

“Triple Talaq Bill, 2019: A way to Patronize Muslim Women and Demolish Muslim Men”

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ABSTRACT

The status and subject of triple talaq in India has been a subject of debate and controversy. But now all these debates have been put to an end when triple talaq bill 2019 was passed. Through this bill, the triple talaq has now being criminalised and Muslim women have now access to protection of law from the practice of instant divorce. Supreme court declared triple talaq as unconstitutional. Islamic law allows changes and this change has been introduced by the Parliament by prohibiting the husband’s act of divorce which was abused by them. However, there are certain flaws in the bill which has negative impacts on men and women both. All these positive and negative aspects of the bill will be discussed in the research paper.

This paper addresses the issue of Triple talaq bill, 2019, its merits and demerits. The paper provides an overview of Triple talaq bill and its impact on Muslim women and men. Moreover, the paper states the future effect on Muslim women. The paper deals with lacunas in the bill. The paper provides recommendations and suggestions for the bill to be more effective.

Keywords: Muslim women, triple talaq bill, controversy.

INTRODUCTION:

Triple talaq which is also called as talaq-e-biddat was a form of Islamic divorce which has been used by Muslim men of hanafi schools of jurisprudence for dissolution in one sitting through triple pronouncement of the word talaq. It is an irrevocable and instant form of divorce which can be given in the oral, written or electronic form. There is no concept of triple talaq in Islam. It is prohibited form of talaq as no such form of talaq is being mentioned in Quran. A divorced woman cannot remarry the divorced husband after instant talaq unless she performs nikah halala. This form of talaq had a very bad effect on Muslim women. In large number of cases, divorced women received no maintenance and there is no option of reconciliation. Moreover, women were being harassed in many ways. For example, pregnant women are thrown out of house after pronouncing talaq three times in one sitting. All these injustice to women are now being put to an end after The Muslim Women (Protection of Rights on Marriage) Bill, 2019 or triple talaq bill was introduced in Lok Sabha and was passed by Rajya Sabha with 99 to 84. Once the bill gets assent of the President and after the notification by the government, the bill will replace previous triple talaq ordinance which was promulgated last in February, 2019. Triple talaq bill makes instant form of triple talaq a crime with penalty of three years imprisonment. It also makes such

act as a cognizable and non- bailable offence. The bill was introduced for achieving gender equality and providing justice to the Muslim women. There was an urgent need that the act of triple talaq must be stopped by any immediate action. This bill gave a perfect solution for preventing such act to happen. However, this bill has some flaws in it which would be elaborated in the paper.

SALIENT FEATURES OF TRIPLE TALAQ BILL:

- 1.) **Objective:** The main aim was to protect rights of married Muslim women and ensure gender justice and equality to Muslim women by declaring practice of triple talaq as illegal and void. This means that it is not enforceable in law and thereby preventing the divorce by practice of talaq-e-biddat by their husband.
- 2.) **Penalty for the offence of triple talaq:** The bill makes pronouncement of triple talaq a cognizable offence and a penalty has been decided upto three years of imprisonment with fine. (A cognizable offence is one which accused person can be arrested without warrant which is issued by the court). The offence will be cognizable only when information regarding the offence is given by : (i) the married woman (against whom talaq or divorce has been declared) or (ii) any other person related to her by marriage or blood. The bill also provides that bail may be granted by the Magistrate to the accused. The bail can be granted only after woman is being heard (against whom talaq has been given), and if the judicial magistrate is satisfied that there was sufficient and reasonable grounds for granting bill. Magistrate has power to compound the offence upon the request of the woman against whom triple talaq is declared. (Compounding refers to the process where both parties agree to stop legal proceeding, and settle the dispute. The terms and conditions of compounding of the offence of talaq will be determined by the Magistrate.
- 3.) **Allowance:** A Muslim Woman against whom the triple talaq has been pronounced, is entitled to get allowance from her husband for herself and for her children who are dependent upon her husband. Magistrate will determine the amount of allowance for which husband is liable.
- 4.) **Custody:** A Muslim woman against whom such talaq has been pronounced has a right to seek custody of her minor children and the manner of such custody will be determined by the Magistrate.
- 5.) **Scope for reconciliation:** This bill provides a scope for reconciliation without undergoing the procedure of nikah halala if both husband agree to stop legal proceeding and settle the issue. (Nikah halala is the practice in which woman has to marry another man and consummate the marriage and get a divorce afterwards. Only after this she can be eligible to remarry her former husband.

