



THIS IS NO REFORM

Toothless bill criminalising triple talaq is meant only to score political points

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IF ONE WERE to believe the assurances given by the BJP government, the singular objective for the introduction of the Triple Talaq Bill was to secure justice for Muslim women. It was touted as a law that would give colour to the Supreme Court's historic decision and be a defining legislation on the subject. This government has displayed a wide variance between its stated objectives and actual practice. This case was no exception.

The bill was drafted behind closed doors with no consultation with anyone outside of a select group of ministers and officials. In response to a question in Parliament, this was confirmed as fact. All this while, a propaganda machinery ran a campaign highlighting Narendra Modi's sensitivity to the issue.

This is part of a now familiar theme of arrogance and condescension. Less than 20 per cent of the bills introduced are sent for committee consultation (as opposed to 80 per cent under the UPA). The manner in which the Triple Talaq Bill was drafted and introduced also violates the Pre-legislative Consultation Policy introduced by the UPA in February 2014. Having challenged the BJP for almost four years now, we can vouch for their tortured relationship with the rule of law.

Let us come to the grand objectives loftily proclaimed by the law minister. Is the triple talaq law, as presented, truly about gender justice and ensuring the equal treatment of

The bill puts the onus on the Muslim women to suffer the cost and consequences of litigation to prove the utterance of triple talaq by the husband. The Congress recommended that the presumption should be in favour of the woman (to save her the indignities of proving her case beyond reasonable doubt) but the BJP was too busy congratulating itself. On the issue of subsistence allowance, the Congress agreed with the idea but pointed out the clumsy drafting.

Muslim women? Or is it a poorly disguised attempt at political point-scoring? This law as drafted will neither empower nor benefit Muslim women or children. It is also not guaranteed to put a decisive stop to the abhorrent practice of instant triple talaq.

The Congress has been clear that the SC's decision is path-breaking and must be adhered to. The Congress even supported the idea of a law on the subject. However, in the week between the draft law being shared with Parliament (and the public) and its passage, two things became clear: The BJP government has yet again squandered a historic opportunity and a seven-section law (including the title) is an embarrassingly inadequate attempt at law-making.

The proposed bill does only two things: It penalises the pronouncement of instant triple talaq with a three-year prison sentence and provides for a subsistence allowance. On the basis of these provisions ministers held forth on how they have forever secured justice for Muslim women and undone the Congress's legacy of Muslim appeasement. It would have been a laughably bad claim if the consequences weren't the opposite.

Every Constitutional expert will attest to the fact that a legal right is only as good as the mechanism to enforce it. The bill essentially puts the onus on the Muslim women to suffer the cost and consequences of litigation to prove the utterance of triple talaq by the husband. The Congress recommended that the

presumption should be in favour of the woman (to save her the indignities of proving her case beyond reasonable doubt) but the BJP was too busy congratulating itself. On the issue of subsistence allowance, the Congress agreed with the idea but pointed out the clumsy drafting. What is subsistence allowance? It has not been defined. Will it be in addition to maintenance or a part thereof? When pressed, the law minister declared that the courts will decide. Why? Because the government, with all its resources, couldn't be bothered to put in a single line definition that would save years of litigation.

One of the misleading ways in which the proposed bill was presented was in contrast to the Muslim Women (Protection of Rights on Divorce) Act, 1986 passed by the Congress government. The 1986 Act has for decades been attacked for denying Muslim women the rights to maintenance. Like with most things presented as fact by the BJP, this too a lie. In 2001, the SC (in *Danial Latifi v. Union of India*) upheld the law as providing far-reaching protections to Muslim women including the right of "fair and reasonable" maintenance well beyond the *iddat* period.

When the celebration in the BJP and RSS camps finally dies down, they might realise that this bill — if not amended — will be a stain that doesn't wash off.

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