

From Personal Law to Constitutional Scrutiny: Judicial Responses to Triple Talaq in India

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Abstract: *This paper examines the judicial transformation of Triple Talaq (talaq-ul-biddat) in India from a matter of personal law to one subjected to constitutional scrutiny. It analyses key judicial pronouncements of the Supreme Court and various High Courts, highlighting how the practice has been evaluated in light of fundamental rights such as equality, non-discrimination, and the right to life with dignity. The study explores the tension between religious freedom under Article 25 and constitutional mandates under Articles 14, 15, and 21. It further considers the role of the Central Government, Law Commission, and international norms in shaping the discourse on reform. The paper argues that judicial intervention has played a crucial role in challenging arbitrary practices and advancing gender justice within the framework of a secular constitutional order, ultimately paving the way for legal reform and protection of Muslim women's rights in India.*

Keywords: Triple Talaq, Constitutional Rights, Gender Justice, Muslim Women Rights, Judicial Reform

1. Introduction

The institution of marriage under Muslim law has traditionally been governed by personal laws derived from the Holy Quran, Hadith, and customary practices. Among these, the practice of Triple Talaq (talaq-ul-biddat)—where a Muslim husband could unilaterally and irrevocably divorce his wife by pronouncing “talaq” thrice in one sitting—has remained one of the most controversial aspects of Islamic personal law in India. For decades, it persisted as a legally recognized, yet widely debated, form of divorce, often criticized for its arbitrary nature and its adverse impact on the rights and dignity of Muslim women.

In a constitutional democracy like India, where the principles of equality, non-discrimination, and dignity form the cornerstone of the legal system, the continued validity of such practices has increasingly come under judicial scrutiny. The tension between the protection of religious freedom under Article 25 of the Constitution and the enforcement of fundamental rights under Articles 14, 15, and 21 has raised critical questions regarding the legitimacy of personal laws that appear to conflict with constitutional values¹.

The issue of Triple Talaq gained unprecedented attention through a series of judicial pronouncements by the Supreme Court and various High Courts, culminating in a transformative shift from deference to personal law towards constitutional evaluation. Courts have progressively questioned the arbitrariness of the practice, examined its consistency with Quranic principles, and emphasized the need to uphold gender justice and human dignity.

This paper seeks to analyse the evolving judicial responses to Triple Talaq in India, tracing its journey from a protected domain of personal law to a subject of constitutional adjudication. It further explores how judicial intervention, supported by legislative and societal developments, has

contributed to redefining the balance between religious autonomy and fundamental rights, thereby advancing the broader goal of social reform and gender equality.

Practice of Triple Talaq

The practice of Triple Talaq, also known as *talaq-ul-biddat*, has historically been one of the most debated forms of divorce under Muslim personal law in India. It refers to the dissolution of marriage by a Muslim husband through the instantaneous pronouncement of the word “talaq” three times in a single sitting, without any requirement of justification, reconciliation, or procedural safeguards. Unlike other recognized forms of divorce in Islam, such as *talaq-e-ahsan* and *talaq-e-hasan*, which involve a waiting period (*iddat*) and scope for reconciliation, *talaq-ul-biddat* is considered irrevocable and immediate in effect.

Traditionally, the validity of Triple Talaq in India was derived from interpretations of Islamic jurisprudence, particularly under the Hanafi school, which recognized it as legally effective though morally reprehensible. Over time, this practice became deeply embedded in the socio-legal fabric of sections of the Muslim community, often exercised without adherence to the broader ethical and procedural principles laid down in the Holy Quran. The absence of safeguards made it susceptible to misuse, leading to instances where women were divorced arbitrarily, sometimes even through informal means such as letters, telephone calls, or electronic communication.

The continuation of this practice in India stood in contrast to reforms undertaken in several Muslim-majority countries, including Egypt, Pakistan, Bangladesh, and Tunisia, where Triple Talaq has either been abolished or regulated to ensure fairness and due process. Despite such international developments, India retained the practice for a long time under the umbrella of personal law, largely insulated from legislative intervention.

