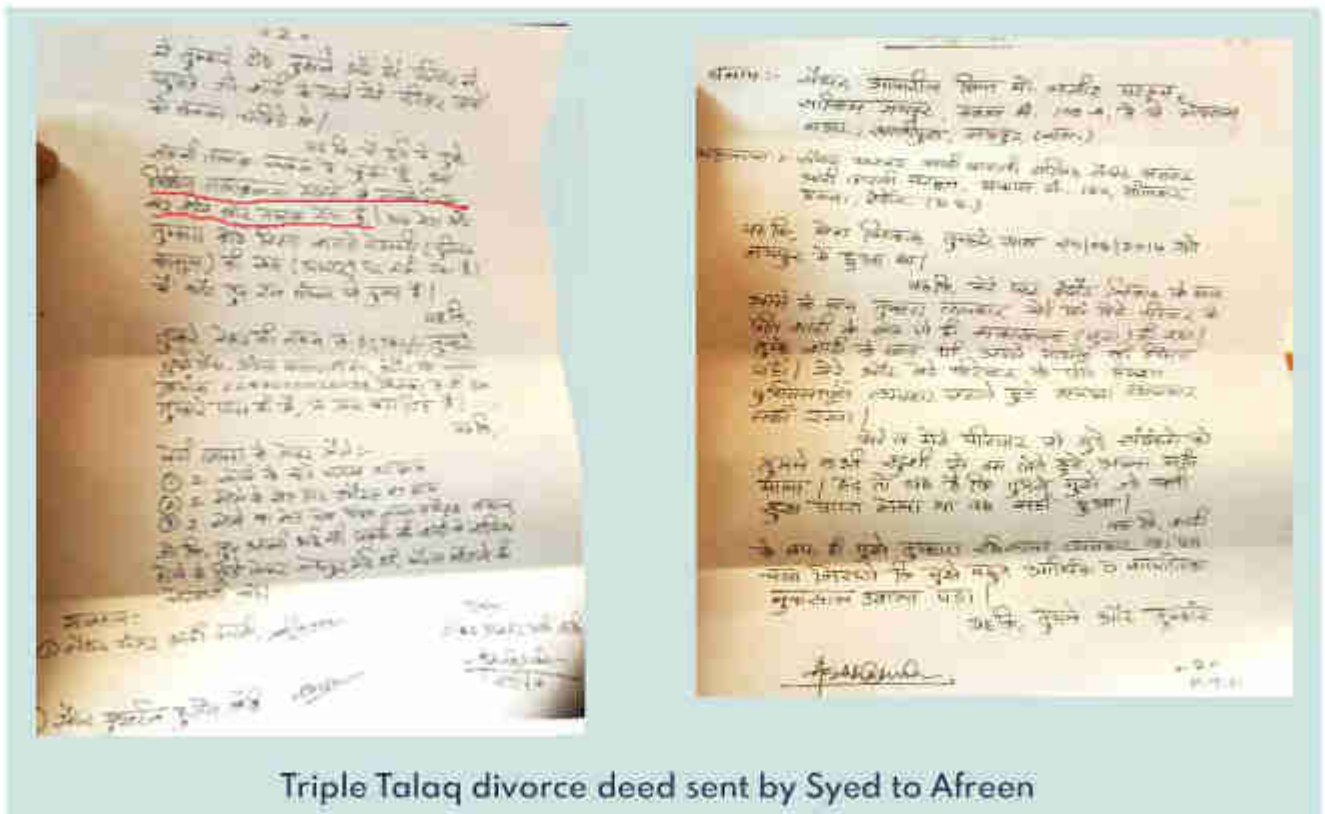
In her Writ Petition under Article 32 of the Constitution of India, she had placed a direction against the Union of India and others, seeking a writ or order or direction declaring the practices of Talaq-e-bidat, nikahhalala and polygamy under Muslim personal laws as illegal, unconstitutional and violating Articles 14, 15, 21 and 25 of the Constitution. Such orders will provide a life of dignity to Muslim women.

Aafreen had appealed that laws dealing with marriage and succession are not a part of religion; the law must change with time, and International Covenants and Treaties could be referred to examine validity and reasonableness of a provision. Her petition stated that many Islamic nations, including Saudi Arabia, Pakistan, and Iraq had banned or restricted such practices, while it still continued to vex the Indian society in general and Indian Muslim women like her.



Afreen and Syed on their wedding day

She had submitted that the practice of Triple Talaq wrecks havoc on the lives of many divorced women and their children, especially those belonging to the economically weaker sections of the society. She had appealed to the Court that gender discrimination against Muslim women needs urgent attention. Her writ petition (CIVIL) No. 288 of 2016 was part of the Supreme Court hearing and judgement on Triple Talaq.

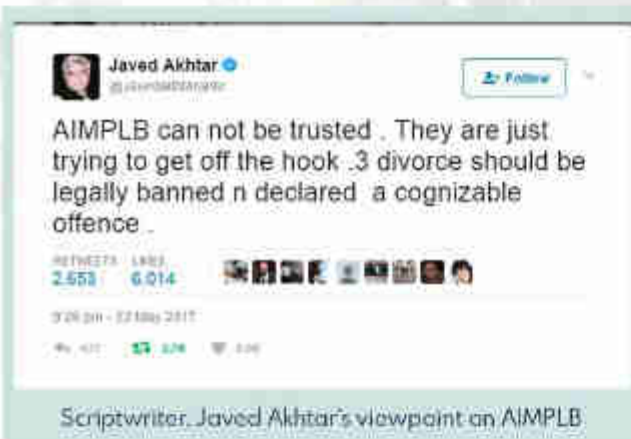


Triple Talaq divorce deed sent by Syed to Afreen

CROSS CURRENTS AMONG MUSLIMS

'Triple Talaq, Halala and Polygamy' a gender predicament, has been caught in the web of conflicting approaches among the Muslim leaders of various prominent schools of Islam like Shias, Sunni, Ahmadis and Turk Muslims to name a few.

The All India Muslim Personal Law Board (AIMPLB), a non-government organisation, has been claiming to be the majoritarian voice of the Muslim community. It ostensibly works for suitable protection and continued applicability of Muslim Personal Law in India. What makes the matter interesting is that there is a wide discrepancy in the viewpoints of the leaders of AIMPLB on Triple Talaq, Halala and Polygamy among themselves. Also, there is significant difference of opinions between the various Muslim organisations on the issue of Triple Talaq.



It is important to draw attention on the AIMPLB in this context. The organisation was formed in 1973 when Qari Mohammad Tayyib and Maulana Minnat Ullah Rehmani were nominated as its President and General Secretary respectively. Qari retained the position until his death in 1983, upon which Maulana Abul Hasan Nadvi assumed office and also remained President in position till his demise. In 2000 Qazi Mujahidul Islam Kasmi was nominated the, who remained in the chair until his death in 2008. Since then, Maulana Rabey Hasani Nadvi has been the President of AIMPLB.¹⁴

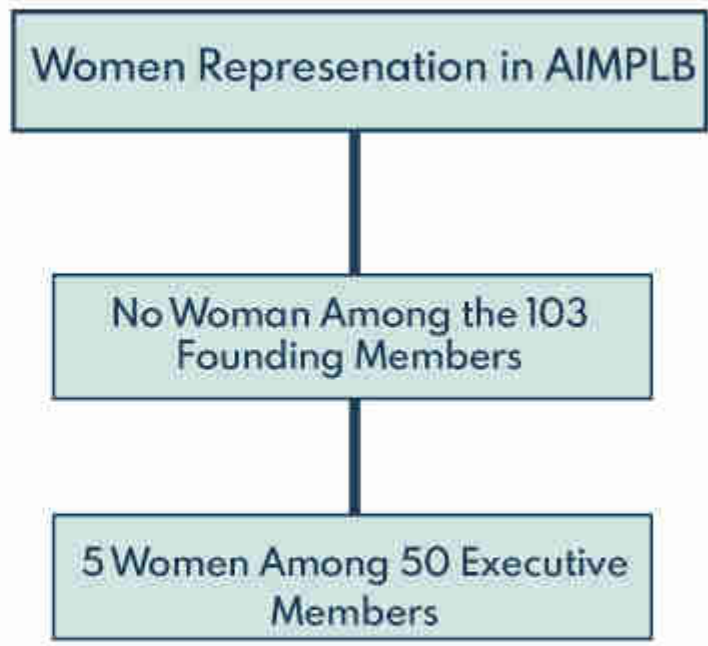
Since its inception, AIMPLB was always surrounded by controversies. It is alleged that the organisation is controlled by two prominent families and is not a true representative of the Muslim community. Also, women's representation in it is almost negligible. What is interesting is that the organisation claims to be the only one which gives representation to women. The organisation faces considerable opposition from within, because the Sunni Muslims primarily dominate it.



A women member of the AIMPLB, **Smt. Rukhsana Nikhat Lari** addressed a press conference in Lucknow and said that Triple Talaq is not a part of Quran. Whatever claims are being made in favour of Triple Talaq are baseless. A former principal of a college, Rukhasana's AIMPLB membership was not renewed at the end of its three year term.

