

# TRIPLE TALAQ: NO MORE A CRUELTY FOR MUSLIM WOMEN

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**Abstract:** Triple Talaq, also known as instant divorce, is a controversial practice prevalent within certain Muslim communities. It allows a husband to dissolve a marriage by uttering the word "talaq" (divorce) three times, often in a single sitting, without any legal proceedings or involvement of the courts. However, this practice has faced significant scrutiny due to its detrimental effects on Muslim women. This article delves into the historical context, legal status, and arguments against Triple Talaq as a form of cruelty towards Muslim women. Furthermore, it explores the psychological and emotional consequences on women, legal reforms, success stories, the role of activism, and the challenges faced in protecting the rights of Muslim women.

**Keywords:** Prophet, Triple talaq, Talaq-e-Biddat, psychological distress, Talaq –e-bain etc.

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## 1.0 Introduction

Triple Talaq, also known as instant divorce or Talaq-e-Biddat, is a practice followed in some Islamic societies where a Muslim man can divorce his wife by simply uttering the word "Talaq" three times, without any legal proceedings or consultation. This practice, although deeply rooted in tradition, has had severe consequences for Muslim women.

### 1.1 Impact on Muslim women

Triple Talaq has disproportionately affected Muslim women, leaving them vulnerable and socially disadvantaged. The arbitrary nature of this practice denies women their basic rights and subjects them to significant emotional and psychological distress. It perpetuates a power imbalance within marriages, often leading to a lack of agency for women and hindering gender equality within the community.

## 2.0 Historical Context Of Triple Talaq And Its Legal Status

The goal of laws is to promote peaceful coexistence and the advancement of humankind within a community. Laws can take many different forms, such as community customs and norms, religious laws that devoted adherents to observe, and laws enacted by sovereigns. There is a high probability of legal conflicts amongst various societies, religions, and nations due to the wide range of laws that they follow. The Muslim Women (Protection Of Rights On Marriage) Act 2019 is one recent example of how triple talaq, also known as talaq-e-biddat or talaq-e-bain, is now illegal.

In *Shayara Bano and Others v. Union of India and Others*, Writ Petition (C) No. 118 of 2016, the constitutional bench, voting 3:2, invalidated the practice of triple talaq and ordered the legislature to enact a law making it illegal. This case highlighted the conflict between Muslim personal laws regarding the practice and the Constitution. Justices Rohinton Nariman and UU Lalit, who dissented from the practice, ruled that it was unconstitutional, while Justice Kurian Joseph reiterated that the practice was forbidden by Islamic law based on prior court decisions.

The holy Quran makes no mention of the triple-talaq practice, and the Prophet strongly disapproved of it. Following the Prophet's passing, the Arabs invaded Egypt, Persia, Syria, and other Middle Eastern nations, discovering that the women there were more beautiful than those in Arabia. The women of the subjugated nations demanded that men from Arabia separate from their spouses in a single sitting should they choose to become friends with them. The Arabian men enthusiastically agreed to this since, according to Islam, talaq in a single proceeding was revocable and inconsistent, allowing them to keep their wives while dating other women because the talaq was null and void and could be revoked at any time.

When he witnessed such men egregiously abusing religious principles to quench their unjust ardor, the second Caliph Umar proclaimed triple talaq to be irreversible at that moment. The governor's decision to sanction triple talaq was an attempt to put an end to the immoral practices that were common at the time. Although this practice was first implemented as a social measure to safeguard women's interests, Hanafi school of thought jurists gave it a religious sanctity and presented it as a fundamental aspect of Islam.

In the Shayara Bano case, it was maintained that Talaq-e-Biddat is an essential practice, protected by Article 25 of the Indian constitution, because it has been practiced for a significant portion of a well-known religion. According to the bench, the essential practices under article 25 should be evaluated using the standard of whether or not the existence of the religion is called into question and constitutes its foundational tenets in the absence of such practices. The mere fact that something is common in a significant segment of society or has been practiced for thousands of years does not mean that it falls under the purview of article 25.

Moreover, it has been noted that Muhammad the Prophet disapproved of instant talaq, an irreversible form of divorce, and that the Quran does not support it. Thus, it was stated that triple talaq does not fall under the purview of article 25 because it is bad theology and cannot be good law.

One of the fundamental human rights guaranteed by Article 21 of the constitution is the freedom to live in accordance with one's own personal liberty and dignity, but triple talaq violates this right. Triple talaq gives a man the unrestricted authority to divorce his better half, which causes a gap in the man's assumed responsibilities and authority. The man uses this capricious ability to help him make snap decisions that are not well thought out. However, it is tragic that women must bear the consequences of such arbitrariness.