In practice, Triple Talaq often resulted in severe socio-economic consequences for Muslim women, leaving them

¹ INDIA CONST. arts. 13, 14, 15, 21, 25, 44, 51A.

without adequate financial support, social security, or legal remedies. The unilateral nature of the practice not only undermined the institution of marriage but also raised serious concerns regarding gender justice and equality. The lack of procedural fairness and the absence of any opportunity for reconciliation made it inconsistent with both modern legal standards and the underlying spirit of Islamic teachings, which emphasize justice, fairness, and deliberation in matrimonial matters.

The growing awareness of women's rights, coupled with increased judicial sensitivity, led to heightened scrutiny of the practice. Courts began to examine whether Triple Talaq, particularly in its instantaneous form, was truly sanctioned by Islamic law or merely a product of patriarchal interpretation. This marked the beginning of a shift from unquestioned acceptance to critical evaluation, ultimately setting the stage for constitutional challenges and judicial intervention.

Triple Talaq and Indian Constitution

The practice of Triple Talaq in India has generated significant constitutional debate, particularly concerning its compatibility with the fundamental rights guaranteed under the Indian Constitution. While Muslim personal law has traditionally been protected under the right to freedom of religion, the arbitrary nature of *talaq-ul-biddat* raised serious concerns regarding its validity within a constitutional framework committed to equality, dignity, and justice.

One of the primary constitutional challenges to Triple Talaq arises under Article 14, which guarantees equality before the law and equal protection of laws. The practice, being unilateral and instantaneous, confers unchecked power upon the husband to dissolve a marriage without any reasonable cause or procedural safeguards. Such arbitrariness has been viewed as inherently discriminatory and violative of the principle of equality. The courts have increasingly emphasized that any law or practice that is manifestly arbitrary cannot be sustained under Article 14.

Further, Article 15, which prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth, becomes relevant in the context of Triple Talaq. The practice disproportionately affects Muslim women, placing them at a disadvantage solely on the basis of gender and religion. This gender-biased impact has been considered inconsistent with the constitutional commitment to non-discrimination and substantive equality.

The implications of Triple Talaq also extend to Article 21, which guarantees the right to life and personal liberty, including the right to live with dignity. The abrupt and unilateral dissolution of marriage often leaves women in a state of social and economic vulnerability, undermining their dignity and security. Judicial interpretation of Article 21 has progressively expanded to include the right to a dignified life, thereby bringing practices like Triple Talaq under constitutional scrutiny.

At the same time, the defenders of Triple Talaq have relied upon Article 25, which guarantees the freedom of conscience and the right to freely profess, practice, and

propagate religion. It has been argued that personal laws, including those governing marriage and divorce, are integral to religious practice and therefore should remain outside the scope of judicial interference. However, this right is not absolute and is subject to public order, morality, health, and other fundamental rights. The courts have consistently held that practices which are not essential to religion or which violate fundamental rights cannot claim constitutional protection.

In this context, the judiciary has undertaken the task of balancing religious freedom with constitutional morality. A significant development occurred when the Supreme Court examined whether Triple Talaq constituted an essential religious practice and whether it could withstand the test of constitutional validity. The evolving judicial approach reflects a shift towards prioritizing fundamental rights over personal laws, especially where such laws perpetuate injustice or inequality.

Thus, the issue of Triple Talaq highlights the broader constitutional dilemma of reconciling religious autonomy with the principles of equality and human dignity. The judicial response indicates a clear trend towards subjecting personal laws to constitutional scrutiny, ensuring that no practice, however deeply rooted in tradition, can override the fundamental rights guaranteed by the Constitution of India.

Triple Talaq and Religious Freedom

The debate surrounding Triple Talaq in India is deeply intertwined with the constitutional guarantee of religious freedom under Article 25 of the Indian Constitution. This provision ensures that every individual has the right to freely profess, practice, and propagate religion. Muslim personal law, including matters of marriage and divorce, has traditionally been considered an integral part of religious practice, thereby enjoying a degree of constitutional protection. Consequently, proponents of Triple Talaq have argued that any interference with such practices amounts to a violation of religious autonomy.

