



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

TRIPLE TALAK VERDICT- A FACT FINDING SURVEY.

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ABSTRACT:

Today, the issues of women rights in Muslim personal Law is highly controversial. Specially, Muslim women rights relating to Triple Talaq divorce, inheritance, maintenance has got much attention now a day. However, Indian Constitution has guaranteed equality and freedom from discrimination based on gender or religion, but still there are various practices which are based on heartless conservative culture. As we know a large part of Muslim Personal Law is still unmodified and most of the legal decision pronounced by the courts are based on the norms mentioned in Quran and hadith. The central debate on interpretation of Muslim personal laws has both positive as well as negative aspects. The Muslim Women (Protection of Rights on Marriage) Act, 2019 makes talaq-e-biddat or any other similar form of talaq having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband void and illegal. In India on 1 August 2019, replacing in the Triple Talaq ordinance promulgated in February 2019. It is illegal and punishable with imprisonment upto three years and also under the new law, woman is entitled to demand maintenance for her dependent children. The research is an attempt to address the multiple facets; it also argues that the talaq issue alone cannot constitute the core of gender justice rather the interplay of various factors like, communal violence and the marginal location of the Muslim community needs to take into account to understand Muslim women's question in India. Hence the study.

Key Words: Talaq, Women, gender, discrimination

INTRODUCTION

Meaning of Talaq

The Muslim personal laws of India permit the practice of talaq-e-bidat or talaq-i-badai, which includes a Muslim man divorcing his wife by pronouncing more than one talaq in a single tuhr (the period between two menstruations), or in a tuhr after coitus, or pronouncing an irrevocable instantaneous divorce at one go. This practice of talaq-e-bidat (unilateral triple-talaq) which practically treats women like chattel is neither harmonious with the modern principles of human rights and gender equality, nor an integral part of

Islamic faith, according to various noted scholars. The practice also wreaks havoc to the lives of many divorced women and their children, especially those belonging to the weaker economic sections of the society.

Triple Talaq is a form of divorce that was practised in Islam, whereby a Muslim man could legally divorce his wife by pronouncing talaq (the Arabic word for divorce) three times. The pronouncement could be oral or written, or, in recent times, delivered by electronic means such as telephone, SMS, email or social media. It was not necessary for the men to cite any cause for the divorce and the wife need not be present at the time of pronouncement. After a period of iddat, during which it was ascertained whether the wife is pregnant, the divorce became irrevocable. In the recommended practice, a waiting period was required before each pronouncement of talaq, during which reconciliation was attempted. However, it had become common to make all three pronouncements in one sitting. While the practice was frowned upon, it was not prohibited. A divorced woman could not remarry her divorced husband unless she first married another man, a practice called nikahhalala. Until she remarried, she retained the custody of male toddlers and prepubescent female children. Beyond those restrictions, the children came under the guardianship of the father.

There is no concept of three divorces in Islam. The concept of 'Three divorces does not exist in the Quran'. The concept of Triple Talaq is one sitting or 'instant talaq' is alien to the Quran.

In *ShayaraBano v. Union of India & Others*. The bench that heard the controversial Triple Talaq case in 2017 comprised of multipath members. The five judges from five different communities, Chief Justice JS Khehar (a Sikh), and Justices Kurian Joseph (a Christian), RF Nariman (a Parsi), UU Lalit (a Hindu) and Abdul Nazeer (a Muslim) were among the bench. On August 22, 2017 this bench declared Triple Talaq or talaq-e-biddat as unconstitutional by a 3:2 majority. Justices Kurian, Lalit and Nariman delivered the majority judgement while chief Justice Khechar and Justice Nazeer denied.