- In 2005, Muslims of the Shia sect formed their own organisation, the All India Shia Personal Board.¹⁵ It was also the year when the All India Muslim Women Personal Law Board was formed under the leadership of Shaista Amber in Lucknow where each one of them believed they would pay adequate attention to their respective causes.¹⁶

- Maulana Rabbey Hasani Nadvi, President of AIMPLB says that since Triple Talaq is a part of Shariyat law, neither the Government nor the Court has the right to interfere in the matter. He states that Triple Talaq is based on Quran which is Allah's revelation to Mohammad and this practice would continue till the end of time and no one has the authority to intervene in this issue.¹⁷



“The need of the hour is to enact a strict law against Triple Talaq in one go that is similar to the anti-sati law to prevent any Muslim woman from getting victimised and ensure that the culprit is punished” - **Maulana Yasooob Abbas, All India Shia Personal Law Board**



Contrary to this statement, Maulana Sadiq, Vice-President of AIMPLB says there are many different sects within the Muslims. He says that Triple Talaq is not validated on its pronouncement by the husband. He claimed that the Board had circulated a model 'Nikah Namah' which clearly states that divorce should take place with the consent of both the parties.¹⁸

STAND OF VARIOUS MUSLIM ORGANISATIONS ON TRIPLE TALAQ

<p>All India Muslim Personal Law Board</p> <p>Triple Talaq Valid</p>	<p>All India Shia Personal Law Board</p> <p>Triple Talaq is un-Islamic</p>	<p>Ahmadiyya Muslim Jamat</p> <p>Triple Talaq is against Quran, it should be abolished</p>	<p>All India Muslim Women Personal Law Board</p> <p>Triple Talaq is grossly misused to suit selfish individual interests</p>
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MYSOGYNIST LEXICON OF AIMPLB

98. Coming to the practice of polygamy, it is submitted that the Quran, Hadith and the consensus view allow Muslim men to have up to 4 wives. Though polygamy is permitted, it is not obligatory or desirable, rather, jurists regard monogamy as a better practice in usual conditions. However, Polygamy meets social and moral needs and the provision for it stems from concern and sympathy for women.

IN THE SUPREME COURT OF INDIA
ORIGINAL CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. 118 OF 2016
IN THE MATTER OF:-
Shayara Bano
Union of India & Ors
VERSUS
Petitioner
Respondents
**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 7,
ALL INDIA MUSLIM PERSONAL LAW BOARD**

Securing separation through court entails that the weaknesses of the opposite party be brought into public domain. Some moral failings are considered more scandalous for women in our society. For

99. Coming to the practice of polygamy, it is submitted that the Quran, Hadith and the consensus view allow Muslim men to have up to 4 wives. Though polygamy is permitted, it is not obligatory or desirable, rather, jurists regard monogamy as a better practice in usual conditions. However, Polygamy meets social and moral needs and the provision for it stems from concern and sympathy for women.

In the matter of Shayara Bano versus Union of India and others, the affidavit submitted by the All India Muslim Personal Law Board speaks volumes about their mindset towards women

(<https://barandbench.com/wp-content/uploads/2016/09/Counter-affidavit-in-Shayara-bano.pdf>)

77. Shayara Bano has filed for divorce in accordance with the provisions of the Muslim Personal Law (Shariat) Application Act, 1937. She has also filed for divorce under the provisions of the Hindu Marriage Act, 1955. She has also filed for divorce under the provisions of the Hindu Marriage Act, 1955. She has also filed for divorce under the provisions of the Hindu Marriage Act, 1955.

90. Notwithstanding the fact that when divorce is granted, it is essentially for a valid ground, it is submitted that each of the grounds mentioned above are not valid grounds for divorce. The husband has never physically mistreated her and it is noted that as per Shariat, those men and women who seek to terminate a marriage without a valid reason would be deemed to have committed a sin by putting an end to a marriage without there being any compelling need or reason.

his mother, wife, sister, and daughter. Polygamy ensures sexual purity and chastity. Whenever polygamy has been banned, it emerges from history that illicit sex has raised its head. Amid

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b) Securing separation through court entails that the weaknesses of the opposite party be brought into public domain. Some moral failings are considered more scandalous for women in our society. For example the charge against a male that he has loose conduct and temper may damage only a little his prospects of remarriage. However, husband's same charge publicly against his wife about her loose character may deprive her the chance of remarriage. She may be more harmed than benefited by court proceedings.

c) Granting husband the right to divorce indirectly provides security to wife. Marriage is a contract in which both the parties are not physically equal. Male is stronger and female weaker sex. Man is not dependent upon woman for his protection. On the contrary, she needs him for her defence. If there develops serious discord between the couple and husband does not at all want to live with her, legal compulsions of time consuming separation proceedings and expenses may deter him from taking the legal course. In such instances, he may resort to illegal, criminal ways of murdering or burning her alive. Needless to add, a husband who does not fear

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Want to embrace Hinduism if given a chance, says Muslim woman attacked with acid after husband deserts her

Her mother-in-law allegedly asked her to not 'show her face' because Matlub had already given her triple talaq over phone, which Rehana says never occurred.

Muslim Women voicing change in religion to escape the fate of Triple Talaq

(<http://www.india.com/news/india/muslim-woman-wants-to-embrace-hinduism-after-being-given-triple-talaq-over-phone-2043250>)

Revolt against Triple Talaq by a Muslim woman ट्रिपल तलाक के खिलाफ एक महिला का विद्रोह



It is better to embrace Hinduism than being a victim of Triple Talaq. At least there is no triple talaq saying to give divorce suddenly.

ट्रिपल तलाक से बेहतर है हम हिंदू बन जायें, वहां तीन बार बोलकर तलाक तो नहीं देगा



"After pronouncement of talaq there should be an interval between each talaq so that both the wife and husband have a space to reconcile and think over their decision again. Moreover, any decision taken in anger, according to Islam, is not considered valid" Tariq Ahmad, Ahmadiyya Muslim Jamanat

(<https://news.webindia123.com/news/articles/India/20161213/3011842.html>)

"Condition of Muslim Women are getting worse, they are illiterate, unaware of their rights in the Quran, are being ill-treated by their husband, forcefully given them Talaaq, 3 times at a go which is against the Islamic law" Mrs. Shaista Ambar, Chairperson, All India Muslim Women Personal Law Board.



"Even if Triple Talaq is outlawed, it will not benefit women. Those who want to trouble their wives will still continue to do so and stop giving conjugal rights to their wives.... The issue is being blown out of proportion and statistics don't support the claim of this problem being endemic within the Muslim community." Maulana Syed Jalaluddin Umari, Vice-president of All India Muslim Personal Law Board (<http://www.deccanchronicle.com/nation/current-affairs/120517/triple-talaq-ban-will-not-benefit-muslim-women-aimplb-leader-umari.html>)

• Maulana Yasoob Abbas, a member of All India Shia Personal Law Board (AISPLB) claims that Triple Talaq is not a part of Islam. According to Shia tradition, a simple pronouncement of 'Talaq' thrice does not mean the sanction of a divorce because two witnesses have to be present for the purpose. The 'Nikah Nama' prepared by the Board mentions boldly and clearly that this form of divorce is clearly not acceptable by Islam.¹⁹

• To counter the judgement of the Hon'ble Supreme Court of India rendering Triple Talaq illegal and unconstitutional, AIMPLB has recently announced constituting 250 Darul-Qaza (Sharia Court) in all districts of India. Sharia Court has no legal sanctity and hence cannot substitute the judicial system of the country. However, the attempt is to dissuade the women of the community to approach the legal system existing in the country by presenting the Sharia Court as a decoy. Since the literacy is low among the Muslim women, they can be misled by presenting Sharia courts as arbitration centres.²⁰

Smt. Shaista Amber, President of All India Women Personal Law Board says that the present form of the Triple Talaq is not validated by the Quran and Hadis and hence Triple Talaq does not have the sanction of these holy texts.²¹

While the present Government and many Muslim organisations are vehemently opposed to the process of Triple Talaq, AIMPLB has claimed that the process is a part of Shariyat and has been exercising pressure to keep the practice alive.

Some of the Executive Members of AIMPLB



Clockwise from top left: 1. Ml. S. Mohd. Rabey Hasani Nadvi, 2. Asaduddin Owaisi, 3. Zafaryab Jilani, 4. Ml. Khalid Rashid Farangi Mahli, 5. Ml. Kaka Sayeed Ahmed Oomeri, 6. Ml. Md Umrain Mahfooz Rahmani.

GLOBAL PERSPECTIVES ON TRIPLE TALAQ

With the population of Muslims at nearly two billion across the world, the incompatibility between Muslim Personal Law, Sharia and the Civil Law has been witnessed globally. Over the years, many countries have regulated their laws to stand up to gender justice and equality vis-à-vis Muslim personal laws. A brief overview of the existing laws on Triple Talaq and polygamy in countries like France, Germany, the United Kingdom, Canada, Netherlands, the United States of America, Pakistan, Bangladesh, Malaysia, Sri Lanka, Maldives, Egypt, Sudan, Qatar, Bahrain, Tunisia, Iraq, Algeria, Turkey, Cyprus, United Arab Emirates and Morocco has been presented.

Arab Nations

Egypt, Sudan, Qatar & Bahrain	Tunisia & Iraq	Algeria	Turkey & Cyprus	United Arab Emirates & Morocco
Egypt ²² led the divorce reforms in 1929. Sudan ²³ (1935), Qatar ²⁴ (2006) and Bahrain (2009) follow the same method.	Tunisia ²⁵ adopted Tunisian Code of Personal Status, 1956. Iraq ²⁶ Government runs a personal status court in 1959.	Algeria ²⁷ also has adopted a code like Tunisia in 1984.	Turkey ²⁸ in 1926 and Cyprus ²⁹ in 1980 have adopted the Swiss Civil Code and abolished Sharia.	Morocco ³⁰ in 1957/58 and United Arab Emirates ³¹ in 2005 declared Triple Talaq invalid.
Triple Talaq is not valid. Simultaneous utterances of 'talaq' thrice does not dissolve marriage. Divorce also requires a mandatory iddat period.	Marriage and divorce cannot take place without the sanction of the court. Mandatory reconciliation process is followed before divorce is sanctioned.	Additionally, this code earmarks 90 days for completing the reconciliation process. The Court reserves the right to grant all divorces.	Only the court has the right to validate any divorce.	Divorce can only be validated by the Court.
Polygamy is legal. ³²	Polygamy is illegal. However, in Iraq polygamy is allowed under exceptional circumstances. ³³	Polygamy is legal. ³⁴	Polygamy is illegal. ³⁵	Polygamy is legal. ³⁶

