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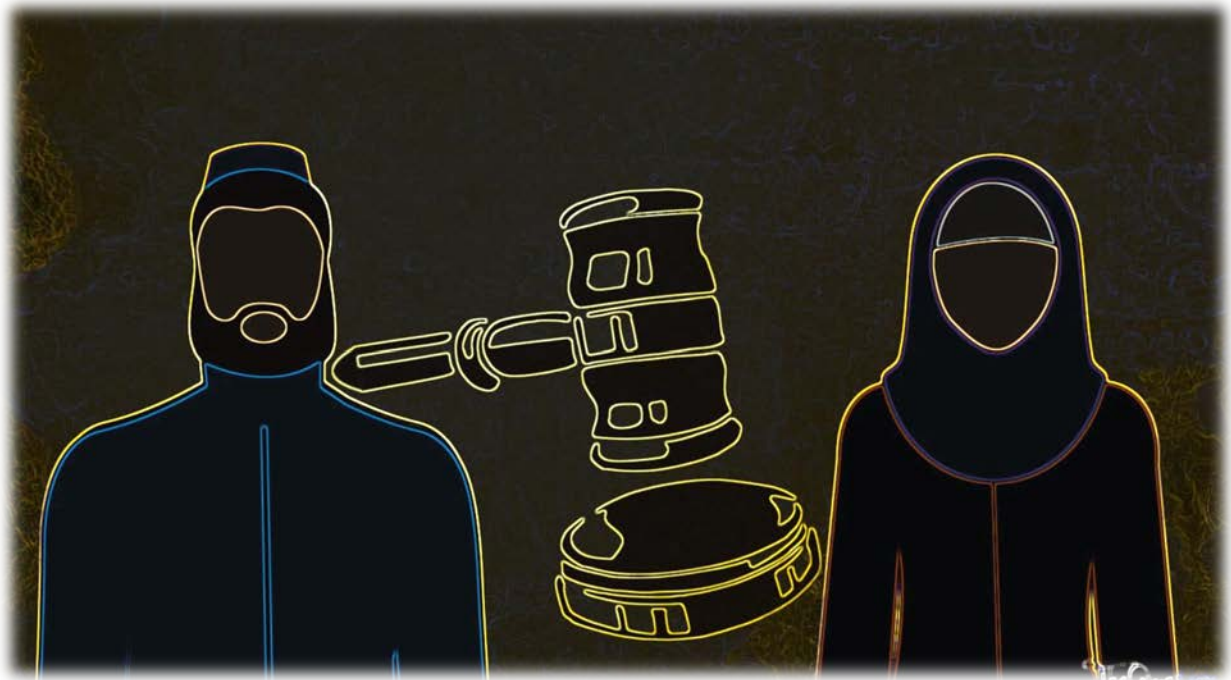
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## TALAQ-E-BIDDAT AND PEROGATIVE OF MUSLIM WOMEN

-TANU SHARMA



<https://theamikusqraie.com/triple-talaq-in-india-an-overview-of-judicial-pronouncements/>

### INTRODUCTION:

In Islamic law, the concept of divorce is complex and multidimensional and is different for different Muslim communities. Triple talaq which is also well-known as ‘talaq-e-biddat’ has been a matter of distress for many countries including India as it has its repercussions on the rights of Muslim women. The Supreme Court in the case of **Shayra bano vs. union of India** declared this

practice to be unconstitutional. This blog covers the complexities of 'talaq-e-biddat', its legal status and the rights of Muslim women.

### **UNDERSTANDING TALAQ-E-BIDDAT:**

Talaq-e-biddat also known as instant talaq is a practice under which a Muslim men can divorce his wife by pronouncing the word 'talaq' three times in one single sitting either orally or in written or through electronic media and this is irrevocable. There are many ways of getting divorce under Muslim law which involves talaq-e-hasan and talaq-e-ahsan in which there is a waiting period and also the couple gets an opportunity to reconcile but talaq-e-biddat is a practice of immediate dissolution of marriage.

### **LEGAL STATUS AND CONTROVERSIES:**

In legal sense, the concept of talaq-e-biddat has become a subject of discussion and analysis under Islamic jurisprudence and the legal system. Many scholars argue that this practice is religious and cannot be questioned and the others argue that nowhere in Islam it is mentioned that a men can divorce his wife simply by uttering talaq three times.

This practice being violative of the rights of Muslim women and its misuse is controversial in nature. Critics argue that this practice deteriorates the condition of women and make them feel vulnerable due to lack of legal protection. Due to the lack of accountability in talaq-e-biddat there arises a question regarding an equitable position of the spouses in a marital relationship.

### **LEGAL REFORMS AND EMPOWERMENT:**

After so many issues raised by talaq-e-biddat, many Muslim majority countries have proposed several legal reforms. One such reform is the Supreme Court's judgement in the year 2017 which rendered triple talaq unconstitutional and made it invalidated. After this decision there was an environment of victory among Muslim women as their rights were protected and it gave a progressive interpretation of the Islamic law.

Not only through legal reforms but the empowerment of Muslim women has to be multifaceted including social, cultural and economic factors. The initiatives to educate women and making them economically independent with a touch of legal literacy will enhance their living condition

after marriage. Additionally, nurturing awareness and dialogue between Muslim communities regarding their marital rights including divorce will lead to healthier environment and gender equality.

## **The Muslim Women (Protection of Rights on Marriage) Act, 2019**

The Indian government has passed **the Muslim women (protection of rights on marriage) act, 2019** after realizing the deteriorating condition of Muslim women because of such unhealthy practice. Let us explore some of the key provisions of the act:

1. **Illegalization of Triple Talaq:** according to this provision, any pronouncement, either orally or written or through electronic media, will be considered as void and illegal and if any Muslim men pronounces talaq for his wife, he will be punished with an imprisonment up to 3 years and fine.
2. **Maintenance and Support:** this provision requires Muslim men to give maintenance and support to his former wife and children and also it is the right of the women to be maintained and supported in every condition.
3. **Safeguards for Child Custody:** this provision requires for the protection and safeguard of the children born out of marriage under Muslim law.

## **Effectiveness of the Act**

### **Positive Facets**

This act is a big step towards safeguarding the rights of Muslim women:

1. **Legal Restriction:** this act provides for the stoppage of arbitrary use of triple talaq by Muslim men.
2. **Financial Safety:** the provision of maintenance and support ensures Muslim women's rights of getting financial security before and after divorce.
3. **Child Wellbeing:** the welfare of children born out of marriage is considered in the provision related to child custody.

## Challenges and Criticisms

1. **Application:** the implementation of the act has remained a problematic issue for the country as providing legal framework is one thing and making people aware about it is another.
2. **Social Arrogances:** it will need a lot of hard work to change societal opinions regarding triple talaq.
3. **Access to Justice:** the biggest challenge is timely providing justice and also access to justice for all.

## CONCLUSION:

Triple talaq remains a quarrelsome issue within Islamic jurisprudence, reflecting bigger debates about gender, justice, and tradition in Muslim societies. Although the legal framework have taken right steps towards providing gender justice to Muslim women, still the empowerment of Muslim women requires a constant engagement with religious, social and legal frameworks. By the promotion of Islamic principles at a large level and by ordering the rights and pride of women, we can work towards forming more reasonable and pleasant societies. The Muslim women (protection of rights on marriage) act, 2019 have played a significant role in shaping the legal structure of 'talaq-e-biddat' and gave just and fair treatment to Muslim women in the society by considering them as equal to men in all aspects.

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