REVIEW OF LITERATURE

Invalidating Instant Triple Talaq: Is the Top-Down Approach of Reforming Personal Laws Prudent? Niraj Kumar & Akhilendra Pratap Singh* Volume 11 Issue 2 (2018) In *Shayara Bano V. Union of India*, the Indian Supreme Court pronounced a split, though bold and progressive verdict setting aside the practice of instant Triple Talaq or talaq-e-biddat. Against the backdrop of this judgment, this paper traces the jurisprudence evolved by Indian courts vis-à-vis personal laws and the right to religious freedom. Two central arguments are presented in the course of this paper. First, the courts have not adopted a consistent approach when dealing with issues connected to personal laws. Second, the courts by means of the doctrine of essential religious practices have, besides interfering in the domain of personal laws, attempted to fashion the religion specific personal laws as per the understanding of the respective judges.

Triple Talaq Bill and the Muslim Voice: Is a law necessary? Shirin Abbas -The entire debate around the Triple Talaq Bill, based on the petition filed by Sharaya Bano and several other petitions as

also the suo moto PIL by the Supreme Court, needs to be viewed under the scanner of inter sectionalist. Under this PIL the apex court has hinted that certain Islamic Personal Laws practice gender discrimination, thus violating the rights of women as enshrined in the Indian Constitution. The entire Triple Talaq issue has now been taken up as a debate of culture versus modernity.

A Elucidate Study on Issue and Challenge in Triple Talaq at Present Scenario and Global Perspective by Sindhuja Krishnamoorthy. Hasan and Talaq-e-Biddat (Triple Talaq). While the previous two are revocable, the last one is unalterable. It is for the most part predominant among India's Muslim community that look after the Hanafi School of Islamic Law. Under this law, **spouses can't separate from husbands by the methods for Triple Talaq**. Women need to move a court for separating from her better half under the Muslim Personal Law (Shariat) Application Act 1937. (This Act was passed to make arrangements for the utilization of Shariat or Islamic individual law to Muslims in India. It conflicts with the privileges of balance and women's empowerment. It engenders the strength of men over women. It is found that 92% of Muslim women in India wanted Triple Talaq to be prohibited. It gave men the privilege to subjectively separate from their spouses with no justifiable reason. New-age innovation has brought forth new methods of Triple Talaq, for example, through Skype, instant messages and email.

Rights of Muslim women: An Analysis of Indian Muslim personal Law Anitha Yadav 2015. The issues of women rights in Muslim personal Law is highly controversial. Specially, Muslim women rights relating to Triple Talaq divorce, inheritance, maintenance has got much attention. However, Indian Constitution has guaranteed equality and freedom from discrimination based on gender or religion, but still there are various practices which are based on heartless conservative culture. As we know a large part of Muslim Personal Law is still not amended and most of the legal decisions pronounced by the courts are based on the norms mentioned in Quran and hadith. The central debate on interpretation of Muslim personal laws has both positive as well as negative aspects. Some authors have supported that, Muslim personal laws has given various rights to Muslim women such as choice in marriage, inheritance etc. Whereas, some are of the opinion that, there are various practices which are against the Indian Constitution. In this line this research paper attempts to analyse the on-going debate on the implications of Muslim Personal Law in India and suggests various solution to empower Muslim women. Therefore, certain anomalies need to eradicate by giving a true essence of Holy Quaran for the benefit of the Muslim women's rights.

Triple Talaq Bill in India: Muslim Women as Political Subjects or Victims? Esita Sur 2018. The recent proposed Muslim Women (Protection of Rights on Marriage) Bill 2017 has raised the new issues, which were long due to Muslim women in India. It has not only criminalised the practice of instant tin talaq (divorce), but also signifies the government intervention in defining the notion of gender justice to Muslim women. Importantly, this development not only highlights an emerging Muslim women's activism in India but also an articulation of gender justice from within the community.

Objectives of Research

1. To know the opinion of Muslim women on Triple Talaq
2. To know the opinion if Muslim religious leaders on Triple Talaq verdict
3. To know the acceptance of Triple Talaq verdict among Muslim men
4. To know the reasons for the Triple Talaq.