South Asian Countries

Pakistan & Bangladesh	Sri Lanka	Malaysia	Maldives
<p>Pakistan's³⁷ Muslim Family Law Ordinance (1961) made the Triple Talaq, illegal. This was the first legal effort in Pakistan to codify Muslim personal Law. The law has been adopted by Bangladesh as well.</p>	<p>Marriage and Divorce (Muslim) Act, 1951, as amended up to 2006 does not recognise Triple Talaq.</p>	<p>Malaysia's³⁸ Marriage and Divorce Act 1976 as amended till January 2006 requires the Court's intervention in the solemnisation and dissolution of very marriage.</p>	<p>Divorce and Dissolution of Marriage is done through application of divorce, which is governed by the Family Act, 2000.</p>
<p>The new law required that, in order to obtain a divorce, a husband had to send a written notice to the chairman of the local council with a copy to his wife. But the divorce will not be effective until the expiration of a waiting period of 90 days, which will be utilised to constitute an arbitration council for the purpose of bringing about reconciliation between the parties. There is no concept of halala.</p>	<p>A husband who wishes to dissolve his marriage can only do so by giving a "notice of his intention to the Qazi". Subsequently, it is the Qazi who first attempts to initiate a reconciliation process between the husband and wife, which involves the assistance of relatives and family elders. If the reconciliation has failed then the husband reserves the right to grant divorce only in the presence of witnesses and a Qazi³⁹</p>	<p>The Court has the right to dissolve any marriage irrespective of the initiator of the divorce proceedings. No marriage is dissolved without judicial intervention.</p>	<p>A husband can divorce his wife only with the approval of the judge after the husband has made an application to the competent Court. Women can also apply for divorce in certain circumstances like after giving something of monetary value to the husband. Divorce is granted without an initial reconciliation process and the eventual consent of both parties.⁴⁰</p>
<p>Polygamy is legal only for Muslims⁴¹</p>	<p>Polygamy is legal only for Muslims⁴²</p>	<p>Polygamy is illegal.⁴³</p>	<p>Polygamy is limited but with conditions.⁴⁴</p>

Western Countries

France	Germany	United Kingdom (UK)	Canada	Netherlands	United States of America
Non-recognition of 'Talaq' enforced since 2004 as a legitimate form of divorce, as it is considered contrary to French public order in general and to the principle of gender equality in particular. ⁴⁵	Unilateral repudiation of a Muslim wife by her husband by Talaq is not recognised by the Courts.	There are Councils and Tribunals which give guidance on family law, finance and business based on Sharia Law.	The process of getting a divorce is by applying for a divorce in family court for all citizens.	With regard to Dutch citizens, civil marriage is the only marriage recognised by the courts.	Does not enforce Islamic divorces given under Sharia.
Second marriage will be declared absolutely null.	Legally no provision to enter into a polygamous marriage and punishable with fine or prison time up to three years. ⁴⁶	These Councils which technically lie within the UK's Tribunal Court system, can hold legally-binding negotiation sessions in these cases, but they can't overrule regular UK courts of make decisions which go against British laws. ⁴⁷	Obtaining a Muslim religious divorce in Canada is not legal. ⁴⁸	The legally valid procedure is to marry first in a civil ceremony and then to conclude with a religious ceremony. It is a criminal offence for a spiritual leader to conduct a religious marriage ceremony without being preceded by a civil ceremony. ⁴⁹	Polygamy is a misdemeanour offense where the federal Government has exclusive jurisdiction. ⁵⁰
No polygamous union can be legally recognised.	Treats polygamous marriages to be legally valid as long as the marriage was concluded in a country that permits polygamy implying that Muslim women can obtain social security benefits, inheritance, custody rights.	No legal recognition is extended to spouses of subsequent marriages after the first marriage is recognised even when subsequent marriages are contracted abroad.	All forms of polygamy are illegal under Section 293 of the Criminal Code.	Marriage between more than two individuals is prohibited. However, "samenlevings contract" which translates to 'cohabitation agreement' is permitted to all citizens.	

INDIA

Existing Legal Position on Muslim Marriage and Divorce

Divorce by Husband: The absolute power of a Muslim husband of divorcing his wife unilaterally, without assigning any reason, literally at his whim, even in a jest or in a state of intoxication, and without recourse to the Court, and even in the absence of the wife, is recognised in modern India.

Express Talaq: When clear and unequivocal words are uttered, the divorce is express which falls into two categories: a) Talaq-i-sunnat has two forms:

i) Talaq-i-ahsan consists of a single pronouncement of divorce made in the period of 'Tuhr' (purity, between two menstruations) (only in oral divorce), or at any time, if the wife is free from menstruation, followed by abstinence from sexual intercourse during the period of iddat.

ii) Talaq-i-hasan consists of pronouncement of talaq three times during three successive tuhrs (without any sexual intercourse), if the wife has crossed the age of menstruation, then after the interval of a month or thirty days between the successive pronouncements. When the last pronouncement is made, talaq becomes final and irrevocable.

b) Talaq-i-Biddat: It has two forms: (i) the triple declaration of talaq made in a period of purity, either in one sentence or in three, (ii) the other form constitutes a single irrevocable pronouncement of divorce made in a period of tuhr or even otherwise. This type of talaq is not recognised by the Shias.

Divorce by Wife a) Talaq-i-tafweez or delegated divorce implies that the Muslim husband is free to delegate his power of pronouncing divorce to his wife or any other person, absolutely or conditionally, temporarily or permanently.

b) Lian: If the husband levels false charges of unchastity or adultery against his wife then this amounts to character assassination and the wife has got the right to ask for divorce on these grounds.

c) By Dissolution of Muslim Marriages Act 1939: The Act lays down several grounds on the basis of which a Muslim wife may get her divorce decree passed by the order of the court.

Divorce by Mutual Consent is 'Khula' and 'Mubarat'. These are two forms of divorce by mutual consent but in either of them, the wife has to part with her dower or a part of some other property.

Polygamy is allowed if the man treats all his wives equally. A man can have up to four wives but a woman can only have one husband at a time. Polygamy under Islam has not been abolished in India.⁹

The Muslim Women (Protection of Rights on Marriage) Ordinance, 2018

In a recent development, the state has introduced an ordinance to provide protection of rights on marriage to the Muslim Women. Exercising the powers conferred by clause (1) of Article 123 of the Indian Constitution, the President of India promulgated the Muslim Women (Protection of Rights on Marriage) Ordinance, 2018 with immediate effect on 19th September, 2018. The salient features of the Ordinance are as follows:

1. It is applicable only in cases of Triple Talaq i.e Talaq-e-Biddat or any other form resulting in instant Talaq for six months.
2. Any pronouncement of such Talaq by a Muslim husband upon his wife in whatsoever manner shall be void and illegal.
3. Any Muslim husband who pronounces such Talaq shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.
4. This offence shall be cognizable if its information is given to police by the affected married women herself or any person related to her by blood or marriage.
5. The Magistrate can grant a bail to the accused husband only after hearing the affected married Muslim woman.
6. This offence shall be compoundable only at the instance of the affected married Muslim woman with the permission of the Magistrate on such terms and conditions as determined by him.
7. An affected married Muslim woman shall be entitled to receive from her husband such amount of subsistence allowance for her and her dependent children as may be determined by the Magistrate.
8. An affected married Muslim woman shall be entitled to custody of her minor children in such manner as may be determined by the Magistrate.

Source: The Gazette of India, No. 48, dated September 19, 2018/Bhadra 28, 1940 (Saka)

HISTORIC JUDICIAL ACTIONS

As an institution, the Indian Judiciary has earned respect from the people of this country resulting in a position of pre-eminence among the three organs of the State. The roots of this high regard lie in the impartiality, independence and integrity of the members of the judiciary.⁵⁴



In India, Muslim personal laws are governed by the Shariat Law (by the provisions of the Quran and the teachings of the Prophet Mohammad) due to Article 25 of the Constitution of India which incorporates the Right to Religion. While most Islamic countries in the world have chosen to modify and incorporate modernized versions of the Shariyat laws, India is still battling to do the same in the personal law governing marriage, divorce, inheritance, maintenance etc.⁵⁵

The law must keep pace with the society to retain its relevance because if the society progresses but law remains static, it shall be regressive for both. The Indian judiciary has, during the last few decades, acted on this principle extensively in cases where protection of basic human rights was concerned.⁵⁶ Few of the leading Supreme Court judgements that have tried, to the best of their abilities; to defend the rights of Muslim women are discussed below.

One of the most landmark cases in the history of India, pertaining to Muslim women, is Mohd. Ahmed Khan vs. Shah Bano Begum and Ors.⁵⁷ In this case, Mohd. Ahmed Khan, an advocate, was married to Shah Bano in 1932 and having three sons and two daughters. However, in 1975, Mohd. Khan drove Shah Bano out of her matrimonial home. In April 1978,

she filed a petition against her husband under Section 125 of the Criminal Procedure Code asking for maintenance at the rate of Rs. 500 per month. On November 6, 1978, Mohd. Khan divorced his wife Shah Bano by triple talaq and pleaded that she had ceased to be his wife and therefore, he was under no obligation to provide maintenance to her. In August, 1979, the Magistrate directed him to pay a sum of Rs. 25 per month to Shah Bano by way of maintenance. In July 1980, the High Court of Madhya Pradesh enhanced the amount of maintenance to Rs. 179.20 per month. The husband filed an appeal in the Supreme Court against this order.