SUPREME COURT ON TRIPLE TALAQ:

The Supreme Court examined the case of *Shayara Bano v. Union of India and others*¹ in 2017 and declared the practice of triple talaq or instant talaq to be unconstitutional. The judgement was given with three different opinions. Every opinion was different from each other.

Facts of case:

Shayara bano, a muslim woman survivor of dowry harassment and domestic violence had been unilaterally divorced through Instant triple talaq. She instituted the petition before supreme court seeking a declaration that practice of instant talaq, nikah halala and polygamy in muslim personal law were unconstitutional and illegal and in violation of Article 14² (equality before law), 15³ (non-discrimination), 21⁴ (right to life with dignity) and 25 (right to freedom of conscience and religion)⁵ of the constitution of India.

The petition was supported by union of India. Jamait- Ulema-e-hind and All India Muslim Personal law Board argued that the Supreme Court did not have jurisdiction to entertain a constitutional challenge to Muslim personal law and such matter was in the domain of

¹ (2017) 9 SCC 1.

² 14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

³ 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

⁴ 21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law

⁵ 25. Freedom of conscience and free profession, practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion Explanation II In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly

Parliament. Bhartiya Muslim mahila andolan and majlis, organisation argued that in view of previous judgement of the court, the bench need not consider constitutional validity of instant triple talaq but court should rather emphasise the legal remedies.

Opinion by the bench:

The two judge opinion in the case of Shayara Bano took contrary approaches to the question of constitutional validity. Justice Khehar's opinion to it was that those parts of Muslim personal law on which state enacted a law can be tested for the compliance with essential part of basic structure that is fundamental rights, but those parts that were uncodified cannot be tested. He bases this view that the only law which is applicable on the Muslims is shariat act, 1937 and not customary law. Chief Justice Khehar and Justice Nazeer in their dissent upheld the practice of unapproved triple talaq. Their lordship held that such practice of triple talaq neither contravenes Article 25 nor any other fundamental rights which is guaranteed by Constitution of India. Justice Khehar held that Muslim personal law that is Shariat law cannot be subjected to review under Article 13(1)⁶ of the Indian Constitution. He believed that its legislative prerogatives to strike down Triple talaq.

According to Justice Nariman, even uncodified Muslim personal law can be tested for compliance with the fundamental rights. The main point of Justice Nariman's opinion is that what is "manifestly arbitrary" is also unreasonable and can be struck down under Article 14, which mainly deals with equality before the law and equal protection of laws. Thus, Justice Nariman can to finding that instant triple talaq was sinful and irregular and was manifestly arbitrary. Justice Lalit and Nariman struck down the act of 1937, to the extent that it recognised instant triple talaq.

Justice Joseph gave a different opinion. On the question of the nature of shariat act, 1937 he agreed with Justice Khehar and disagreed with Justice Nariman. Thus, he agrees with Justice Nariman's opinion of arbitrariness as an appropriate test for Article 14 of Indian constitution and he holds that the Shariat act 1937 cannot be subjected to it. He said that such an act of talaq is Quranically wrong and such an act shall be struck down being violation of Article 14.