However, the right to religious freedom under Article 25 is not absolute. It is expressly subject to public order, morality, health, and other provisions of Part III of the Constitution, particularly fundamental rights. This limitation forms the basis for judicial intervention in cases where religious practices conflict with principles such as equality, dignity, and non-discrimination. The courts have consistently maintained that practices which are arbitrary or unjust cannot be shielded merely by labelling them as religious.

A crucial aspect of this discourse is the "essential religious practices" doctrine, evolved by the judiciary to determine whether a particular practice is fundamental to a religion. In the context of Triple Talaq, courts have examined whether *talaq-ul-biddat* is an essential and indispensable part of Islam. Judicial opinions, supported by scholarly interpretations of the Holy Quran, have indicated that instantaneous Triple Talaq is not sanctioned as a core religious practice. Instead, the Quran prescribes a more structured and reconciliatory process of divorce, emphasizing fairness and deliberation.

The argument that Triple Talaq is protected under religious freedom has also been challenged on the ground that personal laws, especially those codified or recognized by the state, must conform to constitutional norms. If a practice undermines the fundamental rights of a section of society—in this case, Muslim women—it cannot claim immunity under Article 25. The judiciary has thus played a pivotal role in redefining the scope of religious freedom by aligning it with constitutional morality and social justice.

Moreover, the tension between religious freedom and gender justice becomes particularly evident in the case of Triple Talaq. While religious communities have the right to preserve their traditions, such rights cannot extend to practices that perpetuate inequality or violate human dignity. The constitutional vision of India as a secular and egalitarian state requires that all laws, including personal laws, operate within the framework of fundamental rights. Therefore, the issue of Triple Talaq illustrates the evolving understanding of religious freedom in India—one that is not absolute but harmonized with the values of equality, dignity, and justice. Judicial scrutiny of Triple Talaq demonstrates that the Constitution ultimately serves as the supreme authority, ensuring that no religious practice can override the basic rights of individuals.

Triple Talaq and Approach of Central Government

The role of the Central Government in the discourse on Triple Talaq has been both significant and transformative, particularly in shifting the issue from a purely personal law domain to one of constitutional and legislative concern. Historically, the State maintained a cautious distance from matters of personal law, often refraining from direct intervention due to the sensitive nature of religious practices. However, the growing demand for gender justice and the increasing judicial scrutiny of Triple Talaq prompted a more active governmental response.

A major turning point came when the Central Government submitted its affidavit before the Supreme Court during the constitutional challenge to Triple Talaq. In its submission, the Government unequivocally opposed practices such as *talaq-ul-biddat*, *nikah halala*, and polygamy, asserting that these were not essential components of Islam and were inconsistent with the fundamental rights guaranteed under the Constitution. The Government emphasized that practices which violate principles of equality, dignity, and non-discrimination cannot be protected under the guise of religious freedom. It further highlighted India's commitment to international conventions aimed at eliminating discrimination against women, thereby reinforcing the need for reform.

The Government's stance reflected a broader constitutional vision that prioritizes gender justice and social reform. It argued that personal laws fall within the ambit of "law" under Article 13 of the Constitution, and therefore must conform to fundamental rights. This position marked a departure from earlier approaches that treated personal laws as largely immune from constitutional scrutiny.

Following the judicial developments, particularly the landmark decision of the Supreme Court invalidating

instantaneous Triple Talaq, the Central Government took legislative action to address the issue comprehensively. This culminated in the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019, which declared the pronouncement of Triple Talaq void and illegal. The Act also introduced penal provisions, making the practice a cognizable offence, and provided safeguards for affected women, including the right to subsistence allowance and custody of minor children.

While the legislation was welcomed as a progressive step towards protecting the rights of Muslim women, it also attracted criticism on certain grounds, particularly regarding the criminalization of a civil matter. Critics argued that penal provisions may have unintended social consequences, whereas supporters viewed them as necessary deterrents against the continuation of the practice.

In addition to legislative measures, the Central Government has also engaged with broader questions of reform in personal laws, including discussions on the Uniform Civil Code under Article 44 of the Constitution. Through consultations led by the Law Commission and public discourse, the Government has sought to balance respect for religious diversity with the need for legal uniformity and gender equality.

