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Triple talaq divorce: On justice for Indian Muslim women, there is little that divides the maulvis and ‘moderates’

Thursday 18 October 2018, by [ANAND Javed](#) (Date first published: 6 October 2018).

Too many ‘moderate’ Muslims sympathise with the religious authorities and ‘community leaders.’ Progressive Moslems and women activists must insist: declare triple talaq (instant) divorce and polygamy unconstitutional.

It would be no surprise if on September 21, Hindus from West Bengal deserted the ruling Trinamool Congress en masse to join the Bharatiya Janata Party. The saffron party would owe this bonanza out of the blue to Maulana Siddiqullah Chowdhury, a minister in the Mamata Banerjee cabinet and state president of the religious organisation Jamiatul Ulema-i-Hind.

Chowdhury did not do much, he only made a statement. Responding to The Muslim Women (Protection of Rights in Marriage) [Ordinance](#), 2018, promulgated by the BJP-led government at the Centre on September 19, the mullah-minister proclaimed, “For us, our holy scripture, the *Quran Sharif*, is supreme and if any constitutional provision or any law contradicts the *Quran*, then our scripture will prevail and not the law or Constitution... The ordinance will have no effect on Muslims. No one will adhere to it, but will follow the religion and the holy book.”

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The ordinance - which criminalises the practice by which Muslim men divorce their wives by saying the word talaq three times at one go - has been [criticised](#) by many, for very good reasons. But with Banerjee choosing to say nothing, both on the ordinance and on her minister’s *Quran*-above-the-Constitution posture, it is advantage BJP. All it needs to do is to tell Hindus: look, it is [Shah Bano](#) all over again. Look, Muslims do not care about the law of the land and yet, pseudo-secular parties continue to pamper them.

It is not just Chowdhury and the Jamiatul Ulema-i-Hind. The All India Muslim Personal Law Board, an umbrella body of Muslim clerics across denominations, had defied the Supreme Court’s August 2017 [verdict](#) declaring triple talaq unconstitutional, and is now protesting vehemently against the ordinance. Many Muslim scholars, women and men, quote the *Quran* while arguing that the core values of Islam are in sync with the rights and freedoms embedded in the Indian Constitution. Sooner or later, the highest court in the land must take note of these voices for reform and settle the apparent conflict between the Samvidhan (Constitution) and Shariah (Islamic law).

No harm done?

Meanwhile, what does one say to some highly educated Muslim men and women - let’s call them “moderate Muslims” - who have a very different starting point from the mullahs but end up backing status quo just like them? They agree that triple talaq is anti-woman, un-Quranic and

unconstitutional. That is good, but not good enough. According to them, by declaring the practice invalid, the court has rendered instant divorce “inconsequential”. “Talaq, talaq, talaq” can no longer “harm” or “hurt” a woman. Since the marriage remains unbroken, where is the crime? What sense does it make to criminalise a non-crime? In short, withdraw the ordinance, forget the triple talaq bill, the Supreme Court verdict is a sufficient shield for Muslim women, they argue.

This may sound good in theory but it is far from good. Consider this. Muslim women do not live in a vacuum but in tightly-knit societies, in a mohalla, basti or colony amidst fellow Muslims, especially so in our ghettoised times and spaces. Now, think of a Muslim man in such a milieu hurling “talaq, talaq, talaq” at his wife, notwithstanding the apex court’s verdict. No harm done?

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If the moderate Muslim knows nothing else, this much he cannot deny: inside the Muslim mohalla, it is the Siddiqullah Chowdhury mindset that prevails, not the world view of the moderates. Far from being “inconsequential” or “harmless”, the dreaded words still hurt and how. The moment triple talaq is pronounced, the woman’s husband, in-laws, neighbours, the neighbourhood maulvi or mufti, quite possibly her own family members, will tell her that, whatever else, her husband is now haram (prohibited) to her. Imagine such an “unwanted” woman staying put in her marital home, facing a barrage of barbs and humiliation. Or, if she gets divorced while she is with her parents, imagine what it would mean to return to her marital home, to be “comforted” with the thought that there is but one way for her to reunite with her husband – nikah halala. This means she must marry another man and share his bed, if only for a few hours, then get a divorce from him and re-marry her former husband.

What is a triple talaq victim to do? Just drag your husband to court, the law is on your side, the moderate Muslim will tell the woman. Sounds simple, but is it? Often, she is a homemaker with no earning of her own. Where does she get the money to feed her children and herself? How is she to pay the lawyer’s fees and other litigation expenses? And how many years must she wait before a family court pronounces its verdict, hopefully in her favour?

A happy co-existence

Think again, moderate Muslim. That word repeated three times in quick succession is still capable of inflicting enormous pain. Applaud the courage and grit of Shah Bano, [Shayara Bano](#), [Sameena Begum](#) and many others like them who surface every now and then to fight despite heavy odds. And do not be surprised if today they feel short-changed by the Supreme Court. These Muslim women petitioners wanted triple talaq, nikah halala and polygamy declared un-Quranic and unconstitutional. But all they got by way of a majority verdict last year was not an iota more than what they already had. Fifteen years ago, a division bench of the Supreme Court had held triple talaq to be invalid in the [Shamim Ara case](#). Several High Courts had ruled similarly even earlier.

This brings us to the point that despite their different world views, the maulanas on the All India Muslim Personal Law Board and moderate Muslims can, and do, happily co-exist. The Board’s approach was, and still is, simple: let stray women go, one at a time, bang their heads in court; how does it matter so long as the flock stays with us? Recall that it chose not to challenge the Supreme Court verdict in the Shamim Ara case. As for some moderate Muslims, forget their impatience with some Muslim women’s “obsession to criminalise inconsequential words”, they cannot even bear the thought of triple talaq victims taking recourse to the secular Protection of Women from Domestic Violence Act, 2005, as proposed by progressive Muslims and other rights organisations. Their objection? This “unjust” law has the potential to deliver “humiliating punishments” to “innocent Muslim men”.

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Go tell the victims of triple talaq, moderate Muslim, that their feelings of hurt or harm are meaningless for the Supreme Court has rendered triple talaq “inconsequential”. Do not be surprised if they slam the door in your face and look elsewhere for allies to shake up the unjust, anti-women Shariah.

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