

Music performed by ageing rock stars

Extreme or alarmist language or images used to describe the current or future effects of man-made climate change

THE ASIAN AGE

TUESDAY | 10 MAY 2016 | MUMBAI

Oped

Haji Ali for all



Zeenat Shaukat Ali

participants in both spiritual and material aspects of life. In several verses, the Quran says: "For Muslim men and women... For believing men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity. For men and women who fast, for men and women who guard their chastity and for men and women who engage much in God's praise — for them God has prepared forgiveness and a great reward"

Several verses in the Quran speak in the same vein. "Never will I suffer to be lost the work of any of you, be he male or female; you are members, one of another..." Again, "He that works evil will not be requited, but by the like thereof: and He that works a righteous deed — whether man or woman, such will enter the garden of bliss and therein will they have abundance without measure." The recommendation by the Prophet for visitations to graveyards was said to be twofold: one, the reminder of the inevitability of death and the accountability for actions in the hereafter; two, to offer prayers for mercy and forgiveness for departed ones. Women were not excluded from this

he replied "Greetings to you, people of the abodes among the men and women believers! May Allah grant mercy to those of you and us who went ahead and those who tarried back! Truly we shall — if Allah wills — join up with you." There was no mention that it is not permissible for women to visit graves. (Muslim and Nasai and other authorities as well.)

Hazrat Ayesha often visited the grave of her brother. When Abdallah ibn Abi Mulaikah inquired of Hazrat Ayesha whether the Prophet prohibited visiting graves? She said, "Yes, he did forbid visiting graves during the early days, but later on he ordered us to visit them". Several traditions of the Prophet endorse this view. "I had prohibited you from visiting the graves, but now I encourage you to visit them." (Sahih Muslim, Sunan Abu Daud and Musnad Ahmad; Nasai)

Perhaps visiting graves was not held permissible for men and women alike in early Islam as attachment and supplication to the dead were widespread. Thus it was avoided as a preventative measure to avoid grave worship. But once the teachings of Islam were well established, visiting the graves became permissible

The Barelvis who are also Hanafis, the Malikis, the Shiabs hold it permissible for women to enter the sancta sanctorum of a dargah.

The negative implication in the contemporary Muslim world where women are barred from entry to the sancta sanctorum is not witnessed in several Muslim countries. In Turkey, Tunisia, Egypt, Morocco, Iran and other countries both men and women visit Sufi shrines and tombs alike. In India, without fuss, men and women of every faith and creed visit the celebrated shrine of the Sufi saint Khwaja Moinuddin Chishti and several others.

The Sufi wisdom, enlightenment and radiance have touched the hearts of tens of thousands of people across the country, irrespective of gender. It is interwoven within the mosaic and fabric of our great country India. The myth that women cannot get entry into the sancta sanctorum of a dargah due to the imposition of religious restrictions needs to be nullified. It goes against the spirit of spiritual equality granted to women in Islam.

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since they were reminders of death and the hereafter. As the earlier prohibition was equally for men and for women similarly, the lifting of the prohibition, applied to both men and women.

Further, Imam Jafar al-Sadiq narrated that Fatima, the daughter of the Prophet used to visit the grave of her grand uncle Hamza ibn Abd al-Muttalib every Friday.

It is significant to note that Prophet Muhammad is laid to rest inside the room of the house of Hazrat Ayesha. The grave of Hazrat Abu Bakr, the first Caliph of Islam and father of Ayesha, is in a room of the house of Ayesha buried next to the Prophet; the grave of Hazrat Umar al-Khattab, the second Caliph of Islam is in a room of the house of Ayesha buried next to the Prophet and Abu Bakr.

Hazrat Umar requested to get buried beside the tomb of Prophet (Bukhari narrates in his Sahih, Book of Janaiz or funeral) "When Umar was stabbed he sent his son Abd Allah with a message to Ayesha to 'Ask her if I can be buried with my two companions', that is, in her room, next to the Prophet and Abu Bakr. Ayesha replied: 'I wanted the spot for myself, but I shall put him (Umar) before me today.'"