Overall, the approach of the Central Government towards Triple Talaq reflects an evolving commitment to constitutional values, particularly the protection of women's rights and the promotion of social justice. Its intervention, both in the judicial arena and through legislation, has played a crucial role in shaping the contemporary legal position on Triple Talaq in India.

Triple Talaq and Law Commission

The Law Commission of India has played a significant consultative role in the discourse surrounding Triple Talaq, particularly in the broader context of reforming personal laws and examining the feasibility of a Uniform Civil Code under Article 44 of the Constitution. Although its recommendations are not binding, the Commission's opinions carry persuasive value and often guide legislative and judicial developments.

In 2016, the Law Commission initiated a nationwide consultation process by releasing a detailed questionnaire on the Uniform Civil Code. Among the issues raised, specific attention was given to practices such as Triple Talaq, polygamy, and *nikah halala*. The Commission sought public opinion on whether Triple Talaq should be abolished, retained, or reformed with appropriate safeguards. This marked a significant step in democratizing the law-making process by involving citizens, scholars, and stakeholders in shaping legal reform.

The response to the questionnaire indicated a growing concern regarding the arbitrary nature of Triple Talaq and its adverse impact on Muslim women. A substantial number of submissions favored reform or abolition of the practice, reflecting an increasing awareness of gender justice and constitutional rights. The Commission, while acknowledging the diversity of opinions, emphasized that personal laws

must evolve in accordance with constitutional principles, particularly equality and dignity. In its subsequent report, the Law Commission did not explicitly recommend the immediate implementation of a Uniform Civil Code but advocated for gradual and piecemeal reforms within personal laws. It observed that social reform should not be imposed abruptly but should be achieved through a consultative and progressive approach. Importantly, the Commission noted that discriminatory practices within personal laws, including Triple Talaq, cannot be justified if they violate fundamental rights.

The Law Commission² also examined international practices and highlighted that several Muslim-majority countries, such as Pakistan, Bangladesh, Egypt, and Tunisia, have either abolished or regulated Triple Talaq to prevent its misuse. This comparative perspective strengthened the argument that reform in India would not be inconsistent with Islamic principles but rather aligned with global trends towards gender justice. Furthermore, the Commission recognized the need to codify Muslim personal law in India to eliminate ambiguities and ensure consistency in its application. It stressed that codification would help distinguish between essential religious practices and those that are merely customary or subject to change. Thus, the role of the Law Commission in the Triple Talaq debate has been instrumental in facilitating informed discussion, encouraging public participation, and reinforcing the need for reform within a constitutional framework. Its contributions have complemented judicial pronouncements and legislative action, collectively advancing the movement towards greater protection of women's rights and the harmonization of personal laws with constitutional values.

Triple Talaq and International Norms

The issue of Triple Talaq in India cannot be examined in isolation from international legal standards and comparative practices, particularly those relating to gender justice and human rights. Over the years, international norms have increasingly emphasized the elimination of discriminatory practices against women, thereby influencing domestic legal discourse on personal laws, including Triple Talaq.

India is a signatory to several international conventions, most notably the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, which obligates State parties to take appropriate measures to eliminate discrimination against women in all spheres, including marriage and family relations. Under CEDAW, practices that are arbitrary, unilateral, and detrimental to women's dignity—such as instantaneous Triple Talaq—are considered inconsistent with the principles of equality and non-discrimination. Although international conventions are not automatically enforceable in India, the judiciary has frequently relied upon them to interpret fundamental rights, especially in the absence of explicit domestic legislation³.

² law Commission of India, consultation paper on reform of family law (2018).

³ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

In addition to treaty obligations, comparative legal developments in various Muslim-majority countries have played a crucial role in shaping the debate on Triple Talaq. Countries such as Egypt, Pakistan, Bangladesh, Tunisia, Morocco, and Indonesia have either abolished or significantly regulated the practice. In many of these jurisdictions, divorce procedures require prior notice, attempts at reconciliation, and, in some cases, judicial oversight. These reforms demonstrate that the regulation or abolition of Triple Talaq is not contrary to Islamic principles but is, in fact, consistent with a more equitable interpretation of Sharia.