Scope of Triple Talaq verdict

- To give the gender equality among equals
- Awareness about the Triple Talaq verdict and it became the criminal offence now
- Modification of Muslim personal laws
- To effective reform of the Muslim women in India
- To control the crime against women in physically, mentally, economically

Law's Related to Muslim

- The Muslim Women (Protection of Rights on divorce) Act, 1986
- The Muslim Women (protection of rights On Divorce) rules, 1939
- The Dissolution of Muslim Marriages Act,1939
- The Muslim personal law 9 (Shariat) Application Act,1937
- The Cutchi Memons Act, 1938
- The Kazis Act, 1880
- The Mussalman wakf validating Act, 1913
- The Mussalman wakf validating Act, 1930
- Muslim marriage Certificate/ Nikahnama
- The Muslim Women (Protection of Rights on Marriage) Act, 2019.

RESEARCH GAP:

Triple Talaq is meant as an instant and irreversible divorce. It is Islamic divorce procedure Triple Talaq is followed by Indian Muslim and people who follows Islam from different countries. Many Muslim countries like Bangladesh, Pakistan, Indonesia have outlawed this practice of Triple Talaq, and recently Indian government also banned instant Triple Talaq unconditional and made it punishable act. My object of study, includes the opinion of Muslim women and Muslim men on Triple Talaq verdict, so I confine my study to married and those are qualified and aware about the subject of Triple Talaq

METHODOLOGY

Universe of the Study: The Universe of the study is whole Belagavi city

Sample : sample size would be 40 Muslim women and 40 Muslim men, total number of sample is 80.

Sample Selection- The method of purposive sampling was used to develop the sample of the research under discussion. According to purposive method, which belongs to the category of non-probability sampling techniques, sample members are selected on the basis of their knowledge, relationships and

expertise regarding a research subject (*Freedman et al., 2007*). In this study samples selected from Muslim Religious Leaders and Muslim Women of Belagavi City.

Research Method; Quantitative Techniques

In order to satisfy the objectives, a quantitative research is adopted. The main characteristic of quantitative research is that it is mostly appropriate for a large or small samples, as its outcomes are measurable and quantifiable.

Data Collection Method and Tools

For the purposes of this research, Questionnaires were used. Questionnaire are research instrument consisting of a series of questions (or other types of prompts) for the purpose of gathering information from respondents, whose aim is to identify participant's emotions, feelings, and opinions regarding a particular research subject. As far as data collection tools are concerned, the research involved the use of semi-structured questionnaire, which was used as an interview guide for the researcher.

Data Analysis

Content analysis was used to analyse the data which was gathered from personal interviews. According to **Moore & McCabe (2005)**, this is the type of research whereby data gathered is categorized in themes and sub-themes, so as to be able to be comparable. A main advantage of content analysis is that it helps in data collected being reduced and simplified, while at the same time producing results that may then be measured using quantitative techniques. Moreover, content analysis gives the ability to researchers to structure the qualitative data collected in a way that satisfies the accomplishment of research objectives. However, human error is highly involved in content analysis, since there is the risk for researchers to misinterpret the data gathered, thereby generating false and unreliable conclusions (*Krippendorff & Bock, 2008*)

MAJOR FINDINGS AND SUGGESTIONS

Talaq is an Arabic word meaning divorce. Triple Talaq is meant as an Instant and irreversible divorce. It is an Islamic Divorce procedure. Triple Talaq is followed by Indian Muslims and people who follow Islam from different countries. In Triple Talaq, a Muslim husband gives divorce to his wife by uttering the word "talaq, talaq, talaq" at one go. Once it is spoken, the marriage stands void. It is applicable in both forms, oral and written. In most recent times, digital formats like sending over email, WhatsApp, is valid. Besides, the Bill entitles declaration of Talaq as a cognizable and non-bailable offense. A husband declaring talaq may be imprisoned for up to three years along with a fine. In terms of allowance, a Muslim woman is also entitled to seek allowance from her husband for herself and for her dependent children.