The Judgment was delivered by The Chief Justice of India, Justice Chandrachud (as his lordship then was) who observed that the case involved question pertinent to large segments of society who have been traditionally subjected to unjust treatment including women. The Chief Justice, Justice Chandrachud observed while framing the issues involved in the case:

"Does the Muslim Personal Law impose no obligation upon the husband to provide for the maintenance of his divorced wife? Undoubtedly, the Muslim husband enjoys the privilege of being able to discard his wife whenever he chooses to do so, for reasons good, bad or indifferent. Indeed, for no reason at all. But, is the only price of that privilege the dole of a pittance during the period of iddat? And, is the law so ruthless in its inequality that, no matter how much the husband pays for the maintenance of his divorced wife during the period of iddat, the mere fact that he has paid something, no matter how little, absolves him for ever from the duty of paying adequately so as to enable her to keep her body and soul together? Then again, is there any provision in the Muslim Personal Law under which a sum is payable to the wife 'on divorce'? These are some of the important, though agonising, questions which arise for our decision."⁵⁸

It is important to note that the question as to whether Section 125 of the Cr.P.C also applies to Muslims was concluded in affirmative by two decisions of the Supreme Court, namely, Bai Tahira vs. Ali Hussain Fidalli Chothia⁵⁹ and Fazlunbi vs. K. Khader Vali.⁶⁰ However, originally in the present case, the Bench inclined to the view that those cases were not correctly decided and therefore, they referred the appeal to a larger Bench which delivered this landmark judgment.

The larger bench of the Hon'ble Supreme Court upheld the judgments of Court in Bai Tahira and Fazlunbi. While upholding that Section 125 Cr.P.C is applicable in Muslim women's case the Apex Court stated, "Justice Krishna Iyer who spoke for the Court in both these cases, relied greatly on the teleological and schematic method of interpretation so as to advance the purpose of the law. These constructional techniques have their own importance in the interpretation of statutes meant to ameliorate the conditions of suffering sections of the society. We have attempted to show that taking the language of the statute as one finds it, there is no escape from the conclusion that a divorced Muslim wife is entitled to apply for maintenance under Section 125 and that, Mahr is not a sum which, under the Muslim Personal Law, is payable on divorce."⁶¹

Therefore, the Supreme Court held in Shah Bano's case that if the divorced wife is able to maintain herself, the husbands liability to provide maintenance for her ceases with the expiration of the period of iddat but if she is unable to maintain herself after the period of iddat (the situation envisaged by

Section 125 of the Code), she is entitled to have recourse to Section 125 of the Code and thus it cannot be said that the Muslim husband, according to his personal law, is not under an obligation to provide maintenance beyond the period of iddat to his divorced wife, who is unable to maintain herself.

While delivering the judgment, the Court expressed its deep regret on the role played by the All India Muslim Personal Law Board. The Supreme Court also observed in this case that *"it is a matter of regret that Article 44 (Uniform Civil Code) of our Constitution has remained a dead letter... 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. It is a difficult task but a beginning has to be made if the Constitution is to have any meaning"*.⁶²

The other landmark judgment has been delivered by the Hon'ble Supreme Court in *Daniyal Latifi and Another vs. Union of India*.⁶³ After the Shah Bano's case, there was a chaos in the Muslim personal law. The parliament passed and enforced the Muslim Women (Protection of Rights on Divorce) Act, 1986 which provides under section 3(1)(a) that a divorced Muslim woman is entitled to reasonable and fair provisions, and maintenance within the 'iddat' period. One of the advocates in Shah Bano's case, Daniyal Latifi challenged this Act, claiming that it was unconstitutional as violative of Article 14 and 21 of the Constitution. There is no reason to deprive the Muslim women of the applicability of Section 125 of Code. The Government said that personal laws are legitimate basis for discrimination and therefore it does not violate Article 14 of the Constitution.

It further stated, "A careful reading of the provisions of the Act would indicate that a divorced woman is entitled to a reasonable and fair provision for maintenance. It was stated that Parliament seems to intend that the divorced woman gets sufficient means of livelihood, after the divorce and, therefore, the word provision indicates that something is provided in advance for meeting some needs. In other words, at the time of divorce the Muslim husband is required to contemplate the future needs and make preparatory arrangements in advance for meeting those needs. Reasonable and fair provision may include provision for her residence, her food, her cloths, and other articles. The expression within should be read as during or for and this cannot be done because words cannot be construed contrary to their meaning as the word within would mean on or before, not beyond and, therefore, it was held that the Act would mean that on or before the expiration of the iddat period, the husband is bound to make and pay a maintenance to the wife and if he fails to do so then the wife is entitled to recover it by filing an application before the Magistrate as provided in Section 3(3) but nowhere the Parliament has provided that reasonable and fair provision and maintenance is limited only for the iddat period and not beyond it. It would extend to the whole life of the divorced wife unless she gets married for a second time."⁶⁴

In *Shamim Ara vs. State of U.P.*,⁶⁵ the main issue was whether a divorce was valid if it was not directly communicated to the wife (in this case the husband said to have dissolved marriage by means of triple Talaq in presence of neighbours) and the said divorce communicated to her became effective from the date of filing the written statement by the husband in the proceeding. The Hon'ble Supreme Court held that the mere plea of a Talaq would not validate the same. The Quranic procedures of obtaining a Talaq need to be fulfilled, i.e., Talaq has to be pronounced in the Quranic injunction. The Court, therefore, held that neither the marriage between the parties stands dissolved nor does the liability of the husband to pay maintenance comes to an end, thus he shall continue to remain liable for payment of maintenance until the obligation comes to an end in accordance with law.

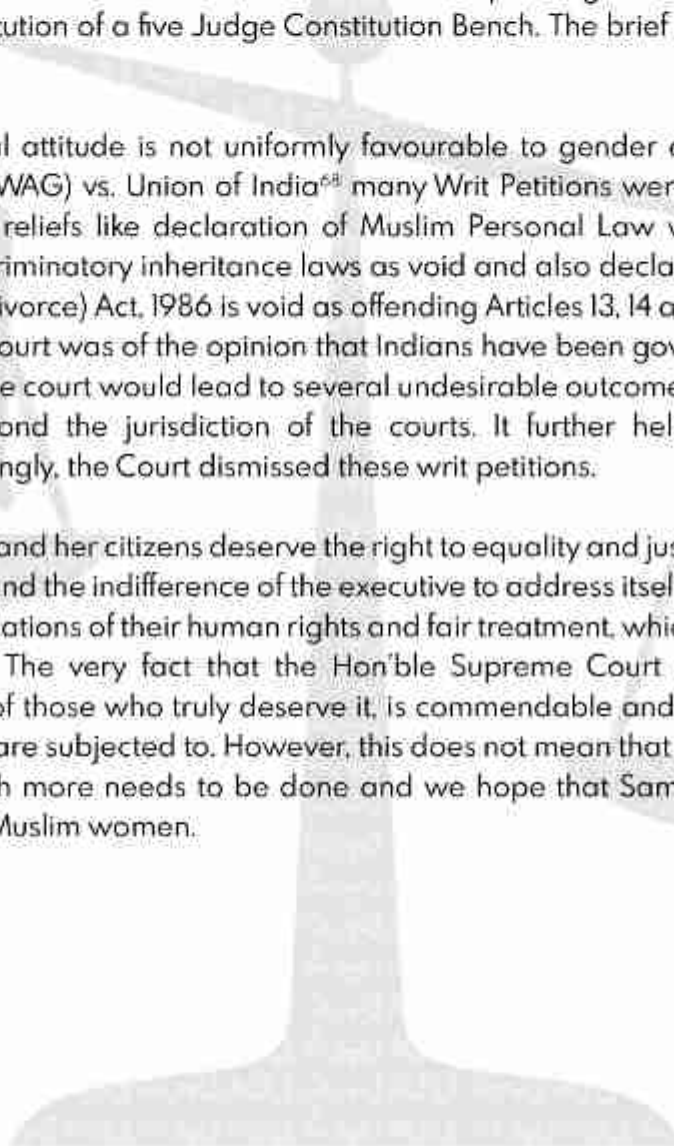
On 22.08.2017, after more than thirty years after the Shah Bano's case, the Hon'ble Supreme Court in

Shayara Bano vs. Union of India & Ors.⁶⁶ also known as the Triple Talaq judgment declared by a majority of 3:2 the practice of 'talaq-e-biddat' i.e. triple talaq as unconstitutional. This historic judgment has been discussed in a separate chapter in this booklet.

Presently, a Public Interest Litigation, Sameena Begum vs. Union of India & Anr.⁶⁷ has been filed under Article 32 of the Constitution to declare the draconian practices of 'Polygamy' and 'Nikah-Halala' that are rampant in the Muslim society as unconstitutional. Notice has already been issued by the Hon'ble Supreme Court on 26th March 2018 and the matter is now pending before the Hon'ble the Chief Justice of India for constitution of a five Judge Constitution Bench. The brief of this PIL is attached as Annexure in the booklet.

Unfortunately, the judicial attitude is not uniformly favourable to gender equality. In Ahmedabad Women Action Group (AWAG) vs. Union of India⁶⁸ many Writ Petitions were filed as Public Interest Litigation seeking many reliefs like declaration of Muslim Personal Law which allows polygamy, unilateral Talaq and discriminatory inheritance laws as void and also declaration of Muslim Women (Protection of Rights on Divorce) Act, 1986 is void as offending Articles 13, 14 and 15 of the Constitution. However, the Supreme Court was of the opinion that Indians have been governed by personal laws and an interference by the court would lead to several undesirable outcomes, as the adjudication of personal laws was beyond the jurisdiction of the courts. It further held that the remedy lies somewhere else. Accordingly, the Court dismissed these writ petitions.

India is a secular country and her citizens deserve the right to equality and justice. However, it was the tardiness of legislatures and the indifference of the executive to address itself to the complaints of the Muslim women about violations of their human rights and fair treatment, which provides the necessity for judicial intervention. The very fact that the Hon'ble Supreme Court of India has chosen to acknowledge the rights of those who truly deserve it, is commendable and a positive step towards the injustice that women are subjected to. However, this does not mean that complete gender justice has been achieved. Much more needs to be done and we hope that Sameena Begum's case will achieve more justice for Muslim women.