Judgment:

The court declared the instant triple talaq to be unconstitutional. At last after the final analysis, there was no as such change in legal position of instant triple talaq after the judgement of Shayara Bano's case. However, it created confusion on the constitutional status of Muslim personal law and misses a good opportunity to elaborate on the constitutional vision of providing justice and gender equality for the Muslim women from minority religious groups

⁶ (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

CONTROVERSY ON TRIPLE TALAQ:

Political parties and campaigners are sharply divided over the bill. Muslim women and many others felt that it was unusual to criminalise divorce. The opposition party (Congress party) and others have pointed out the practice was outlawed by Supreme court. Many believed that State do not have any right to interfere in regulating the marital home. On the other hand, Law Minister Ravi Shankar Prasad defended the triple talaq bill. He said that practice of instant talaq had not stopped despite it being banned. He told the Rajya sabha in parliament that about 574 were reported after the Supreme Court verdict. He said that even after the judgement of making the act unconstitutional, there was no as such action taken on triple talaq. That is why such law is enacted as law is a deterrence. According to campaigners, its almost impossible to quantify how many cases of triple talaq occurred in India in past two years.

The Muslim women (Protection of rights on marriage) act has been subject of many legal challenges from various Muslim religious organisation. This move of passing the bill for making the act of instant triple as void and illegal seems like a political move against the minorities. After a long struggle, the government's bill finally cleared both house of the Indian parliament and this tightened grip on power after victory in India's 2019 elections.

Opposition party argued that government's move to impose criminal penalties which smacks the agenda of anti-Muslim group. Rather than protecting Muslim women, they agued that the main intention behind this bill was such move makes men vulnerable to arrest and harassment.

Various opinions have been given by India's various Muslim women's rights organisations. There has been variety of approaches among themselves and this brought a difference in their own communities.

FLAWS IN THE BILL WHICH DEMONISES MUSLIM MEN:

The government of India has taken a cue from the minority view of the judgement of the Supreme court that declared and held instant triple talaq as 'invalid' and 'unconstitutional', while leaving aside the majority judgement. The Supreme court didn't asked from the government to frame a law for it which the Modi's government have enacted. The most fundamental flaw in this whole argument of criminalising the mere declaration of triple talaq is the fact that utterance of instant talaq does not dissolve the marriage eventually. The issue arises here is that what is the need to criminalise an offence which did not even take place.

The judgement in Shayara bano's case by Supreme Court effectively means that even after the utterance of talaq three times in one sitting, the marriage remains intact and both the woman and man remains to be wife and husband respectively. Such law if implemented would surely take away husband of the Muslim woman and will end all possibilities of reconciliation and this will

make her financially and socially insecure. Looking at the gender debate from other end, criminalising Muslim men for a civil wrong is an violation and abuse of human rights. This view is as basic as there is no need of any legal expert to understand this.

Apart from legal flaws in the bill, it is also very crucial to look at the politics of criminalising and legislating triple talaq. In the last three and a half years of the Bhartiya Janta party (BJP) rule, most of their politics and policies have been anti- Muslim. The environment of sustained hatred against a minority community (Muslims), pulling them out of public conveyance like in buses, trains. Etc, and killing them anywhere without any reason which is again a violation of human rights. Many such acts of government have created a sense of hatred against the Muslims. Most of these self-appointed ‘protectors’ of Hindu religion are not subjected to any sort of punishment and many a times enjoy the covert support and patronage of the ruling party. This shows the dominance of one community over another and this sense of hatred is created by ruling government. Public opinion is being moulded and reshaped against Muslims by the media and ruling government. From cow protection to ‘Love jihad’, current government has created a feeling of insecurity and terror among the Muslim community in India. While this religious polarisation and division take place under the rule of BJP’s government, the project of Sangh Parivar regarding the Love jihad marginalises Muslim men in public sphere and demonises them.

The social media which is popular in this modern era is primarily focussing on the propaganda on the issues related to Muslim men and Television debates on its prime time is gradually turning Muslim men into demons who divorces their wives without their consent and converts the hindu women, who eats beef etc. Such debates and propaganda is vague which has no authentication (no credibility) and many a times the news about Muslims are fake. Thus, social media has facilitated in creating a feeling of hatred against a community. The technology has allowed to spread bigotry and hatred, centre of which remains the Muslim men.

