

From New Delhi by Susan Maitra

A compromise with the devil?

The government's Muslim Women Bill, exempting Muslim men from paying alimony, has provoked an uproar.

On Feb. 15, Union Law Minister Asoke Sen introduced the Muslim Women (Protection of Rights on Divorce) Bill into the Lok Sabha, the lower house of the Indian parliament, on behalf of the government. The bill exempts Muslim divorcees from a provision in the country's penal code on indigents, under which they can obtain a judgment for alimony, and instead mandates that a divorced Muslim woman's maintenance is the responsibility first of her relatives, and, ultimately, of the Muslim Community Board. The bill is due for a vote during the present session of parliament.

The issue touched in this affair—whether the government should intervene against religious edicts concerning matters of personal law—poses a serious and knotty problem which has yet to be sorted out in this land where several great religions coexist and where “personal law” is the prerogative of the religious community.

Under Muslim religious edicts, women do not receive alimony. The government is now seeking to give the strength of law to that religious edict.

The government's move took a chunk of Congress Party leaders, the rest of the politicians, and the Delhi elite generally by surprise. The issue arose in connection with a Supreme Court verdict a year or more ago granting alimony to a Muslim woman, the so-called Shah Bano verdict. Muslim leaders demanded that the verdict be struck down. Prime Minister Rajiv Gandhi had initially encouraged one

of his cabinet ministers, Mr. Arif Mohammed Kahn, to develop a defense of the verdict.

In the event, Arif Mohammed Kahn resigned, citing what he termed the government's “surrender before the conservative leaders of the community”—a reference to the mullahs and maulanas. A hue and cry ensued from liberal and “progressive” quarters. Charges of a “retreat from secularism,” “attack on the constitution,” and “rank opportunism” were hurled freely. The Rajiv-bashing was combined with thinly veiled Islam-bashing, as Hindu chauvinists jumped onto the band wagon in pious defense of Muslim women.

But certainly, no decisions on these matters could be imposed without majority support from the religious community involved, and that, the Gandhi government did not have.

The Congress Party itself is divided on the matter, with a section convinced the whole affair will lead to the emergence of a fundamentalist Muslim political party in the same mold as the Hindu-chauvinist Bharatiya Janata Party.

Should there be a uniform civil code, envisioned but not enacted in the constitution? In a year of discussion and agitation, the progressive Muslim elite was unable to make a dent in the overwhelming mass sentiments against the Shah Bano verdict.

By early February, new fuel had been added by communal passions. A court decision was handed down in

Uttar Pradesh to reopen a religious monument, the Ram Janmabhomi, claimed by both Muslims and Hindus (the site has been closed since 1947 to prevent communal bloodletting). Twenty people died in the conflict that erupted in early February in six towns across the north of India—Muslim leaders' statements opposing agitation on the issue notwithstanding. The sensitive border states of Jammu and Kashmir witnessed their first major communal violence.

The Muslim Personal Law Board threatened more action on Feb. 21 unless their demands were met. On Feb. 14, declared a “mourning day” by Jammu MP Syed Shahabuddin, the Shahi Iman of Delhi's Jama Masjid Mosque convoked a large rally to promote *jihad* against the “government conspiracy” against Muslims. Three days of violence and curfew followed in Old Delhi.

The same Shahabuddin had recently won a parliamentary bi-election in Bihar by a 73,000 vote margin on a platform of opposition to the Shah Bano verdict. The 77-million-member Muslim population is widely held to be a critical vote margin in more than half the constituencies in the country.

In the face of this, Rajiv Gandhi may have thought in pre-emptive terms. In the words of senior Congress Party leader Najma Heptullah, a Muslim who had initially praised the Shah Bano verdict but subsequently worked with Rajiv Gandhi to shape the government bill overturning it, the government's move was designed to “capture the heart of the masses”—the mass of tradition-bound Muslims.

The bill itself was drafted, according to news reports here, in a series of consultations with a delegation led by the president of the All-India Muslim Personal Law Board, Maulana Ali Hassain Naqvi.