HISTORIC JUDGEMENT

Denying the Denial

A historic judgement by the Hon'ble Supreme Court of India upholding gender equality and setting a milestone for posterity was delivered on 22nd August 2017. The five-judges bench with 3:2 majority declared the practice of Triple Talaq as unconstitutional. Three Hon'ble judges viz: Justices Kurian Joseph, U.U. Lalit and R.F. Nariman were in favour of the ban while two judges viz: The Hon'ble Chief Justice of India J.S. Khehar (as his lordship then was) and Justice Abdul Nazeer were against the ban. Some highlights of the observations made in the majority and minority judgement are produced here:

MAJORITY JUDGEMENT

- Justice Joseph observed that what is held to be bad in the Holy Quran cannot be good in Shariat and, in that sense, what is bad in theology is bad in law as well.
- Merely because a practice has continued for long, that by itself cannot make it valid if it has been expressly declared to be impermissible.
- This Court in *Shamim Ara v. State of UP and Another* has held, though not in so many words, that Triple Talaq lacks legal sanctity.⁶⁹ Therefore, in terms of Article 141 (law declared by Supreme Court to be binding on all courts), the judgement in the case of *Shamim Ara* is the law that is applicable throughout India. In this case, her husband Abrar Ahmad was made liable to pay maintenance until the obligation came to an end in accordance with law. He was also directed to bear expenses of the appeal.⁷⁰
- Justice R.F. Nariman and Justice U.U. Lalit observed that this form of Talaq is manifestly arbitrary. The marital tie can be broken capriciously and whimsically by a Muslim man without any attempt at reconciliation so as to save it.
- This form of Talaq must, therefore, be violative of the fundamental right contained under Article 14 of the Constitution of India. The 1937 Act (Muslim Personal Law), insofar as it seeks to recognize and enforce Triple Talaq, is within the meaning of the expression "laws in force" in Article 13(1) and must be struck down as being void to the extent that it recognizes and enforces Triple Talaq.⁷¹



Hon'ble Justice Uday Umesh Lalit

Justice Lalit was appointed as a Judge of the Apex Court in July 2014. He was appointed directly as Judge of the Apex Court from the bar. He was a special prosecutor in the 2G spectrum allocation case.



Hon'ble Justice R. F. Nariman

Justice Nariman is the son of a distinguished Jurist Fali S Nariman. Beginning his legal career in 1979, Nariman also served as Solicitor General of India from 27 July 2011 till 4 February 2013. He is also known as a scholar on the Zoroastrian faith.



Hon'ble Justice Kurian Joseph

Justice Joseph began his legal career in 1979 in the Kerala High Court. In 2000, Joseph was elevated as a Judge of the Kerala High Court. Justice Joseph became The Chief Justice of Himachal Pradesh High Court in 2010. He was elevated to the Supreme Court on 8 March 2013

MINORITY JUDGEMENT

- Chief Justice Khehar and Justice Abdul Nazeer observed that this case which presents a situation where this Court should exercise its discretion to issue appropriate directions under Article 142 of the Constitution.
- They directed the Union of India to consider appropriate legislation, particularly with reference to 'Talaq-e-biddat'.
- The contemplated legislation will also take into consideration advances in Muslim 'personal law' – 'Shariat', as have been corrected by legislation the world over, even by theocratic Islamic States.
- Till such time as legislation in the matter is considered, they were satisfied in injuncting Muslim husbands, from pronouncing 'talaq-e-biddat' as a means for severing their matrimonial relationship. The instant injunction, shall be operative for a period of six months.
- If the legislative process commences before the expiry of the period of six months, and a positive decision emerges towards redefining 'talaq-e-biddat' (three pronouncements of 'talaq', at one and the same time) – as one, or alternatively, if it is decided that the practice of 'talaq-e-biddat' be done away with altogether, the injunction would continue, till legislation is finally enacted. Failing which, the injunction shall cease to operate.



Hon'ble Justice Abdul Nazeer

Justice Nazeer enrolled as an advocate in 1983 before being elevated as an Additional Judge of the Karnataka High Court in 2003. He became a permanent Judge of the Karnataka High Court on 24 September 2004. He was elevated to the Supreme Court in February 2017.



**Hon'ble Chief Justice of India,
Justice J. S. Khehar (Retd.)**

The Hon'ble Chief Justice of India (CJI) J.S Khehar has been The Chief Justice of Karnataka High Court and Uttarakhand High Court. Justice Khehar retired as CJI on 27 August 2017⁷²

PROPOGATING FALSEHOOD

Legitimizing Gender Discrimination and Coercion of Women

The profile of Urdu Press in India has been largely dominated by the clergy. This could be a reason that retrospection of the conservatism in Muslim community particularly concerning women's rights is largely missing in the Urdu Press. Though some progressive voices are trying to find a foothold in Urdu press and making their presence felt majority stand in defence of Triple Talaq, legitimizing the gender discrimination and coercion of Muslim women. Brief of some of the news reported in the Urdu press defending the practice of Triple Talaq is reproduced here.

When the matter of Triple Talaq was sub judice in the Hon'ble Supreme Court, editor of Roznama Khabrein, Qasim Syed in a signed front page commentary had stated that since the country's independence; the greatest challenge to the protection of the Muslim Personal Law Board is before them. Referring to the Triple Talaq case, he wrote that this is not the time for an emotional offensive but to convert the legal battle into victory by a patient approach. He stated that the question here is not only of the controversy about Triple Talaq but of protection of Muslim Personal Law which is guaranteed in our Constitution.⁵²

The Siasat Daily reported on Auguts 12, 2018 that Member of Parliament, Lok Sabha Maulana Asrar ul Haq Qasmi had made all out efforts to stop the Triple Talaq bill introduced by the Government from getting passed in the Rajya Sabha. It is reported that he was not in favour of the present Triple Talaq Bill because it was against the shariah and destructive for the rights of Muslim women.

Dainik Munsif dated May 3, 2017 stated that the Secretary of Jamate Islami, Aatia Siddiqui stated that Triple Talaq issue was being raised by the Government to defame Muslims. Polygamy is a gift for Muslim women. She said that Muslims would die but would not accept change in their Personal law.

Dawat in its editorial on April 28, 2017 wrote that people speaking on the issue of Triple Talaq, Sharia issues and Muslim Personal Law are crossing all limits. Most of these people are those who do not have anything to do with Islam. This indicates their enmity towards Islam and women as most of the people are ignorant about Sharia

Etemaad in its 23 November, 2017 editorial wrote that any law to ban Triple Talaq would be against the tenets of Islam. It said that some non-governmental organisations are misleading the Muslim Women. It said that the trend of giving Triple Talaq on mobile phone and social media has given an opportunity to the Government and Judiciary to act against Triple Talaq.

URDU MEDIA'S COUNTER NARRATIVE

While the polemics on Triple Talaq though found space in television debates and social media, the Urdu press has been largely pretending to ignore the rising voices of Muslim women for their rights. Some within the community mustered courage and gave voice to the issue of gender justice as well as reporting the cases of Triple Talaq in the Urdu press.



Jadeed Markaz reported on 14th May, 2017 the Turk Muslims from over 150 villages from the district of Sambhal, Amroha, Bijnor and Rampur in Uttar Pradesh (West) openly opposed triple talaq. The panchayat in Sambhal declared Triple Talaqas being against Islamic tradition and no Muslim in the village has the right to grant divorce through Triple Talaq. If anyone did follow the process the husband would be held accountable and would be punished accordingly.

Nai Duniya reported on 15th May 2017 that Prof. Akhtarul Wasey, Vice-Chancellor of Maulana Azad University (Jodhpur) agreed about the deplorable condition of Muslim women divorced through Triple Talaq. He stated that even though popular opinions go against Triple Talaq and there is a general consensus that it should be banned but the resistance should come from within the Muslim community.

Zaheed Hussain Ahmed in Nai Duniya (weekly) 8th May 2017 wrote that there is widespread difference of opinion in Shariyat Law within the Muslim community on triple talaq. AIMPLB is determined that the practice of simultaneous pronouncement of triple talaq be accepted as a valid form of granting divorce contradictory to the understanding of shias who accept talaq as a single pronouncement. Ahmed alleges that AIMPLB highlights the interpretations of Hanafi sect while ignoring others. He opined that if the Muslims all over the world can be regulated, then the laws in India should also be changed.

REBEL TO RENAISSANCE

L o n g R o a d A h e a d

After the initial euphoria of the landmark Supreme Court Judgement declaring Triple Talaq unconstitutional had settled, the larger challenge to be addressed was its ramifications within the Muslim community. Though the majority decision of the five-judge bench was in favour of Muslim women calling Triple Talaq unconstitutional, the arguments in the court were based more on religious lines than constitutional rights. This is significant in the light that within two days of the Triple Talaq judgement, the apex body's nine judge bench unanimously voted for the right to individual privacy. Immediately after the pronouncement of the judgement, self-proclaimed representatives of the Muslims opinionated on the verdict.