For instance, in Pakistan and Bangladesh, the Muslim Family Laws Ordinance mandates a formal procedure for divorce, including notification to a local authority and a reconciliation period, thereby preventing the immediate and unilateral dissolution of marriage. Similarly, Tunisia has completely abolished extrajudicial divorce, requiring all divorces to be processed through courts. These international practices reflect a broader trend toward ensuring fairness, accountability, and protection of women's rights within the framework of personal laws.

The influence of international norms is also evident in the approach adopted by Indian courts. The judiciary has, on multiple occasions, invoked international human rights principles to reinforce constitutional guarantees of equality, dignity, and non-discrimination. This harmonization of domestic law with international standards underscores India's commitment to upholding global human rights values while addressing internal socio-legal challenges.

Moreover, international discourse has contributed to reframing Triple Talaq as not merely a religious issue but a matter of human rights and gender justice. It has strengthened the argument that cultural or religious practices cannot be used to justify violations of fundamental human rights. This perspective has been instrumental in supporting judicial and legislative interventions aimed at reforming discriminatory practices within personal laws.

Thus, international norms and comparative legal frameworks have significantly influenced the evolution of the Triple Talaq debate in India. They have provided both a moral and legal foundation for reform, reinforcing the need to align personal laws with universal principles of equality, dignity, and justice.

Triple Talaq and Judicial Intervention

It is clear that the true Islamic position, as derived from the Holy Quran, does not support arbitrary or instantaneous divorce. Instead, divorce is envisaged as a structured and reasoned process, requiring a valid cause and prior attempts at reconciliation through mediators from both the husband's and wife's families. This reflects the Quranic emphasis on fairness, deliberation, and preservation of marriage.

This interpretation has been judicially recognized and strengthened through landmark decisions. In *Shamim Ara v. State of Uttar Pradesh*⁴, the Supreme Court affirmed that

⁴ (2002) 7 SCC 518.

mere pronouncement of talaq is insufficient unless it is supported by reasonable cause and preceded by reconciliation efforts. Importantly, the Court did not formulate a new rule but endorsed the earlier progressive view of the Kerala High Court in *A. Yusuf Rather v. Sowaramma*⁵ (1971), thereby establishing continuity in judicial reasoning. The rejection of arbitrary Triple Talaq reflects the judiciary's effort to align personal law with authentic Islamic principles rather than patriarchal distortions.

From a constitutional perspective, the passage underscores that personal laws cannot override fundamental rights. The observation that Triple Talaq is a "cruel" practice highlights its inconsistency with Articles 14 and 21, which guarantee equality and dignity. The judiciary has thus reinforced the doctrine that constitutional supremacy prevails over personal law, especially where the latter infringes individual rights.

In the context of religious freedom, the courts have clarified that not all practices claimed under religion are protected. Only those practices which are essential and non-discriminatory can claim protection under Article 25. Since Triple Talaq is neither essential to Islam nor consistent with Quranic principles, it cannot be justified on the ground of religious freedom.

The judicial observations emphasizing social reform indicate that the courts view law as an instrument of progressive change. By rejecting misuse and arbitrary application of personal law, the judiciary has sent a clear message that legal traditions must evolve in harmony with constitutional values and cannot be used as tools of oppression or injustice. The observations of Justice Hari Nath Tilhari in *Rahmat Ullah v. State of Uttar Pradesh*⁶ and *Khatoon Nisha v. State of Uttar Pradesh* (1994) represent an important judicial critique of *talaq-ul-biddat* (Triple Talaq), both from the perspective of Islamic jurisprudence and constitutional principles. The judgment highlights that there is no uniform consensus within Islamic schools of thought regarding the validity of Triple Talaq. While the Hanafi and Shafi schools may recognize it as legally effective, they nevertheless consider it sinful, whereas the Shia and Maliki schools regard it as invalid. This divergence itself weakens the claim that Triple Talaq is an essential or universally accepted religious practice. From a religious standpoint, the judgment emphasizes that instantaneous and irrevocable divorce in one sitting is contrary to the spirit and mandate of the Holy Quran, which prescribes a gradual and reconciliatory process. By characterizing *talaq-ul-biddat* as a sinful and irregular practice, the Court aligns itself with a more authentic and reform-oriented interpretation of Islamic law.

