

TRIPPLE TALAQ – AN ANALYSIS

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ABSTRACT

1. INTRODUCTION

Behind the surface of religion are many social practices that reflect social inequality. The personal laws of British managers in came from a variety of sources. They reflected the gender bias of their time, because the performers of "religion" were mainly men. The reform of retrogressive practices also began during the British rule. Reformers ended customs such as sati and child marriage. The conservative class of society opposed these reforms and insisted on maintaining them in the name of "protecting" religion. Tarak. The Muslim Bharatiya Mahila Andolan (BMMA), the frontline organization of the Gender Equality Movement, interviewed approximately 5,000 women. The result is dramatic. 78% of respondents had divorces through Triple-Talaq, and more than 90% wanted to prohibit this practice. Lawmakers also remained silent on Nikkah Halala's most abused practice, which requires women to marry and have sex with another man before remarrying with a man who divorced her three times. The idea is not to make Islam or any other faith an essence, but to eliminate orthodoxy from all religions and cultures that rely on women, girls, and usually boys.

The Indian Personal Law is a law for people of other religions and applies according to that person's religion. For decades, Muslim women have been fighting for gender equality in Islamic law governing marriage, divorce, and property rights. The Muslim Personal Law Committee is one of the most important and influential institutions in the Muslim community. The meeting was supported and criticized by many people. The council has repeatedly rejected proposals to amend Muslim personality rights because it believes it would violate Muslim personality rights. The basic principles of Islam. In addition, there are many male members who dominate this particular board of directors. The Quran does not support a system that is governed solely by patriarchy. The controversial and immediate triple talak (talake-biddat) Islamic divorce practice is marked as arbitrary and contrary to Islamic teachings m) This practice violates

Article 14 of the Constitution, which guarantees the right to equality, the court ruled.

2. WHAT IS INSTANT TRIPPLE TALAQ?

This is the custom of immediate divorce between the Muslim Brotherhoods. By simply reciting the word "TALAAK" three times to balance the termination of the marriage, it is beneficial to their male counterparts, the husbands. Taking into account the complexity of human nature, sudden emotional outbursts under the current high temperature of life sometimes give them a simple way to satisfy their desire for polygamy. Then, through electronic means, as pointed out by the Supreme Court, this chauvinistic and paternalistic approach not only violates the right to equality (Article 14), but also presents gender discrimination. The judgment violates the religious personal law, and it can correctly prove that their continued practice, exercise, and dissemination are justified.

- There are three forms of talak (divorce) in Islam: Ahsan, Hasan, and Talake-Biddat (triple or instant talak). Ahsan and Hasan can be cancelled, but Biddat cannot.
- The triple tarak is a common practice in the Indian Muslim Community, following the Hanafi School of Islamic law.
- According to custom, Muslims can divorce their wives only by saying "Talak" three times, but women cannot pronounce "talak" three times. They must file for divorce in accordance with the 1937 Sharia Law.
- Talaq's triple divorce is banned by many Islamic countries including Pakistan, Bangladesh and Indonesia.

3. TRIPLE TALAQ AND ITS IMPACT ON MUSLIM MARRIAGES

Approximately 50,000 Muslim women and men signed a petition calling for the implementation of Talaq Ibdai (Triple Talaq), after which the husband dissolved the marriage by reciting Talaq three times in attendance Allah. Polygamy must be banned by at least two people,

and it does not have to be in the presence of women, as well as polygamy, because this practice violates the sanctity of marriage. The Muslim Personal Law involving triple talaka, polygamy, Nikah Halala (prohibition of remarriage of divorced men who have

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not intermarried with another person) and inheritance law inequality (a person dies without a will) is considered unconstitutional. The petition also argues that it is unfair to allow Muslim men to accommodate up to four women. He also argued that the inheritance rules in the Muslim personal law seriously violated the right to equality, because if Muslims had only one daughter left, they would have to share their property with the father's brothers and sisters, and the deceased had an only child. This is not the case.