### **3.0 Status Of Triple Talaq In Islamic Law And Traditions**

Islamic law consists of diverse schools of thought, and the interpretation and acceptance of Triple Talaq vary across these schools. While some argue for its legitimacy, others emphasize the need for contextual understanding and reform to safeguard women's rights within the framework of Islamic principles.

#### **3.1 Legal recognition and challenges in various jurisdictions**

Different countries have taken varied approaches in legally addressing Triple Talaq. Some nations have declared it invalid, while others have sought to regulate it to protect women's rights. The challenges lie in reconciling religious freedom with the principles of gender equality in legal frameworks and finding a balance that respects tradition without perpetuating discrimination.

#### **4.0 Arguments against Triple Talaq as a form of cruelty towards Muslim women**

##### **4.1 Violation of women's rights and gender equality:**

Triple Talaq infringes upon women's fundamental rights and perpetuates gender inequality. By granting unilateral power to men in divorce proceedings, it denies women their autonomy and the ability to make important life decisions, violating principles of equality that are essential for a just society.

##### **4.2 Inherent power imbalance and lack of consent:**

The practice of Triple Talaq reinforces a power imbalance within marriages, giving men unilateral authority to dissolve the marital bond. This lack of consent and consultation violates the principles of mutuality and respect, contributing to the subjugation and disempowerment of Muslim women.

#### **4.3 Psychological and emotional harm inflicted on women:**

Triple Talaq inflicts significant psychological and emotional harm on women. Sudden and arbitrary divorces leave women emotionally shattered and financially vulnerable, often leading to feelings of abandonment, trauma, and social stigma. It is essential to recognize the emotional toll that this practice takes on Muslim women and work towards a more compassionate and equitable system.

#### **5.0 Exploring the psychological and emotional effects of Triple Talaq on Muslim women**

##### **5.1 Trauma and mental health consequences:**

Triple Talaq can have severe psychological consequences for Muslim women. The sudden dissolution of a marriage without proper legal proceedings or emotional support can lead to trauma, depression, anxiety, and other mental health issues. It is crucial to address the emotional well-being of these women and provide them with the necessary support.

##### **5.2 Social stigma and isolation:**

Divorced women within Muslim communities often face social stigma and isolation due to Triple Talaq. The lack of acceptance and support from their families and communities further exacerbates their emotional distress. Raising awareness and fostering a more inclusive and supportive environment is essential in combating this isolation.

##### **5.3 Challenges in rebuilding personal and professional lives**

Triple Talaq places significant obstacles in the path of Muslim women trying to rebuild their lives. They may face financial difficulties, limited education, and restricted employment opportunities, hindering their ability to gain financial independence and stability. Empowering these women with resources and opportunities is crucial for their successful reintegration into society.

Remember, change is possible, and by addressing the issues surrounding Triple Talaq, we can work towards a more equitable and just society for Muslim women. It is time to challenge traditions that perpetuate discrimination and ensure that every individual's rights, regardless of gender, are protected and respected.

#### **6.0 Legal reforms and efforts to abolish Triple Talaq: Case studies and success stories**

The issue of Triple Talaq has not gone unnoticed by lawmakers and the judiciary. In this section, we will explore the various legal reforms and court rulings that have been implemented to address this practice.

##### **6.1 Overview of legislative initiatives and court rulings:**

Over the years, several legislative initiatives have been introduced to tackle the issue of Triple Talaq. In 2019, the Indian government passed the Muslim Women (Protection of Rights on Marriage) Act, which criminalizes the practice of instant divorce. This law provides Muslim women with legal protection and ensures that they have recourse if they are subjected to Triple Talaq.

Additionally, the Supreme Court of India has played a crucial role in bringing about change. In a landmark ruling in 2017, the court declared Triple Talaq unconstitutional and violative of women's rights. This decision was a significant step towards ensuring gender equality and justice for Muslim women.

##### **6.2 Case studies highlighting successful legal battles:**

Behind every legal reform, there are courageous individuals who have fought for justice. Several case studies illustrate the triumph of Muslim women in their battle against Triple Talaq. One such case is that of *Shayara Bano*, whose petition to the Supreme Court led to the ban on Triple Talaq. Her unwavering determination and bravery have become an inspiration for countless others.