The Court explicitly held that such a form of divorce, which grants unrestricted and unilateral power to the husband, cannot be sustained in law. This reflects an early judicial attempt to curb arbitrary practices within personal law and protect the rights of women. From a constitutional perspective, the judgment makes a strong connection between Triple Talaq and fundamental constitutional values.

By invoking Article 372, the Court suggests that pre-constitutional personal laws cannot continue if they are inconsistent with the Constitution. Further, by referring to the Preamble and Article 51A, particularly the duty to renounce practices derogatory to the dignity of women, the Court underscores that such practices are incompatible with the constitutional vision of equality, dignity, and social justice. The characterization of Triple Talaq as derogatory to women's reputation also brings it into conflict with Articles 14 and 21, which guarantee equality before law and the right to live with dignity. The judgment thus reinforces the principle that personal law practices must conform to constitutional morality and cannot perpetuate gender injustice.

Overall, this case marks a progressive judicial stance that anticipates later constitutional developments, including the Supreme Court's approach in subsequent cases. It highlights that even within the framework of personal law, practices like Triple Talaq cannot be justified if they are arbitrary, discriminatory, and inconsistent with both religious principles and constitutional mandates.

In addition to invalidating Triple Talaq, the judiciary has also contributed to strengthening the rights of Muslim women through related decisions. In *Daniel Latifi v. Union of India*⁷ (2001), the Supreme Court upheld the right of a divorced Muslim woman to claim reasonable and fair provision for maintenance, interpreting statutory provisions in a manner consistent with Article 21. Such decisions reflect the judiciary's commitment to ensuring substantive justice and protecting the dignity of women.

The decision of the Bombay High Court in *Dagadu Chhotu Pathan v. Rahimbi Dagadu Pathan*⁸ (2003) represents a significant judicial effort to standardize the procedure of divorce under Muslim law in conformity with Quranic principles and constitutional values. The Court, after examining Islamic jurisprudence, scholarly interpretations, and prior judicial precedents, laid down essential conditions for a valid talaq, thereby rejecting arbitrary and informal practices such as instantaneous Triple Talaq.

From a religious and doctrinal perspective, the Court reaffirmed that divorce in Islam is not an unregulated or unilateral act, but a structured process grounded in reason and reconciliation. The requirement of a reasonable cause and prior conciliation through mediators reflects the Quranic mandate that marriage should not be dissolved without serious justification and attempts at settlement. This directly challenges the notion of *talaq-ul-biddat* as a valid form of divorce.

In terms of judicial intervention, the ruling is crucial because it introduces procedural safeguards to test the validity of divorce. By insisting on proof of pronouncement, the presence of witnesses, and proper sequence of events, the Court ensures that divorce cannot be effected casually or retrospectively through unverified claims. The emphasis that mere documentation is insufficient without establishing the

⁵ AIR 1971 Ker 261.

⁶ 1994 (2) DMC 64.

⁷ (2001) SCR 419.

⁸ (2003) 1 BCR 740.

entire process further strengthens evidentiary standards and prevents misuse.

The judgment also addresses the issue of burden of proof, placing responsibility on the husband to substantiate claims of divorce, especially where reliance is placed on Triple Talaq. This shifts the legal position from presumption of validity to scrutiny and verification, thereby protecting the rights of women against arbitrary repudiation. These guidelines align with the principles of fairness, non-arbitrariness, and gender justice embodied in Articles 14 and 21. By declaring that non-compliance with procedural requirements renders the divorce invalid, the Court effectively harmonizes personal law with constitutional mandates. This case contributes significantly to the evolution of Indian jurisprudence on Muslim divorce by reinforcing that valid talaq must be reasonable, deliberate, and procedurally sound, and that practices like Triple Talaq cannot bypass these essential safeguards. It thus strengthens the broader judicial trend of subjecting personal law practices to standards of justice, equity, and constitutional morality.