End Triple Talaaq Divorce

Shayara Bano case will be critical for gender justice to Muslim women

Zeenat Shaikat Ali



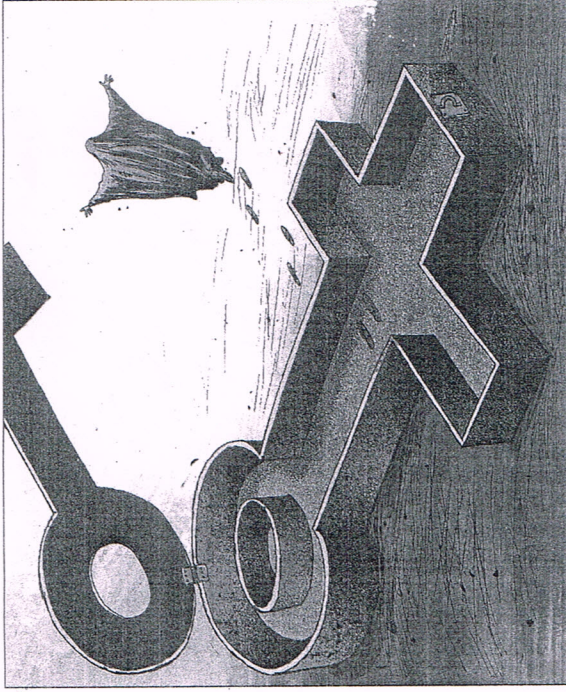
The Supreme Court's suo motu decision delivered by Chief Justice T S Thakur and Justice U U Lalit, to test the legal validity of triple talaaq Shayara Bano, has long been overdue. Shayara Bano—a sociology postgraduate and a mother of two—appealed that triple talaaq be declared unconstitutional when her husband ended their 15-year-old marriage by sending her a letter with the word talaaq written on it thrice.

The All India Muslim Personal Law Board has declared that the country's top court has no jurisdiction to undertake the exercise as Muslim Personal Law "is inextricably interwoven with the religion of Islam", being based on the Quran and not on a law enacted by Parliament. This argument has little logic. It needs to be unequivocally stated that the talaaq-i-bidat, admitted by the Muslim Personal Law Board to be "sinful" and an "innovation", finds no sanction in the Quran.

Neither does the Quran sanction this form of divorce in one sitting nor was it legally held permissible by the Prophet. Such a practice violates the fundamental principles of gender justice, gender equity, good conscience and the dignity of women strongly enunciated in Islam.

The Prophet denounced the pre-Islamic, patriarchal notion of the husband's absolute right to divorce, stating that divorce was the most reprehensible of all things permitted: "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" (AD 13:3). The Quran illustrates this point by expressing approval when the Prophet recommended that Zayd should not divorce his wife in spite of the fact that there was long standing dissension between husband and wife. "Behold thou should say to one who has received the Grace of God and His favour: retain your wife in wedlock and fear God" (Q 33:37).

The arbitrary, undisputed, absolute



Uday Deo

power of divorce by the husband with triple talaaq in a single sitting was the common customary law practised in pre-Islamic Arabia in the days of jahiliyya or ignorance, where a husband would discard his wife by contemptuously tossing his slipper saying, "you are unto me like my slipper". This is a grave distortion of the law of divorce in Islam and was condemned by the Prophet as the following Tradition demonstrates: "The Messenger of Allah was informed of a man (Rukhama) 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?'" (NS 27:6)

This mode of talaaq, once pronounced, is considered "bain" or irrevocable where rights of inheritance cease immediately on pronouncement though the death of the husband or wife may occur during the period of iddat or period of waiting. Further, in this form of talaaq, if the parties wish to remarry the wife undergoes

husband were to repudiate his wife during her menstrual flow, if he is in a drunken state, in a fit of temper, in jest, at the slip of a tongue, when the woman is pregnant and other such situations, communicated even by means of a telephone call, an SMS, through Facebook or over Skype.

Needless to say talaaq-i-bidat has devastated the lives of many women and children. Deprived of any opportunity for reconciliation, this mode of divorce has been subject to criticism in several Muslim countries.

Modernist interpretation advocated by scholars introduced reform through the juristic means of ijtihad (creative interpretation). Several Muslim countries have brought about reform through codification. Countries like Turkey, Tunisia, Syria, Egypt, Morocco, Iran, Iraq, Malaysia, Indonesia and Pakistan have either reformed the law completely or brought about legally stringent preventive measures in this area. Tunisia brought about reform by de-recognition of the triple talaaq within the circumference and perimeter of Islamic law.

The time has come for major strides to be taken to bring about reform and change in the Muslim Personal Law in India. In order to accomplish this, codification of the Muslim Personal Law is an imperative. The process of codification of Muslim Law must now be seriously undertaken by a group of legal experts, experienced jurists well versed in the Muslim law, legal experts, liberal ulama and scholars in the field. Gender-just laws must be the common denominator. Alongside Muslim women, Muslim men's organisations must push for change.

If Muslim countries can bring about reform in family laws India must follow suit. In the words of Justice Hidayatullah: "If the lead is coming from Muslim countries, it is hoped that in the course of time the same measures will be applied in India also."

We await the judgment of the Supreme Court, seeking gender justice.

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halala, a humiliating pre-Islamic practice where the wife went through a marriage with another man which is consummated and subsequently dissolved.

As Justice Ameer Ali points out, legitimacy of the triple talaaq seems to have crept into Islamic jurisprudence at the instance of the Umayyad monarchs. Inexplicably, although disapproved by the classical jurists, it has been accepted by most Sunni jurists.

Unfortunately the legality of this mode of divorce is upheld in India if the