Framing of triple talaq bill 2019 and thereby converting Muslims husbands into criminals would lead to be a continuation and extension of the demonization of the Muslim men. This hate and bigotry is an effective tool for political dividends. From Gujarat to Uttar Pradesh, the election campaign run by the BJP were not only just communal but was specifically based on Muslim-hate. The strategy of Bhartiya Janta party (BJP) is clear: patronise Muslim women and demonize Muslim men. Therefore, it can be said that the Triple talaq Bill of 2019 is a an attempt to consolidate the vote of Hindus and a politically motivated act.

Points that makes no sense about the bill:

- 1.) Firstly, if marriage is not dissolved and nullified and the relationship still exist what is the need to send husbands to jail with no crime done.
- 2.) At the time when husband is sent to jail, then the question arises that who will take care of his wife and kids.

- 3.) How can government of India expect that the husband who is sent to jail for three years will take back all the responsibilities of wife and children.
- 4.) There is a chance that wives can start misusing this judgement and can easily send their husbands behind bars. There are many other laws like section 498A⁷, DVC, section 354⁸ of Indian penal code (IPC) etc where women misuses the law for sending their husband in jails and ins such cases the families will be broken in pieces.
- 5.) The purpose of the bill is to provide gender equality and justice to women. But can this be possible to provide justice by send the husbands to the jail for civil wrongs.

FUTURE EFFECT OF TRIPLE TALAQ BILL IN INDIA:

The law if implemented in best manner can be a key and important milestone in changing and reforming the Muslim personal law. The future effect can be that the people who were using the act of triple talaq as means of harassing women and threatening them would be stopped. This law would bring about social reform in the society and will secure gender tights and justice to Muslim women. But there can be chances in future that women are misusing the very law as weapon which was made to protect her. The women who are dependent on her husband could be in the situation where she is helpless when is sent to jail for pronouncing instant triple talaq. Everything has two phases that is negative and positive. Same theory applies to triple talaq bill. It has both positive as well as negative impact in future. It is very important to check bona fide cases of wife where women bring cases for penalising the husband. But there must be scope for rejecting the cases where women use law as a weapon.

RECOMMENDATIONS AND SUGGESTIONS:

Despite the various lacunae and flaws in the triple talaq Bill, it cannot be denied that the ends that such bill seeks to achieve are very necessary and noble. Before being enacted as a law, there are certain amendments that are required to be made. The following are some of the recommendations and suggestions that are necessary for empowering women and it would be make bill more inclusive and effective.

⁷ [498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

⁸ 354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

1.) Clarity and precision in status of marriage:

There is a need that bill must indicate the status of the marriage when unapproved talaq is being pronounced. In the case of *Shayara Bano v. Union of India*,⁹ the apex court had set aside the practise of triple talaq and unconstitutional and invalid. When such pronouncement or declaration is itself invalid then it cannot have any consequences and affects on the marriage.

It is recommended that the triple talaq bill must clearly state the unapproved talaq in any manner would have no affect on the marriage. Moreover, if any of the parties either wife or husband want to seek a divorce, then they may do so by the means of any of the legally approved methods of talaq which is given under Muslim personal law. Alternatively, it must also state declaration of instant talaq will be counted as a single pronouncement and it shall be taken as divorce by method of Talaq Ahsan or Talaq Hasan. The effect of this will be that it will take away the character of unapproved triple talaq.

The following situation may arise on the pronouncement of unapproved talaq:

- (i) The Muslim husband can seek divorce by the way of other approved methods of talaq.
- (ii) The husband and wife will set aside the pronouncement and marriage will continue as it was earlier before the pronouncement.
- (iii) Both wife and husband can mutually seek divorce.

There is a need that bill should clarify the provisions related to custody of minor child and subsistence allowances for interim orders until the court of law finally decide the matter of divorce.

