

Does the Bareilly “Nikah-Halala” not shock your conscience?

Posted on February 08, 2019

Some incidents are so unconscionable and repulsive that they shake the conscience of the society and compel it to take remedial measures. Injustice perpetuated by personal laws is a glaring example of this.

Many communities, over the last several decades, have brought incremental but significant changes in their personal laws. The object and direction of these changes has been that gender equality is ensured, rights of women and children are protected and the right to live with dignity is ensured. Some practices which survived for centuries were so obnoxious (as Sati and Untouchability) are now considered as unconstitutional.

A recent case from Bareilly has shocked my conscience. It relates to the obnoxious practice of Nikah-halala in Islamic personal law. A lady who is married in 2009 was twice divorced by her husband through Triple Talaq, once in 2011 and subsequently in 2017. The family prevailed upon the husband to accept her back. On both occasions, she was sedated and asked to undergo, Nikah-halala, on the first occasion with her father-in-law and on the subsequent occasion with her brother-in-law. They both raped her. Almost a similar case was reported by the PTI on September 2nd, 2018 as having taken place in the Sambhal District of Uttar Pradesh. That in the 21st Century there could be such gross violation of the dignity of women in the world's largest democracy should make every head hang in shame. After raping this lady, both the father-in-law and brother-in-law used the weapon of Triple Talaq to divorce the victim so that she could be accepted by her husband.

If Triple Talaq had not been a permitted mode of divorce in India, would this incident emanating from a no fault – impulsive divorce have taken place. The Supreme Court has already declared instant talaq as unconstitutional and yet in the absence of a deterrent it can at best amount to a civil wrong with no penal consequences. A number of Muslim men and conservatives are choosing to even ignore the Supreme Court judgment.

Unfortunately, when human conscience should have been repelled while reading this news in the morning Newspapers. The AICC President Rahul Gandhi and his coterie, while addressing a minority convention promised to withdraw the Bill pending in the Parliament, penalising Triple Talaq. History has repeated itself, neither as a satire nor as a tragedy. It has repeated itself with a mindset of cruelty. The late Rajiv Gandhi committed a monumental mistake in legislatively overturning the Shah Bano judgment of the Supreme Court which guaranteed maintenance to all muslim women. He allowed deserted women to be driven to poverty and destitution. Thirty-two years later his son has taken another retrograde step to drive them not merely into destitution but also to live a life which is an antithesis of human existence. The Muslim woman in Bareilly has been forced into animal existence.

Votes are important, so is fairness. Political opportunists only look at the next day's Headlines. Nation-builders look at the next Century.