The observations of the Kerala High Court in *Nazir alias Oyur Nazir v. Shamima*⁹ (2016) represent a progressive and comparative judicial approach towards the issue of Triple Talaq in India. The Court not only examined the validity of *talaq-ul-biddat* in light of Quranic principles but also drew upon reforms undertaken in several Muslim-majority countries. By referring to nations such as Egypt, Pakistan, Bangladesh, and others that have either abolished or regulated Triple Talaq, the Court questioned the continued acceptance of such a practice in a secular and democratic country like India. This comparative reasoning strengthens the argument that reform in personal law is both feasible and consistent with Islamic principles.

From a religious and doctrinal perspective, Justice A. Mohammed Mushtaq undertook a detailed analysis of relevant Quranic verses and scholarly interpretations. The Court clarified that the Quran does not sanction instantaneous Triple Talaq in a single sitting. Instead, it prescribes a gradual and structured process of divorce, requiring pronouncements over three separate *tuhars* (periods of purity), along with sincere efforts at reconciliation. This interpretation reinforces the idea that *talaq-ul-biddat* is a deviation from, rather than a reflection of, true Islamic law.

This decision is significant because it builds upon earlier precedents and further delegitimizes arbitrary divorce practices. The Court emphasized that divorce must be a measured and reasoned process, not an impulsive or unilateral act. By grounding its reasoning in both religious texts and comparative legal developments, the judgment contributes to a more holistic and reform-oriented jurisprudence. The Court's reasoning implicitly aligns with principles of equality, dignity, and non-arbitrariness. By questioning the continuation of Triple Talaq in India despite its rejection in other jurisdictions, the judgment highlights the inconsistency of retaining a practice that undermines

women's rights in a constitutional democracy committed to gender justice. It reinforces the conclusion that the correct method of divorce in Islam is one that is gradual, reconciliatory, and just, and that practices like instantaneous Triple Talaq cannot be sustained either doctrinally or constitutionally.

The observations made by the Allahabad High Court in *Mrs. Hina v. State of Uttar Pradesh*¹⁰ (2016) reflect a strong judicial disapproval of the arbitrary use of Triple Talaq, even at a stage when the constitutional validity of the practice was pending before the Supreme Court. Although the Court refrained from directly adjudicating upon the constitutionality of *talaq-ul-biddat*, its reasoning provides significant insight into the evolving judicial approach towards divorce under Muslim law.

From a factual perspective, the case reveals the misuse of Triple Talaq as a tool for personal convenience. The husband divorced his wife without any valid reason, merely to contract another marriage with a significantly younger woman. The inability of the husband to justify the cause or circumstances of divorce exposed the arbitrary and capricious nature of such practices.

The Court reaffirmed that Islamic law does not permit whimsical or unjustified divorce. It emphasized that divorce is allowed only in exceptional circumstances and must be preceded by genuine efforts at reconciliation. The requirement of mediation by representatives from both families reflects the Quranic mandate of fairness, deliberation, and preservation of marital harmony. Thus, the judgment clearly rejects the notion that a mere pronouncement of talaq, without cause or process, can be considered valid in law. The Court's statement that "whimsical and capricious divorce... cannot be approved as correct law" is particularly significant. It challenges earlier assumptions that even if Triple Talaq was theologically disapproved, it could still be legally valid. Instead, the Court aligns legal validity with ethical and religious correctness, thereby narrowing the scope for misuse. By condemning unjustified divorce, the Court reinforces that personal law practices must conform to standards of fairness and cannot operate in a manner that harms women's rights. Overall, this case exemplifies a broader judicial trend of scrutinizing the misuse of Triple Talaq and emphasizing that valid divorce in Islam must be based on reasonable cause, due process, and sincere reconciliation efforts. It also signals the judiciary's growing willingness to curb arbitrary practices and align personal law with both Quranic principles and constitutional values.