Some Urdu newspapers reported that Muslim outfits saw the Supreme Court triple talaq judgment as yet another setback. It reported, at length, how the AIMPLB, Jamiat Ulema-e-Hind (JUH), Darul Uloom Deoband (DUD), Jamaat-e-Islami Hind (JIH) and other leading Muslim outfits are gearing up to challenge the Supreme Court's decision that held instant triple talaq as "unconstitutional" and "un-Islamic".⁷³ The women's wing of the AIMPLB said that the judgement was confusing and claimed Triple Talaq does not always work against women.⁷⁴ Maulana Mahmood Madani, General Secretary of Jamiat Ulama-i-Hind expressed deep concern over the verdict as it is against the Islamic Shariat and urged Muslims to avoid practice of the instant Triple Talaq so that others cannot find ways to interfere with Muslim religious matters.⁷⁵ State Library and Mass Education Minister of West Bengal and Trinamool Congress MLA Siddiqullah Chowdhury had alleged that the Supreme Court passed the order without having knowledge of Islam and its rituals. He said that Triple Talaq has been mentioned in Quran and we shall abide by it.⁷⁶ Such is the fear for giving equal rights to Muslim women that JUH has been pre-empting Uniform Civil code (UCC) as a consequence of the present judgement and preparing to campaign against it by bringing out a booklet in Urdu titled Uniform Civil Code ke khilaf Jamiat Ulema-e-Hind ki jidd-o-jihad (the struggle of JUH against the UCC). The book states that the rules of Shariah cannot be rewritten on the pretext of the so-called social reforms.⁷⁷

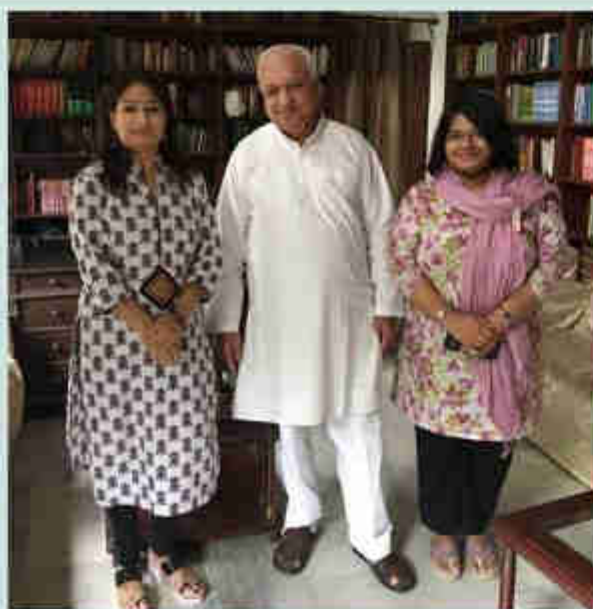
However, the progressive Muslim voices welcomed the verdict of the Supreme Court. All India Muslim Women Personal Law Board (AIMWPLB) and the All India Shia Personal Law Board welcomed the judgement and termed it as a victory of Islam and Muslim women in the country.⁷⁸ Syed Ashraf Kichchawchchvi of All India Ulama and Mashaikh Board (AIUMB), an apex body of Sufi-Sunni Muslims; stated that the clerics could carry out a rigorous research on the entire subject of Talaq. The AIUMB has been planning to organize research seminars and workshops across the country to make a deeper

delving into the subject. Syed Ashraf stated that there was a need to prepare and interpret a well-thought-out Muslim divorce law which could be pertinent in the Quranic and constitutional terms.⁷⁹ Government played a proactive role and introduced THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE) BILL, 2017 in the Lok Sabha (Lower House of the Parliament) to protect the rights of married Muslim women and to prohibit divorce by pronouncing of Triple Talaq by their spouses. Judiciary and the Executive adhered to the demand of gender justice for the Muslim Women but a section of the people's representatives the legislature are hesitant to unshackle the orthodox practices in the community. The bill is stuck in the Rajya Sabha (Upper House of the Parliament). Bharatiya Muslim Mahila Andolan (BMMA) has said that such a bill is the first step in the direction of codified Muslim law.⁸⁰ It has urged the government and the opposition not to politicise the issue and ensure a balanced and comprehensive law. However, the fundamentalist mindset in the community has been opposing this bill tooth and nail. A conference titled 'Deen Bachao, Desh Bachao' was organised under the banner of the All India Muslim Personal Law Board (AIMPLB) in Patna where Muslim clerics looked upon the proposed bill as 'interference' in Sharia law and demanded its immediate withdrawal. Fearing the reforms that are being proposed in the orthodox practices, AIMPLB has recently announced initiating Sharia courts across the country for resolving domestic and property disputes. These Sharia courts are being set up in the garb of providing arbitration to dissuade women to approach the judiciary. Meanwhile, Muslim women do not see any respite from their woes and continue to face torture and humiliation due to Triple Talaq. Recently, a Triple Talaq victim was allegedly thrashed and confined to a room without food for a month by her husband who later died during medical treatment in Bareilly, Uttar Pradesh.⁸¹ To address the plight of the Triple Talaq victims, the Central Government has introduced an ordinance to protect the rights of marriage to the muslim women. Under this ordinance, pronouncing Triple Talaq is a punishable offence. However, this ordinance will be able to provide protection only for six months and the bill will again face the majority test in the Rajya Sabha.

A custom which is acknowledged as lopsided and sinful even amongst Muslims is raising insecurity when done away with. Theocratic nations across the globe have been more forthcoming in regulating and codifying divorce. Time has come when the judiciary and the political will of the country must take a step forward towards safeguarding gender parity.

ECHOES FROM THE CIVIL SOCIETY

While IPF Research team interviewed and documented the bearings of Triple Talaq, Halala and Polygamy on the lives of numerous women, the viewpoint from civil society was pursued by interacting and interviewing some public figures, constitutional experts, clerics and Muslim scholars who gave their opinion on the character of the practice. Some eminent personalities interviewed were Kamal Farooqui (Former Chairman, Delhi Minorities Commission), Sahid Siddiqui (Former Member of Rajya Sabha and Editor of Nai Duniya), Arif Muhammad Khan (former Cabinet Minister), Dr. Subhas C. Kashyap (former Secretary General of Lok Sabha and Constitution expert), Maulana Sajid Rashidi (President, All India Imam Association), Maulana Nadeemuddin (President, All India Ulema Council) and Nishat Hussain (President, Muslim Welfare Society, Jaipur). Some of them communicated their views through electronic mail.



With Sh. Arif Muhammad Khan



With Maulana Nadeemuddin



With Dr. Subhas C. Kashyap



With Sh. Kamal Farooqui



With Sahid Siddiqui



Kamal Farooqui (former Chairman, Delhi Minorities Commission)

Though Talaq is considered to be an ill practice in Islam, it can be pronounced and adhered to. However, in case of Talaq one has to ensure that women's rights are protected first and adequate maintenance is given to them. Polygamy can be allowed in extreme cases.

Sahid Siddiqui (former Member of Rajya Sabha, Editor of NaiDuniya)

Talaq should happen strictly according to Quranic dictums and it should not be exploited as it is done in the modern form. Polygamy can be allowed in extreme circumstances. Nikah Halala was conceptualised to stop divorce but it should change with society.



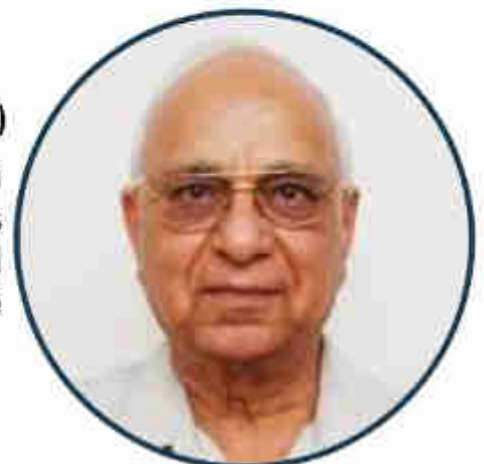
Ranjana Kumari (Director, Centre for Social Justice, New Delhi)

Triple Talaq, Nikah, Halala and polygamy should be banned as they go against the dignity of women and do not ensure gender justice and equality.



Dr. Subhas Kashyap (former Secretary-General and Constitution expert)

The issues of polygamy, nikah, halala should be resolved within the concerned community through discussions as to whether it is or not in the Quran. Triple Talaq, goes against fundamental rights. Voice of resistance should come from within the community and any outside voice may be seen as interference.





Maulana Sajid Rashidi (President, All India Imam Association)

Polygamy can be allowed according to Quranic dictums. Islam intended Halala as a form of punishment to both men and women. Triple Talaq may be followed strictly according to the rules of Quran. Talaq is a Muslim man's right and no court has the authority to put a ban on it.

Nishat Hussain (President, Muslim Welfare Society, Jaipur)

Evil practices like Triple Talaq, polygamy and Halala are not supported by Islam and they should be banned as they are the instruments of oppressing women. We should have faith in the Indian Constitution, which protects our rights and dignity.



Mufti Md. Nadeemuddin Siddiqui (President, All India Association of Imams of Masjid)

Triple Talaq is not allowed in Islam, and it should be banned. Only remarriage is allowed in Islam and Halala is also not a part of the religion, so people conducting this practice should be tried as rapists. Polygamy has to be understood in the view of modern times. In Islam, it is clearly stated that one must do justice to all his wives, but in today's world no one can do it.



Brinda Karat

Member, CPI(M) Polit Bureau

The opinion of the Law Commission is highly biased and since the issue of Triple Talaq is in the court, the imposition of any external view can be an unnecessary interference. Therefore, unable to participate in the process.



Sitaram Yechury

General-Secretary, Member,
Polit Bureau, CPI(M)

ANGUISHED VOICES

The onset of Islam as a religion and as a culture since its arrival in the seventh century in the Indian subcontinent has been largely confined in the cage of fundamentalism. The casualties of this dogma of faith have been the women of the community. To give a platform to the Triple Talaq victims to voice their anguish, a seminar was organised by the IPF in collaboration with the Department of Lifelong Learning, University of Rajasthan, Jaipur and National Muslim Women Welfare Society on 29 May, 2017 in Jaipur titled "Mahila Adhikar: Rudhiwadita Ke Virudh Pratikar". Jahan Ara, the first woman Qazi and a victim of Talaq herself, spoke at length about the injustice meted out in the name of Triple Talaq. She said that evil practices which continue to take place as a part of Islam should be banned and only the learned and wise maulanas should come to the forefront to explain the rules of Islam. She said that a judicious, foresighted and profound interpretation would help Islam to be viewed as the just, humane and simple religion, as it is.



"Mahila Adhikar: Rudhiwadita Ke Virudh Pratikar" Seminar organised at Jaipur by the IPF in collaboration with ILLL, University of Jaipur.



Jahan Ara (First Woman Qazi)

My husband threw me out of the house and kept my children with him. To overcome that pain, I started reading Quran and learnt its real meaning over a period of five years. There is no mention of triple talaq in one go in Quran and it is a misinterpretation of Islam resulting in oppression of Muslim women. The Quranic law should be codified. As the first female Qazi of India, it is my duty to protect the women's rights.

Nishat Hussain

We have the Constitution of India to protect our rights. Time is changing and in these changing circumstances, the Muslim women must raise their voice against atrocities committed on them. They can fight for their rights only and only when they shall be educated and made aware of their rights.