Another remarkable example is the case of *Ishrat Jahan*, who fought for her rights and challenged the discriminatory practice of Triple Talaq. Her perseverance resulted in a significant victory, empowering not only herself but also countless other women facing similar situations.

##### **6.3 Impact of legal reforms on Muslim women's lives:**

The legal reforms and court rulings have had a positive impact on the lives of Muslim women. They have provided a sense of security and reassurance, knowing that they are protected by the law. Muslim women are now more confident in standing up against Triple Talaq and demanding their rights.

Moreover, these legal changes have encouraged societal discussions and debates, leading to a greater understanding of gender equality and the importance of women's rights. Muslim women are finding their voices and are gradually breaking free from the shackles of patriarchal norms.

The role of activism and women's rights organizations in fighting against Triple Talaq Behind every successful movement, there are passionate activists and organizations working tirelessly to champion the cause. In this section, we will delve into the significant role played by activism and women's rights organizations in the fight against Triple Talaq.

#### **7.0 Rise of feminist movements and advocacy groups**

In recent years, feminist movements and advocacy groups have emerged as powerful agents of change. These organizations have been instrumental in raising awareness about Triple Talaq and mobilizing

support for its abolition. They have organized protests, campaigns, and online initiatives, thereby amplifying the voices of Muslim women.

#### **7.1 Grassroots activism and empowering Muslim women:**

One of the most significant aspects of the movement against Triple Talaq has been the active participation of Muslim women themselves. Grassroots activism has allowed them to reclaim their agency and challenge oppressive practices. By sharing their stories, raising their voices, and supporting one another, these women have become the driving force behind the fight for justice.

#### **7.2 Collaborative efforts and strategic partnerships:**

The battle against Triple Talaq has required strategic collaborations between various organizations and activists. Women's rights organizations, human rights groups, and legal experts have come together to provide legal aid, counseling, and support to affected women. These alliances have helped create a united front against Triple Talaq, making it harder for regressive forces to ignore the demands for change.

#### **8.0 Challenges and obstacles in implementing legal reforms and protecting Muslim women's rights**

While progress has been made in addressing the issue of Triple Talaq, significant challenges and obstacles remain. In this section, we will explore some of these hurdles that hinder the effective implementation of legal reforms and the protection of Muslim women's rights.

#### **8.1 Resistance from conservative religious groups:**

Conservative religious groups often resist any attempts to change traditional practices, viewing them as an intrusion on religious freedom. These groups argue that Triple Talaq is an integral part of Islamic personal law and, therefore, should be exempt from legal scrutiny. Such resistance poses a challenge to the successful implementation of legal reforms and requires a delicate balance between religious sensitivities and women's rights.

#### **8.2 Cultural and societal barriers:**

Cultural and societal norms can also impede progress in protecting Muslim women's rights. Deeply rooted gender biases, lack of education, and social stigma surrounding divorce can create an unwelcoming environment for women seeking justice. Overcoming these barriers necessitates comprehensive awareness campaigns, education, and community engagement to foster a culture of gender equality and respect.

#### **8.3 Limited access to legal resources and support:**

For many Muslim women, access to legal resources and support networks remains limited. Economic constraints, lack of legal literacy, and social isolation can prevent women from seeking legal redress or understanding their rights. Ensuring easy access to legal aid, counseling services, and empowering women with knowledge about their rights are essential steps towards addressing this challenge.

Despite these challenges, the fight against Triple Talaq continues, fueled by the unwavering determination and resilience of Muslim women and their allies. Through legal reforms, activism, and the support of organizations, progress is being made, bringing us closer to a future where Triple Talaq is nothing more than a relic from the past.

### **9.0 Conclusion:**

In conclusion, the practice of Triple Talaq has long been a source of injustice and cruelty towards Muslim women. However, significant progress has been made in challenging and reforming this practice. Legal reforms, court rulings, and the tireless efforts of activists and women's rights organizations have brought about positive change and empowered Muslim women. While challenges and obstacles remain, the future outlook for the elimination of Triple Talaq appears promising. It is crucial to continue advocating for gender equality, raising awareness, and supporting the rights of Muslim women to ensure a society that respects their dignity and agency in matters of marriage and divorce.

### **10.0 References:**

- i. -case of Ishrat Jahan
- ii. -Muslim Women (Protection Of Rights On Marriage) Act 2019.
- iii. -Shayara Bano and Others v. Union of India and Others
- iv. -the holy Quran
- v. -Ina landmark ruling in 2017