- 100% of the respondents are aware about Triple Talaq verdict
- 92.5% of respondents are satisfied with the verdict of Triple Talaq and the remaining 7.5% are not satisfied. The results indicate that most of the respondents have no problem with the verdict of Triple Talaq.
- 87.5% of respondents know the causes / reasons of Triple Talaq and remaining 12.5% of respondents are do not know the causes / reasons of Triple Talaq.
- 82.5% of the respondents opined that triple Tamar verdict would reduce the misuse of Triple Talaq. whereas 17.5% believe that this would not change or reduce the misuse of Triple Talaq.
- 90% of respondents agreed that the Triple Tamar verdict is helpful to Muslim community women and 10% of respondents said that Triple Talaq verdict is not going to be helpful to Muslim community women.
- 90% of the respondents agreed that Triple Talaq could curbs the women rights and the remaining 10% of respondents felt that it could not curb the women rights.
- 85% the respondents agreed that the triple talak decision has increased the number of Talaqs and the remaining 15% believe that has not impacted.
- 90% of respondents felt it is positive change for them and their children and the rest of 10% say that the decision of Triple Talaq is not going to benefit to anyone.
- Only 10% have become the victims of Triple Talaq.

Triple Talaq is 1400 years old tradition and a most accepted way of divorce in the Muslim community. Now when both men and women are raising their voice against this practice then we should know what's wrong with this tradition. Many Muslim countries like Bangladesh, Pakistan, and Indonesia have outlawed this practice of Triple Talaq because this practice declares husband as supreme in the relation of husband and wife. This practice does not allow women to feel equal to men so it goes against article 14 (Right to Equality) and Article 15(1) of the Indian constitution which says that there shall be no discrimination against any citizen on the basis of gender, race, etc.

Triple Talaq also gives the right to men to give divorce to their wives without trying to sort out the things. In many cases, the wife gets talaq on small issues which are against Islam as well but there is no one in support of woman usually. After Triple Talaq, the divorced woman gets some financial support till iddat but this support is insufficient for her as most of the time, these women are not too qualified to get some job or start own business.

It goes against the rights of equality and women's empowerment. It propagates the dominance of men over women. According to a study, 92% of Muslim women in India wanted the Triple Talaq to be banned. It gave men the right to arbitrarily divorce their wives without any valid reason.

CONCLUSION

Talaq is one of the old practices among Muslims especially Sunni Muslims. In India as per census 2011 this divorce practice affect around 8% of Indian women population. The Triple Talaq verdict has helped the Muslim community women and as well as their children. Triple Talaq is a controversial matter for most of the countries in the world. These Muslim women are not Psychologically (mentally) prepared to accept talak on one stand.. Many Islamic countries like Saudi, Afghanistan, Morocco and Pakistan have already banned this practice. Recently the supreme court of India has also banned this practice and made it unconstitutional. This is one ray of hope towards the empowerment of Women .All are equal before the law.