Naseem Akhter

AIMPLB is just an NGO. They do not provide any help or relief to Muslim Women. Unable to find any victim who was ready to take the case of Triple Talaq to the judiciary. I asked my cousin to take up the fight for justice for our Muslim sisters to the Supreme Court. I have been threatened and insulted many times on TV talk shows for supporting the judicial intervention in Triple Talaq issue.

Dr. Shiela Rai

Muslim women are still facing atrocities which must be eliminated. Hindu Religion and Islam have many qualities which can be taught to the West but the need of the hour is to reject the orthodox practices especially against women.



महिलाएं आवाज उठाएं, संसद कानून बनाएगी

डेली न्यूज, 30 अक्टूबर, जयपुर। जगत बदल रहा है और बदलते जमाने के अंदर तालीम के जरिए मुस्लिम महिलाओं को अपने ऊपर हो रही जघनघनों पर एक होकर आवाज उठाने होगी। इसी तरह प्रोत्साहित करने हुए मुस्लिम वेलफेयर सोसायटी की अध्यक्ष निशात हुसैन ने महिलाओं को उनके अधिकारों के प्रति जागरूक किया। मौका था राजस्थान विश्वविद्यालय के लाइफ लर्निंग डिपार्टमेंट में देशभर मुस्लिम वुमन वेलफेयर सोसायटी एवं इंडिया पॉलिसी फोरमेशन व डिपार्टमेंट के सहयोग से 'महिला अधिकार: रूढ़िवादी के विरुद्ध प्रतिष्ठा' विषय पर शनिवार को सेमिनार के आयोजन का। सेमिनार में डॉ. अशोक शर्मा ने बताया कि पितृसत्तात्मक समाज अपनी सत्ता बनाए रखना चाहता है, इसलिए जो समाज वर्गों से महिलाओं को यह में रोक अटकाता है। डॉ. गीता भट्ट एसोसिएट प्रोफेसर, दिल्ली विश्वविद्यालय ने कहा कि अधिकार वह हक है, जिसको मान्यता राज देता है, जिसका आधार व्यक्तिगत, समूह, जाति या उम्र होता है।



महिलाओं को परेशानी तालीम से होगी दूर

प्रिजेंट अंशु अग्रवाल, उच्च शिक्षा विभाग ने कहा कि महिलाएं आवाज उठाएंगी तो संसद कानून भी बनाएगी, संसद कानून भी करेगी और समाज परिवर्तन होगा भी महिलाओं। मुस्लिम अधिकारों को संरक्षित करने के लिए महिलाओं को परेशानी से निजात पाने के लिए तालीम की आवश्यकता पर जोर दिया। विभाग की डिप्टी डायरेक्टर डॉ. शीला राय ने बताया कि इस्लाम और हिन्दू धर्म से बतौर दुनिया है कि पश्चिम को दो बहुत कुछ दे सकते हैं। आरंभिकता है इन आचार्यों को नईकदमी को चुनना से अनिवार्य करने को। देश की प्रथम महिला अर्थशास्त्रज्ञ डॉ. शीला राय ने कहा कि मुझे भी एक बार में तीन तलाक का जिक्र ही नहीं है। यह इस्लाम की जड़ों का खंडन कर सकता है, जिसका दुष्परिणाम मुस्लिम महिलाएं भुगत रही हैं।

Seminar reported in Daily News, a local newspaper published from Jaipur

In the seminar, IPF was represented by Dr. Geeta Bhatt, Associate Professor, University of Delhi, Dr. Alok Sharma, Assistant Professor, University of Delhi, Ms. Archana Dave, Advocate Supreme Court and Amber Zaidi, documentary film producer and social activist. Director of Department of Lifelong Learning, Dr. Sheela Raipresided over the seminar. Many academicians, researchers and social activists were present including the President of Muslim Welfare Society, an NGO, Smt. Nishat Hussain; First Female Qazi of India, Smt. Jahanara and other prominent Muslim female activists. Many victims of Triple Talaq were present who shared their experiences and agonies.

दैनिक न्यूज, जयपुर, 30 अक्टूबर, 2017

महिलाओं के हुनर से इनसिक्चोर हो जाते हैं पुरुष : शीला राय

महिला अधिकार रूढ़िवादिता पर सेमिनार का आयोजन

तलाक का प्रोसेस जलत

सिटी रिपोर्टर • लक्ष्मण लॉन्ग लर्निंग डिपार्टमेंट की शीला राय ने कहा कि पंचायती राज में तो महिलाओं को 50 प्रतिशत आरक्षण मिल गया, जहां वे पुरुषों के मुकाबले बेहतर काम कर रही हैं। यही नहीं अपने काम के बलभूते पर वे चुनाव जीत भी रहीं हैं।

जब पुरुषों ने देखा कि महिलाएं उनसे आगे निकल रही हैं तो संसद में 50 प्रतिशत आरक्षण के बिल को पास नहीं किया। उनको निचले स्तर पर ही कोई फर्क नहीं पड़ता लेकिन संसद में महिलाओं के आने से इनसिक्चोर हो गए। कुछ ऐसी ही सच्चाई की गई महिला अधिकार रूढ़िवादिता के विरुद्ध विषय पर। इसमें हर तमके की महिला के अधिकारों पर चर्चा की गई। चर्चा में भारतीय मुस्लिम महिला आंदोलन के मेंबरों ने भी हिस्सा लिया।

पहली महिला काजी जहांआरा भी मौजूद थीं। उन्होंने कहा कि मेरी अपनी व्यक्तिगत जिंदगी के संघर्षों से मैंने कुरान के सही मायने जाने। कुरान में महिलाओं के लिए कुछ अलग नियम हैं और पैक्टिस में कुछ और आ गए हैं। जब मेरे पति ने मुझे तीन बार तलाक बोल कर घर से निकाल दिया और मेरे बच्चों से भी अलग कर दिया तो यह दर्द मैं सह नहीं पाई। मैं ऐसा रास्ता निकालने की कोशिश

भारतीय मुस्लिम महिला आंदोलन की स्टेट कन्वेंटर निशात हुसैन ने कहा कि कुतब में यह जिक्र है कि अगर पति अपनी पत्नी के साथ नहीं रहना चाहें तो वो तीन गद्दीये के प्रोसेस से जुड़े। पहले एक कजरे में शैठ कर 100 बार तलाक बोले, इसके बाद मिया-बीवी को एक गद्दीये तक साथ में रहना होता है जहां उनकी कार्टसिलिंग होती है। ऐसे यह प्रोसेस तीन गद्दीये का है। इस बीच मिया-बीवी के दिक्के सुपरवे के धारा होते हैं। पैक्टिस में इससे उल्टा है बात तीन बार तलाक बोलना है और बीवी घर से बाहर। ऐसे में दो फजल-कैशियान् इमोजकल सब तरह से अस्थाव हो जाती है। ऐसे में मेरे पास भारतीय संविधान है जो मेरे अधिकारों की रक्षा करता है। अब मुस्लिम महिलाओं में अवेयरनेस आने लगी है।

करने लगी जिससे मेरे बच्चे मुझे मिल जाएं इसलिए कुरान पढ़ना शुरू किया। पांच साल लगे मुझे कुरान का असल मतलब समझने में। इसके बाद मुझ में कॉन्फिडेंस आ गया। पहली काजी होने के नाते मेरा दायित्व बनता है कि मैं महिलाओं के अधिकारों की रक्षा करूं।

संस्करण दिनांक: 30 अक्टूबर, 2017

महिलाएं आवाज उठाएंगी तो संसद में कानून बनेगा



राजस्थान यूनिवर्सिटी के लाइफ लर्निंग डिपार्टमेंट में सेमिनार

जयपुर • नीचे-ऊपर समाज बनता रहा है, सारे अपने अधिकारों के प्रति जागरूक हो रहे हैं। इस नाते वक्त में मुस्लिम महिलाएं भी अब आगे कदम डाले चाली जायेंगी के खिलाफ आवाज उठाने लगी है। राजस्थान यूनिवर्सिटी के लाइफ लर्निंग डिपार्टमेंट, राजस्थान मुस्लिम वुमन वेलफेयर सोसायटी और इंडिया पॉलिसी फोरमेशन व डिपार्टमेंट के सहयोग से शनिवार को 'महिला अधिकार: रूढ़िवादी के विरुद्ध प्रतिष्ठा' विषय पर सेमिनार का आयोजन किया गया। सेमिनार में डॉ. अशोक शर्मा ने बताया कि पितृसत्तात्मक समाज अपनी सत्ता बनाए रखना चाहता है, इसलिए जो समाज वर्गों से महिलाओं को यह में रोक अटकाता है। डॉ. गीता भट्ट एसोसिएट प्रोफेसर, दिल्ली विश्वविद्यालय ने कहा कि अधिकार वह हक है, जिसको मान्यता राज देता है, जिसका आधार व्यक्तिगत, समूह, जाति या उम्र होती है। लेकिन महिलाएं खुद को स्वीकार कर रही हैं कि समाज मुझे उधर है तो लैंगिक पक्षपात होना संभव है। सुप्रीम कोर्ट की एक्सेक्यूटिव अर्जन देने ने कहा कि महिलाएं आवाज उठाएंगी तो संसद कानून भी बनाएगी, संसद कानून भी करेगी और समाज परिवर्तन होगा भी महिलाओं के अधिकारों की रक्षा करेगी।

RESEARCH METHODOLOGY

As the IPF Research team undertook the task of garnering facts, sentiments and opinions, it was an initiative to address, question and document women who have been marginalised due to discriminatory personal laws. It was aimed at adopting a methodology to bring forth narratives testifying the repercussions of orthodoxy and the opinion of the civil society.