2.) De-criminalising the declaration of triple talaq:

The main criticism of the bill was that the act of triple talaq was criminalised by the bill. Legal scholars like Faizan Mustafa have repeatedly pointed out that the bill lacks justification for criminalisation of triple talaq and its excessiveness. Some recommendations from the author in this aspect are:

- (i) Change from Criminal wrong to civil wrong:

The author suggests that the state should maintain its distance from the matters related to family law like de-couple criminal law and private (family) sphere. The bill should focus on reconciliation and reformation of the marriage instead of focussing on punitive measure. A Muslim husband's failure to maintain his wife or perform his marital obligations is unlawful under the eye of law. However, there two acts attract only civil consequences, in the form of civil damage or divorce. Likewise, triple talaq should also be considered as a civil wrong and should not be treated

⁹ Supra at 1.

as criminal offence. There is no need to give unnecessary importance to triple talaq when it has no impact on the marriage.

The Parliament should make it mandatory for the couple to mention terms and conditions of divorce and marriage in the nikah-nama. Some of terms and conditions can be:

- Prohibition of dissolution of marriage by triple talaq.
- Legal consequences for the act of husband of unilateral divorce like mehr amount can be increased by five times.
- The reasons for divorce should be mentioned.
- Whoever commits breach of contract, will be liable for damages.

(ii) Change in Nature of crime or offence:

The Parliament should at least remove the strict liability on the act of triple talaq. The provision should require that husband must have intention or mens rea (essential element of an offence) while pronouncing instant triple talaq. It should criminalise triple talaq only when husband has unequivocally and clearly intends and has knowledge about the pronouncement. The legislature should also mention some exceptional situation when unapproved talaq will be ineffective. For instance, if the husband is insane, mentally unsound, lunatic etc. Many countries like Egypt, Sudan, Jordan, Morocco, Iraq and Kuwait have used such exception.

Further, the nature of the particular offence must be changed from non-bailable and cognizable to bailable and non-cognizable. This reform can make offence more effective and proportionate

3.) Providing an Agency to the Muslim wife for seeking divorce:

There is an urgent need to empower Muslim wives. The triple talaq bill should entitle them the right to seek divorce from their husband if he pronounces instant triple talaq upon them. The author suggests that for seeking divorce on this ground, the favour should life with the Muslim woman. Moreover, the socio-economic condition of Muslim women in the society must be kept in mind. Due to Muslim wife's dependence on her husband, and stigma around divorce, it is very less chance that women will irrationally seek divorce on false grounds under this provision. Rather it is more chance that she will try to safeguard and protect her marriage. However, she should be given the right to seek divorce if she wishes to end her marriage on such ground.

4.) Mandatory Reconciliation Period:

The triple talaq bill provide sufficient amount of time before which court of law can grant decree of divorce. This should be applicable to both the parties i.e. husband or wife. In the interim, the couple's decision and discretion should be given priority whether to live

together or separately. The court should not hesitate to look into the matters and issues of divorce after the reconciliation period.

5.) Determination of Custody:

The Bill provides the child's custody to the mother automatically. Further, it is vague as bill did not specify whether such custody is granted for interim period, during the criminal proceeding against husband or permanently. It is recommended that the custody of child should be given to her mother during the pendency of such proceeding. However, it may depend upon case to case basis if proceeding is of civil nature. In case, if the bill is misused, the father will be wrongly deprived of his child's custody or company. It is suggested that the custody after interim period must be determined by the court of law.

6.) Provision against triple talaq in the Nikah-nama:

The document which is used during marriage called nikah nama is like a civil contract which is entered by husband and wife. It is like a prenuptial agreement in modern times. The terms and conditions of the marriage is laid down by nikah-nama such as amount payable of Mehr. It is suggested that there is need that in order to uplift and empower women the bill should compulsorily provide provisions against instant talaq in nikah-nama. This will make the declaration of triple talaq a civil wrong. The Muslim wife will have right to civil remedies.

