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Triple talaq is untenable

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In a laudable judgment on triple talaq, Delhi high court judge Badar Durrez Ahmad said: "The harsh abruptness of triple talaq has brought about extreme misery to divorced women and even men who are left with no choice to undo the wrong or any scope to bring about a reconciliation...if it is rooted out such a move would not be contrary to any basic tenet of Islam or the Qur'an or any ruling of Prophet Muhammad".

In a matrimonial dispute a husband sought restitution of conjugal rights while his wife initiated counter-proceedings for dowry harassment. During the pendency of the case the parties reached a settlement and reunited. Some relatives then reminded the husband that during their estrangement he had once in a fit of anger pronounced the so-called triple talaq (never communicated to the wife). Some clerics thereupon told him that the reunion under mutual settlement was unlawful for that reason and physical relations since resumed amounted to zina (fornication).

The husband then entered into a fresh marriage contract with the wife obtaining her signatures on it by misrepresentation. As it was a case of triple talaq—which under the traditional law makes even a reunion unlawful except if the woman in the meanwhile marries some other man and is divorced by him — the clerics held that renewal of marriage was of no avail and their zina verdict remained intact.

Triple talaq is not based on the Qur'an or the Hadith (Prophet's verdicts). It had emerged from a ruling of the Second Caliph given years after the Prophet's demise and evidently not meant to become law for all times to come.

Under pre-Islamic customs a husband could pronounce a divorce and then revoke it at his sweet will irrespective of the wife's wishes. Using this custom, men would often play hide and seek with their wives by playing a game of repeated divorces and revocations thus keeping them tied to themselves without fulfilling their matrimonial obligations. Islam

introduced rational reforms by ruling that revocation of talaq would be permissible only twice in one's lifetime, each time within three months, and if a man did not revoke a talaq within that period the marriage would terminate after which renewal of marriage would be possible only if the wife freely consented to it.

Further, if a man divorced his wife for the third time ever in his life it would result in an instant termination of the marital tie leaving no room either for revocation of talaq or renewal of marriage.

Not happy with this reform, some men began pronouncing three talaqs at a time effecting an instant divorce. The Prophet

frowned upon this innovation. Realising that in such cases women often themselves desired to get rid of an undesirable husband forthwith, the Second Caliph ruled that the claim of three talaqs together could be given effect. Both the original Islamic reform and the Caliph's rulings were pro-women moves; like the former the latter also was never

meant to be used by men as an engine of oppression against women.

Muslim husbands in India naively believe that three talaqs is the only Islamic procedure for divorce and resort to it (generally in a state of anger) in total ignorance of its implications. In 99 per cent of such cases both the parties wish to continue in marriage, but the traditionalists would not let them do so unless they agree to a so-called 'intervening marriage' (wife's marriage to another man followed by divorce after its consummation).

'Intervening marriage' is a distortion of the original Islamic rule. If a third-time divorcee gets remarried and is divorced by her second husband and is desiring to marry once again, instead of finding a third man she may lawfully marry the man who was her first husband should he be interested. This exceptional rule has unfortunately been turned into a so-called device for legalising resumption of marital ties between 'triplely divorced' couples. This is a slur on women's dignity.

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