Spread over a period of six months, the meetings of the research team took place initially to pre-empt the challenges related to the study. It was decided that emphasis would be laid on primary sources to understand the problems faced by the victims of 'Triple Talaq'. While selecting the narratives of the victims, it was kept in mind to assimilate many parameters like education, financial status, employment and age groups. A questionnaire was prepared keeping these parameters in mind. Documentation of the primary sources was done through videography to bolster their authenticity. The narratives reported are descriptions with the contextual account and direct quotes from respondents. Information from the secondary sources has also referred to while preparing the document. Reported news items and articles published in newspapers and magazines have also been taken into account to understand various social dimensions. Various sub-committees were formed to undertake the exercises mentioned above.

The IPF team, in order to undertake a wider consultation sought the opinion of Muslim scholars, intellectuals, political parties, civil society and law schools. A separate questionnaire was prepared for the same. While framing the questionnaire, opinion was taken from lawyers of the Supreme Court who are part of the research team to understand the legal aspect of personal laws. Feedback was obtained by conducting personal interviews and through correspondence. To prepare an impartial document, efforts were initiated to maximise our outreach to the community. Keeping this objective in view, two seminars titled 'Political, Moral and Constitutional Justification of Uniform Civil Code' and 'Islam in the Context of Indianisation' were organised at Delhi and a seminar titled 'Mahila Adhikar: Rudhiwadita ke Virudh Pratikar' was organised in Jaipur, Rajasthan.

Public Interest Litigation against practices of 'Polygamy' and 'Nikah-Halala'

Annexure - B

A Writ Petition (C) No. 222 Of 2018 "Sameena Begum Vs. Union of India & Anr." in the nature of a Public Interest Litigation (PIL) has been filed under Article 32 of the Constitution of India, by Advocate Archana Pathak Dave on behalf of a victim of polygamy. In the said PIL the draconian practices of 'Polygamy' and 'Nikah-Halala' that are rampant in the Muslim society have been challenged.

The Hon'ble Supreme Court in Shayara Bano Vs. Union of India & Ors. (2017) 9 SCC 1 (also known as the 'Triple Talaq' judgment) in para 10 as delivered by the then Hon'ble Chief Justice of India Mr. Justice J.S. Khehar, as his lordships then was, held:

"Keeping in view the factual aspect in the present case, as also, the complicated questions that arise for consideration in this case (and, in the other connected cases), at the very outset, it was decided to limit the instant consideration, to 'talaq-e-biddat' - triple talaq. Other questions raised in the connected writ petitions, such as, polygamy and 'halala' (-and other allied matters), would be dealt with separately. The determination of the present controversy, may however, coincidentally render an answer even to the connected issues."

This comes 30 years after the Hon'ble Supreme Court urged the Central government to frame a Uniform Civil Code to "help in the cause of national integration" in the Shah Bano case. India recognizes a plural legal system, wherein different religious communities are permitted to be governed by different 'personal laws', however, personal laws must meet the test of constitutional validity and constitutional morality, in as much as, they cannot be violative of Articles 14, 15, and 21 of the Constitution of India.

Matters of faith and belief are protected by the Article 25 but law relating to marriage, divorce, succession and inheritance are liable to be tested on grounds of public order, morality and health, as well as, on the touchstone of the other provisions of Part III of the Constitution of India.

The draconian practices of Polygamy and Nikah Halala cannot get the protection of Article 25 of the Constitution of India neither as a matter of freedom of conscience nor as a religious practice. The interpretation of Article 21 of the Constitution of India i.e right to protection of life and personal liberty, actually confers right to live a wholesome life and right to live with dignity, which, the practices of polygamy and Nikah Halala, unfortunately does not recognise.

Triple Talaq, Polygamy and Nikah-Halala are arbitrary and violative of the Articles 14, 15 and 21 of the Constitution of India and injurious to public order, morality and health. Thus, they can be superseded by the State just as it prohibited human sacrifice and practice of sati. Triple Talaq, Polygamy and Nikah Halala are offences under Sections 498A, 375 and 494 of IPC. Notice has already been issued by the Hon'ble Supreme Court on 26 March 2018 and the matter is now pending before the Hon'ble The Chief Justice of India for constitution of a five Judge Constitution Bench to hear the PIL.

Women Interviewed and visited by the IPF Team

Annexure - C

S.no	Name	Age	Address
1	Mojzma	29 Years	Delhi
2	Nargis	26 Years	Delhi
3	Nasim Bano	32 Years	Delhi
4	Nazma Khan	48 Years	Delhi
5	Rahnuma	21 Years	Delhi
6	Sameena Begum	42 Years	Delhi
7	Anwar Jahan	52 Years	Jaipur
8	Aafreen Rehman	30 Years	Jaipur
9	Jahan Ara	46 Years	Jaipur
10	Mohasina Rangrej	27 Years	Jaipur
11	Naseem Akhter	56 Years	Jaipur
12	Nagma Naz	20 Years	
13	Najmin	33 Years	Jaipur
14	Raft Jahan	39 Years	Jaipur
15	Ranjina	51 years	Uttarakhand
16	Atiya Sabri	34 years	UP
17	Bilkis	No ID	ADDRESS WITHHELD ON REQUEST
18	Farjana	26 Years	UP
19	Imrana	18 Years	UP
20	Iram Bahar	29 Years	UP
21	Mantasha	18 Years	Address withheld on request
22	Nasreen	34 Years	UP
23	Rizwana Bano	34 Years	ADDRESS WITHHELD ON REQUEST
24	Shabanam	26 Years	UP
25	Shania	27 Years	Uttar Pradesh
26	Shayada Parveen	34 Years	UP
27	Shazia Khan	26 Years	UP
28	Shayara Bano	42 years	

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IPF RESEARCH TEAM MEMBERS WITH THE 3 TALAQ VICTIMS



Triple talaq of breaking In 12 yrs, this hapless woman was given triple talaq thrice

BRITISH TIMES THAT SHE WAS AN ESCORT 21

Men more judicious, so can use triple talaq: AIMPLB

Ban On Polygamy Encourages Illicit Sex, Muslim Law Board Tells SC

Dhananjay Mahapatra

'MISTRESS WORSE'

Sharia grants right to divorce to husband because men have greater power of decision making. They are more likely to control emotions

Triple talaq worst form of breaking marriage: SC

STATESMAN NEWS SERVICE NEW DELHI, 12 MAY



Justice as "abhorrent" to the tenets of holy Quran because it makes a distinction on the ground of sex. He said it does not give women equal right to divorce. "No amount of advocacy can or will save this sinful, repugnant practice which is contrary to the tenets of Islam."

In her fourth marriage now, 35-yr-old Tara Khan (in pic) lives each day terrified that her current

राज्यसभा में हंगामे के चलते फिर अटका तीन तलाक बिल

प्रवर समिति को भेजने का प्रस्ताव खारिज, सरकार ने कहा-24 घंटे पहले आते

अमर उजाला ब्यूरो नई दिल्ली।

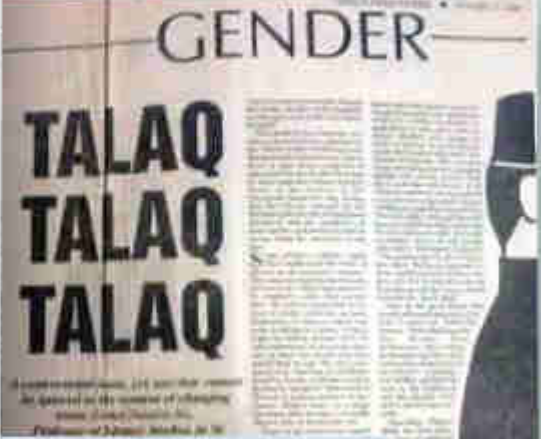


कार्यसूची में शामिल करने को लेकर भी दो बार हुई गरमागरम बहस

राज्यसभा में तीन तलाक बिल यानी मुस्लिम महिला विवाह अधिकार संशोधन विधेयक-2017 बुधवार को भी पारित नहीं हो पाया और न ही विपक्ष की मांग पर इसे प्रवर समिति को भेजा गया। इस पर बर्खा के दौरान सत्तापक्ष और विपक्ष में जमकर हंगामा हुआ। वित्त मंत्री अरुण जेटली ने समिति के पास देर से आया ज पटे पहले प्रस्ताव सरकार ने

हवाला दे विपक्ष के दोन सरोधनों को असंवैधानिक ठहराया। जेटली ने कहा कि सदस्यों के मौखिक नाम देकर प्रस्ताव पेश करने की संसदीय परिपटी नहीं है। सभी दलों का प्रतिनिधित्व भी नहीं है। बिल

या मताविभाजन को मांग करता रहा। वित्त मंत्री के यह कहने पर कि संसदन के ज्यादातर सदस्य बिल के खिलाफ हैं, कांग्रेस के सदस्यों ने फिर हंगामा शुरू कर दिया। कांग्रेस नेता गुलाम नबी आजाद बोले, बिल में कुछ



Tortured Triple Talaq victim dies in UP

DNA Correspondent correspondent@dnaindia.net



Lucknow: A Triple Talaq victim, who was allegedly thrashed and confined to a room without food for a month by her husband, died during medical treatment in Bareilly district of Uttar Pradesh on Tuesday.

The case of the triple talaq victim, identified as Razia, was taken up by an NGO Mera Haq. She was admitted in the hospital along with her

six-year-old son, Farhat Naqvi, sister of Union Minister Mukhtar Abbas Naqvi and founder of Mera Haq, told media that she was pronounced triple talaq by her husband Nahim about 45

days ago. But even after giving her triple talaq, Nahim did not let her go and locked her up in a room along with her son. After locking, beating and denying her food and water for a month, Nahim then left her to a relative's house. When her sister was informed about her ordeal, she brought her home. "We went to the police station to lodge a complaint against Nahim and his family members but the police did not

register any case," the victim's sister said. When the police did not help, the sister approached the NGO, which admitted the victim in a hospital and bore all her medical expenses. About a week ago when her condition deteriorated, she was shifted to Lucknow for further treatment. The victim came back to Bareilly only three days ago and died on Tuesday due to torture, long starvation and dehydration.

ipf India Policy Foundation

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