7.) Policy measure for substantive empowerment of Muslim women:

Merely providing Muslim women rights and privileges on paper will not improve their socio-economic status in society. Even if they have right to take divorce from their husband, they may be restrained by social and financial factors. This will make their rights null and hollow.

There is a need to solve the problem of lack of empowerment and education of Muslim women at the grassroot level. This can be done by a shift in policy from penalising husband to empowering the Muslim wife. Following are some policy guidelines which is proposed by the author to bring about a substantive equality to Muslim wives:

- (i) The appropriate government should tie-up with Muslim women's organisations like Awaaz-e-niswaan, AIMPLB, BMMA to spread awareness regarding rights of Muslim women.
- (ii) In order to make Muslim women employable, the government should take the assistance of welfare organisations and NGO's. This can be achieved by imparting vocational learning and skill- training to Muslim women.
- (iii) The appropriate government should come forward with schemes and policies to motivate Muslim families to educate their girl child. Further, the government could also make it compulsory to marry their girl child only after she pursues and completes her education. This scheme would surely empower Muslim women. The scheme could be modelled after the scheme of the Ministry of health and family welfare. The scheme was known as 'Prerna Scheme'.

8.) Provisions regarding Subsistence allowance:

It is recommended that the provisions of subsistence allowances should be made by Parliament. Following reforms can be made and it will serve as guidelines for the Judicial magistrate:

(i) Subsistence allowances as an interim order:

The Muslim wives are already entitled to amount of Mehr which is payable upon divorce, along with maintenance provided by section 125 of the Criminal Procedure code,¹⁰ 1973. Thus, intention of the legislature behind subsistence allowances would have been to provide allowances during the pendency of criminal proceeding. The Bill must be clear so the

¹⁰ 125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

1. Subs. by Act 45 of 1978, s. 12, for "Chief Judicial Magistrate" (w. e. f, 18- 12- 1978).

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding five hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct: Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means. Explanation.- For the purposes of this Chapter,-

(a) " minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875); is deemed not to have attained his majority;

(b) " wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month' s allowances remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made: Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due: Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such

Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing. Explanation.- If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife' s refusal to live with him.

(4) No Wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

husband does not take undue and unfair advantage of the ambiguity in law. This would ensure interim rights to Muslim wife.

(ii) Schedule of payment of allowances:

The schedule of the payment of subsistence allowances must be provided by the bill- whether it is to be paid periodically or as a lump-sum. Further, Bill could provide determination of leave of schedule to the Magistrate on facts and circumstances of each case while considering the choices of either party. But, these two options must be laid down in the triple talaq bill.

(iii) Amount of allowances: The minimum amount of allowances (like that will be equivalent to amount of Mehr) should be fixed. The financial condition of husband must be kept in mind while deciding the amount of allowances. The allowances must be as such that is sufficient to maintain the wife and children.

9.) Consultation of Stakeholders:

The husband and wife are the two stakeholders in the bill. The parliament should consult and talk to their representative groups such as BMMA, AIMPLB, AIMWPLB, etc. These groups have very large support in the religious community. There is need for creation of mass-awareness of the reform in policy and law in the very first step towards implementation of triple talaq bill. Moreover, there is need that approval of bill by their representative group sets and it sets example for others to follow.

CONCLUSION:

Triple talaq bill, 2019 has become one of the remarkable changes that was needed for empowering women. But there are some lacunae in the bill that makes the bill somewhat ineffective to some extent. The bill makes promises for ensuring gender equality. But again it has brought various hardships in the life of husband and wife. The legislature must focus to amend some of the provisions of the bill as suggested by the author. Moreover, the implementation of banning of triple talaq should be proper. Apart from empowering women there is need to provide a better provisions for reconciliation. The bill has a very important role to play in the field of gender equality but such change should be in such a way that makes a sound and reasonable laws for both men women, so that there may not be any injustice to either of them.