In the case of *Shamim Ara v. State of Uttar Pradesh*¹¹ (2002), the Supreme Court held that a mere pronouncement of talaq is not sufficient to dissolve a marriage. The Court emphasized that a valid divorce must be preceded by a reasonable cause and genuine attempts at reconciliation between the parties. This judgment laid the foundation for rejecting arbitrary and unilateral forms of divorce, including instantaneous Triple Talaq.

¹⁰ 2017 (1) R.C.R. (Civil) 313.

¹¹ (2002) 7 SCC 518.

⁹ W.P. (C) No. 37437 of 2003.

Subsequently, various High Courts reinforced this approach by scrutinizing the legitimacy of *talaq-ul-biddat*. Courts consistently held that divorce under Muslim law must conform to the principles laid down in the Quran, which require fairness, deliberation, and reconciliation. In several cases, including decisions of the Allahabad High Court and the Bombay High Court, the judiciary questioned the validity of Triple Talaq when pronounced without following due process or without substantiating reasonable grounds.

In the case of *Shayara Bano v. Union of India*¹², a constitutional bench examined the validity of Triple Talaq in light of fundamental rights. By a majority, the Court declared *talaq-ul-biddat* unconstitutional and set it aside. The judgment was based on multiple grounds, including the doctrine of manifest arbitrariness under Article 14 and the finding that Triple Talaq is not an essential religious practice protected under Article 25.

The Court also observed that a practice which allows a husband to unilaterally and irrevocably terminate a marriage without any procedural safeguards is inherently unjust and incompatible with constitutional values. This decision marked a significant assertion of constitutional supremacy over personal laws, reinforcing that no practice, even if rooted in religion, can violate fundamental rights. It highlights the judiciary's role as a guardian of fundamental rights and a catalyst for social reform. By scrutinizing and ultimately invalidating an arbitrary and discriminatory practice, the courts have not only advanced gender justice but also reaffirmed the principle that personal laws must operate within the framework of constitutional morality.

2. Conclusion

The issue of Triple Talaq in India represents a significant intersection of personal law, constitutional values, and gender justice. Historically rooted in certain interpretations of Muslim personal law, *talaq-ul-biddat* persisted as a controversial practice that enabled unilateral and instantaneous divorce, often to the detriment of Muslim women. However, a careful analysis of Quranic principles, judicial pronouncements, and comparative legal developments clearly demonstrates that such a practice neither reflects the true spirit of Islam nor aligns with modern constitutional norms.

The judiciary has played a transformative role in this evolution. Through a series of progressive decisions- from *Shamim Ara* to *Shayara Bano*- courts have consistently emphasized that divorce must be based on reasonable cause and preceded by efforts at reconciliation. These rulings have dismantled the notion that arbitrary practices can claim legitimacy merely under the guise of personal law. Instead, they have reinforced the principle that all laws, including personal laws, must conform to the fundamental rights guaranteed under the Constitution, particularly equality, non-discrimination, and the right to live with dignity.

The intervention of the Central Government and the enactment of the Muslim Women (Protection of Rights on

Marriage) Act, 2019 further signify a decisive shift towards protecting the rights of Muslim women. Additionally, the consultative role of the Law Commission and the influence of international norms have strengthened the case for reform, demonstrating that the regulation or abolition of Triple Talaq is consistent with both global human rights standards and progressive interpretations of Islamic law.

At the same time, the debate around Triple Talaq highlights a broader constitutional challenge- balancing religious freedom with the imperatives of social justice and equality. While Article 25 guarantees the freedom of religion, it does not extend protection to practices that are arbitrary, discriminatory, or violative of fundamental rights. The doctrine of constitutional supremacy ensures that individual dignity and equality prevail over regressive customs.

In conclusion, the journey of Triple Talaq in India reflects a gradual but decisive movement from unquestioned acceptance to critical constitutional scrutiny. It underscores the evolving nature of law as an instrument of social reform and reaffirms that justice, dignity, and equality must remain at the core of all legal systems. The abolition of instantaneous Triple Talaq is not merely a legal development but a step towards realizing substantive gender justice and strengthening the constitutional vision of an inclusive and egalitarian society.

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