The Muslim Women's Rights Advocacy Group of India, the People's Muslim Mahira Andoran (BMMA), also launched a campaign against the Triple Talaka, which the organization believes is not sanctioned in the Quran. A BMMA poll showed that approximately 92% of Muslim women reject this heinous practice.

These practices should be stopped not only because they violate the Koran or because many Islamic countries have abolished them, but also because they should be abolished and violate democratic norms. The rights guaranteed by the constitution. The 2002 judgment of the UP state and subsequent judgments of the high courts. But this did not stop this practice; many Muslim women were unaware of the verdict or were forced to agree to these statements under pressure from conservative groups. Many women were severely traumatized after being evicted from their homes. In practice, the Constitution violated the rights of Muslim women and represented ethnic minority rights. The question is not whether a religious group has the right to live in accordance with its sacred law, but whether a community has the right to live in accordance with the norms that violate the Constitution to protect the rights of all citizens.

Therefore, this move is a positive sign, as Muslim men and women have entered areas that were previously only used by activists. According to the recently released 2011 census data, the triple talaka rule increased the percentage of divorced women from 23 out of every 1,000 Hindus, Sikhs and Jains to 5%. Responsible for these trends, similar to those found in the last census.

Although divorce is legal for Hindus, it still causes social stigma. This may be why the divorce rate of Hindus (as opposed to Muslims) is 5.5%, while the divorce rate is only 1.8%.

4. PERSONAL LAWS

Most people believe that there is no general civil law in our country. The reality is that all civil laws are general in nature, except for one law, the personal law, which varies from religious group to religious group. Personality rights involve marriage, divorce, and inheritance. As well as inheritance, alimony, guardianship and adoption. Traditionally, personal law is considered religious, even though religion has nothing to do with it. By institutionalizing discriminatory characteristics and unequal gender interpretations, personal laws have been used to maintain traditional male privileges. Therefore, any personal laws based on Muslim, Jewish or Hindu laws, as well as men's interpretations of sacred texts and traditions, severely discriminate against women in family matters such as marriage and divorce. CEDAW (Convention on the Elimination of All Forms of Discrimination against Women, 1979) and the principle that prohibits the state as a class from discriminating against women. As far as the triple Dharaja issue is concerned, even the Qur'an does not allow this form of divorce, nor is it allowed by the law or the constitution. This practice violates basic gender principles. Islam strongly promotes justice, gender equality, clean conscience and women's dignity, but on the Triple Talak issue, the court reserves the decision because it is seen as a fundamental right rather than a legislative issue. ...Your struggle is not to keep the marriage; the protest is against severe inequality. Once the code is promulgated, it must depart from the personal laws of all religious groups, be formed on the basis of the consensus of all religious groups, and abide by the norms. The modern values of freedom, equality, rationality, justice and humanitarianism for men and women.

5. TRIPLE TALAQ AND INDIAN CONSTITUTION

- Article 25 of the Constitution guarantees freedom of religion, that is, the freedom to believe in and spread religion.
- Like all other basic rights, it is restricted and does not protect religious activities that may affect the well-being of citizens.

- Therefore, Article 14 abolishes Article 25, which guarantees equal rights because Triple Talaq denies the equality of Muslim women before the law.
- Article 25 also falls within the scope of Article 15(1), which stipulates that the state "will not discriminate against any citizen based on religion, race, caste, sex..." It is not good for women, this is against the first paragraph of Article 15 of the Constitution.
- However, Section 2 of the Muslim Personal Enforcement Act (Islamic Law) of 1937 recognized Triple Talaq as a legal requirement and placed it within the scope of Article 13 of the Constitution. Article 13 defines "laws" and stipulates that any laws enacted before or after the constitution shall not infringe any fundamental rights.

6. TRIPLE TALAQ AS A STATUTORY RIGHT

Section 2 of the 1937 Muslim Status Act (Islamic Law) recognizes Triple Talak as a legal requirement.

