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# Triple talaq & polygamy: Divorced from religion

**T**he All India Muslim Personal Law Board (AIMPLB) recently told the Supreme Court that "rewriting Personal

Laws in the name of social reform" would erode religious freedom guaranteed by the Indian Constitution.

AIMPLB said that a man giving triple talaq to his wife was a better option than him murdering her or burning her alive; that women were less proficient in decision-making and, therefore, this "right" lay with men; and that polygamy was Islamic, banning of which would lead to promiscuous sexual practices.

The justifications of AIMPLB — a non-government organisation that is supposed to educate Indian Muslims on the protection and application of Islamic laws — are medieval and reinforce the worst stereotypes that "Islamophobes" have constantly proliferated. By relegating women to second-class status, the Board betrayed misogyny and patriarchy of the worst kind that was done away with by Prophet Muhammad.

Some of Quran's major concerns were to liberate humankind from the dangers of subservience, autocracy, ethnicity, racism and chauvinism. Islam allowed questioning, encouraged the ability to interrupt a pre-arranged archaic thought process ingrained in a male-dominated oligarchic system.

In early Islam, Muslim women were active in numerous fields, and participated in decision-making. They were equal participants in both spiritual and material aspects of life. Women's right to participate in social, economic, educational, cultural and politi-

cal activities was equal to their male counterparts. They could acquire, administer, dispose and inherit property. They had equal freedom to choose or refuse a spouse. Women can enjoy the same benefits as men, and follow any respectable profession as men: "To men is allotted what they earn and to women what they earn" (Quran, 4:32).

The Quran extols the leadership of Queen Bilques as "a woman ruling over them provided with every requisite" (H.Q. 27:23). Her leadership qualities are not measured by her gender but by her capacity to fulfill the requirements of office, her political acumen, the purity of her faith and her independent judgement.

Historical evidence shows that women contributed significantly in the fields of knowledge and learning. The wife of the Prophet Muhammad, Hazrat Khadija, also a powerful business woman, was the first to embrace Islam. The progeny of the Prophet primarily emanates from his esteemed daughter Hazrat Fatimah who played an active role on discussions relating to succession.

Hazrat Aisha, well known for her knowledge of Hadith, was also a politically active, influential leader. Hazrat Hafsa held with her the entire manuscript of the compilation of the Quran finally published in the time of the Caliph Uthman. Umm Salama was instrumental in advising the Prophet during the crises at Hudaibiyah. Bibi Zainab was actively involved in social work.

The early history of Islam shows that women took part in national activities, acted as advisors, and joined in congregational prayers in mosques. They were in battlefields, helped carry the wounded and slain. Women served male guests during feasts, did business with men.

The Prophet consulted women and took their opinion seriously. According to Imam Hanbal, the Prophet appointed Umm Waraqah as the imam of her household. She also led prayers for both genders. Khawla bint Salibah corrected the authoritative ruling (*fatwa*) of Caliph Umar bin al-Khattab on the issue of dower (*mahr*). Hanbali jurisprudence upholds the qualifications of women to serve as judges. They owned and sold property and engaged in commercial transactions (there are references to this effect from Hadith of Imam Bukhari).

**W**omen became Muslims before men, again contradicting the patriarchal view that women were incapable of independent action. In the political arena the Quran refers to women who, independent of their male relatives, pledged the oath of allegiance (*bay'ah*) to the Prophet: "O Prophet whenever believing women come to thee... then accept their allegiance" (Quran, 60:12).

Women were not confined within the four walls of their houses. Household duties were not their

sole responsibility. "The best of you is the one who is best to his wife" (Tirmidhi; Ibn Majah).

The Board also said that divorce proceedings instead of triple talaq could damage a woman's chances of re-marriage if the husband indicts her of loose character in the court.

But neither the Quran nor Prophet Muhammad sanctioned triple talaq. The Prophet said: "God has not created anything on the face of the earth that he loves more than emancipation; and God has created nothing upon the face of the earth more hateful to him than divorce" (Abu Daud, 13:3).

Triple talaq clearly disregards the displeasure of the Prophet as the following tradition illustrates: "The Messenger of Allah was informed of a man (Rukhana) who divorced his wife three times together, his face became red and he stood up in displeasure and said: 'Is the Book of Allah being sported with while I am still in your midst?'" (Nasai; 27:6).

AIMPLB has argued that polygamy is a "social need" and a "blessing" as a lawful second wife is better than an unlawful mistress, saying that it gave divorced or widowed women more opportunity to remarry.

But polygamy in Islam is a restrictive and not a permissive ordinance; it is an exception not the rule. Prophet Muhammad did not introduce polygamy as is conveniently believed. The only verse in the Quran on polygamy (4:3) was revealed during the Battle of Uhud when, under the

circumstances of war, women were left orphans, homeless and destitute. Prophet Muhammad restrained polygamy by insisting on *adl* (justice). A large number of influential jurists, like the Mutalazaites, belonging to schools presently archaic, held polygamy unlawful.

Prophet Muhammad at the age of 25 married Hazrat Khadeja who was 40, adhering strictly to the ideal of monogamy in a totally polygamous society, at a time when prevailing conditions were normal and there was no war: It was only when war situations arose and women needed shelter and protection that the Prophet married another.

A number of Muslim countries have limited polygamy by bringing about statutory provisions, anti-bigamy stipulations or exercise of judicial and social control. AIMPLB has argued that the death rate of men is higher since it is mostly men who die in accidents, and that since women outnumbered men, not permitting polygamy would force women "into leading a spinster's life".

But in India the sex ratio is approximately 920 women to a 1,000 men. What then is the argument to retain polygamy?

It is not Islam but the assertion of pre-Islamic patriarchy that are obstacles in the path of women.

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