REFERENCES: -

1. Triple Talaq– *counter prospective with specific reference to shayarabano*
[https://www.google.com/search?q=triple+talaq+a+counter+perspective&oq=triple+talaq+a+counter+perspective&aqs=\(Retrieved on 22-01-2020\)](https://www.google.com/search?q=triple+talaq+a+counter+perspective&oq=triple+talaq+a+counter+perspective&aqs=(Retrieved on 22-01-2020))
2. *shayarabano Union of India and Ors(Triple Talaq judgment)*
[https://indiankanoon.org/doc/115701246/\(Retrieved on 02-01-2020\)](https://indiankanoon.org/doc/115701246/(Retrieved on 02-01-2020))
3. Nirajkumar and AkilendraPratap Sing. (2018). *Invalid Instant Triple Talaq.*
[https://nujlawreview.org/wp-content/uploads/2018/05/11-2-Niraj-Kumar-Akhilendra-Pratap-Singh.pdf\(Retrieved on 21-01-2020\)](https://nujlawreview.org/wp-content/uploads/2018/05/11-2-Niraj-Kumar-Akhilendra-Pratap-Singh.pdf(Retrieved on 21-01-2020))
4. Shirin Abbas. (2019). *Triple Talaq Bill and Muslim voice*
[https://googleweblight.com/i?u=https://www.researchgate.net/publication/331521428_Triple_Talaq_Bill_and_the_Muslim_Voice_Is_a_law_necessary&grqid=eLjNRy0s&s=1&hl=en-IN&geid=1084\(Retrieved on 23-01-2020\)](https://googleweblight.com/i?u=https://www.researchgate.net/publication/331521428_Triple_Talaq_Bill_and_the_Muslim_Voice_Is_a_law_necessary&grqid=eLjNRy0s&s=1&hl=en-IN&geid=1084(Retrieved on 23-01-2020))
5. ShindujaKrishnamoorthy. *A Elucidate a study on issue and challenge in Triple Talaq at present scenario and Global perspective*
[.http://www.legalserviceindia.com/legal/article-178-a-elucidate-study-on-issue-and-challenge-in-triple-talaq-at-present-scenario-and-global-perspective.html \(Retrieved on 20-01-2020\)](http://www.legalserviceindia.com/legal/article-178-a-elucidate-study-on-issue-and-challenge-in-triple-talaq-at-present-scenario-and-global-perspective.html (Retrieved on 20-01-2020))
6. Anitha Yadav. (2015). *Rights of Muslim women.*
[https://www.researchgate.net/publication/274702838_Rights_of_Muslim_women_An_Analysis_of_Indian_Muslim_personal_Law\(Retrieved on 19-01-2020\)](https://www.researchgate.net/publication/274702838_Rights_of_Muslim_women_An_Analysis_of_Indian_Muslim_personal_Law(Retrieved on 19-01-2020))
7. Azza Bimantara. (2019). *Structural and Cultural Violence behind Triple Talaq in Indian muslim community.*
[https://www.researchgate.net/publication/331860444_Structural_and_Cultural_Violence_behind_Triple_Talaq_in_Indian_Muslim_Community\(Retrieved on 23-01-2020\)](https://www.researchgate.net/publication/331860444_Structural_and_Cultural_Violence_behind_Triple_Talaq_in_Indian_Muslim_Community(Retrieved on 23-01-2020))
8. EsitaSur .(2018). *Triple Talaq Bill in India.*
[https://www.semanticscholar.org/paper/Triple-Talaq-Bill-in-India%3A-Muslim-Women-as-or-Sur/57785f6f974a4aeb918afca2f6fadf3ad779da76\(Retrieved on 23-01- 2020\)](https://www.semanticscholar.org/paper/Triple-Talaq-Bill-in-India%3A-Muslim-Women-as-or-Sur/57785f6f974a4aeb918afca2f6fadf3ad779da76(Retrieved on 23-01- 2020))
9. Collis and Hussey,(2003)*Quantitative Techniques, Research Methodology.*
https://www.researchgate.net/publication/38177413_Business_research_A_practical_guide_for_undergraduate_and_postgraduate_students
10. Bell,(2005)*Research Methodology, Quantitative Techniques.*
https://www.academia.edu/16705868/Judith_Bell_Doing_Your_Research_Project_Mc_Graw_Hill_Education_2010
11. Denzin & Lincoln, (2005) *Research Approach*
<https://onlinelibrary.wiley.com/doi/abs/10.1002/9781405165518.wbeost050.pub2>
12. Fisher, 2005, and Wilson, 2003*Data Collection Methods and Tools*
13. Freedman et al., 2007*Sample Selection*
https://www.academia.edu/2753732/Techniques_for_Case_Selection_A_Response_to_David_Freedman