Therefore, in order not to be restricted by the fundamental rights stipulated in Article 13 of the Constitution, Instant Talak is no longer a personal law, which stipulates that any law enacted before or after the Constitution shall not infringe any fundamental rights.

PAST SUPREME COURT RULINGS:

- In the case of Shah Bano (1985), the 62-year-old Shah Bano's resume cited the provisions of the Criminal Procedure Act of 1973, the "Husband as a Child Allowance Compensation Act", which granted her husband the right of maintenance. His divorced wife.
- However, the then central government passed the Muslim Women (Protection of Divorce Rights) Act in 1986, which was seen as an attempt to weaken the influence of Shabano's rule.
- In 2001, Danial Latifi and Anr v. Union of India, SC verified the decision in the Shah Bano case, which defended the rights of Muslim women.
- In June 2016, the Supreme Court decided to review whether the Islamic Marriage and Inheritance Law violates women's fundamental rights and the extent to which it can intervene to change existing laws.

7. KEY POINTS OF SC RULING

On August 22, 2017, the five-judge Supreme Court ruled in a divergent judgment that the practice of Instant Triple Talak was unconstitutional in the Muslim community. The court rejected this practice with a 3:2 majority.

MAJORITY VERDICT:

- Three judges stated that the triple talaq should be abolished because it is unconstitutional and unacceptable.
- They said that the 1937 Muslim Personal Law (Sharia) recognized and applied the triple law, so it should not be regarded as a personal law, but as a law constitution.
- Article 13 stipulates that no law enacted before or after the constitution shall infringe fundamental rights.
- The triple talak is clearly arbitrary, violates Article 14 (right to equality), and is not protected by Article 25, paragraph 1 of the Constitution.

MINORITY VERDICT:

- Two judges ruled that the triple talaq has the status of fundamental rights because it is part of the Muslim personal law.
- They advocated postponing this practice for six months in order to allow Parliament to enact legislation.
- They called on the political parties to resolve their differences and formulate a new practice law, taking into account the concerns of Muslim organizations and Sharia law.

8. CONCLUSION

The question remains whether declaring the triple talaq as unconstitutional will improve the status of Muslim women rather than make it invalid. In addition, according to the social and cultural beliefs of a Muslim woman, such measures would violate her rights. The destruction of identity is a very complex phenomenon. The problem with identity politics is that it does not transcend differences, but is shaped by differences themselves. For example, devout Islamic women can question the patriarchal interpretation of the Koran at home while expressing a kind of global solidarity. It should be understood that the identity of a Muslim woman is inseparable from her Muslim identity. And it cannot be ruled out, so linear narratives cannot be considered in legal reforms. It supports the victimization of patriarchal Muslim communities, but it must also provide space for the establishment of this complex identity.

Here, we are faced with some longer-lasting legal disputes, in which the deprivation of self-selected identity in religious traditions conflicts with the universal de-traditional form of differential politics that requires gender equality and justice. ... to restore the concept of intersectionality, in which we can better understand and

explain the differences between us, and discuss how these differences are expressed in the construction of group politics.

So is mainly in the case of Muslim women. Articles 14, 15 or 21 cannot... It must be understood that human rights are neither universal nor non-political, but the concept of equality must also be based on the different experiences of women. Although unconsciously, they have become political tools of oppression. It can never be a feat of feminism to play two identities that oppose each other was a huge success for feminist politics, because even the Muslim community now recognizes Shamim Ara's judgment, so the entire community recognizes that arbitrary talaq is invalid. But even if the gender issues of marginalized women make headlines, they will do so. Most importantly, in order to reinforce the stereotyped prejudice that prevailed in

Therefore, "women's rights" is a complex issue that is embedded in the broader political process and therefore requires a complex answer. Impact on Muslim Women's Life Under the current circumstances, when the case enters the court and you hear it after the Personal Muslim Law Committee recognizes Shamim Ara's ruling, the court will re-solve the gender community debate, so a new debate will create Shayra Bano.