



# Muslim Women Protection of Right on Marriage Act 2019 in Present Era

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## Abstract:

The issues pertaining to the protection of Muslim women rights are highly controversial now a day's specially the rights relating to triple talaq, inheritance, maintenance has got much attention. the muslim women (Protection of rights on marriage) Act 2019 has declared the practice of instant triple talaq illegal and void and has also laid down that any husband indulging in such practice would be liable to be punished with imprisonment up to three years. it also engages with the issues of maintenance and custody. The bone of contention is this act has been criminalization aspect of act which is essentially civil in nature.

**Key words** – Triple talaq, Muslim women rights, maintenance.

## Introduction:

“The most hateful of all lawful things in the sight of allah is divorce”

Prophet Mohammad (PBUH).

Triple talaq which is also known as talaqul biddat is a practice of giving talaq by uttering continuously three times and such practice is neither recognized by the Quran nor by the prophet Mohammad (PBUH). The Quran mentions of husbands divorcing their wives and lays down rules regarding how to divorce what treatment to give of after the divorce, such as maintenance to the divorcee and the upbringing and custody of the children. The Hadiths mention wives seeking divorce from husband and also divorcing them and have laid down rules regarding it.

## Review of literature:

**Shaikh Rasheed (2018)** title of the article is “**Rights of Muslim women relating to triple talaq a critical study.**” this article seeks to study the concept of triple talaq, rights of Muslim women under Quran and how it have been protected by the legislature through various legislations further. This article will study the judgment passed by supreme court of India. the respective bill passed in this regard and the opinion expressed by the people upon passing of triple talaq bill.

**A Survey was Conducted By Bhartiya Muslim Mahila Andolan (2017)** – with 4710 sample from economically weak strata of the muslim community. finding revealed that the divorce rate is 11.14 percentage economically weak strata Muslims and among them 8.67 percentage divorces are given by instant triple talaq (talaq a biddat).

**Omoruyi (2014)** In carried out, there is a significant difference between single parenting & academic performance of the adolescents and socio – economic status of the adolescents & academic performance there is a positive relationship between adolescents from broken homes and academic performance.

**Khurshi and khatoon (2012)** In pointed out in their study that the divorce rate alarmingly increasing worldwide that has deformed the structure of eastern countries like those of western even the Islamic states are also growing at the same rate in this regard. Divorce has become a global Issue now days the spirit of the marital bond is not understood by so many couple and they fill their lives with Depression and dissatisfaction by spoiling this sac red relation. Divorce results in extremely painful ending of a family life. Islam allows the individual's to entertain their right of Divorce but there must be some solid reasons behind it.

**Moinuddin (2000)** in this book '**Divorce and Muslim women**' he collected by carrying out field work in two gram pancinayats of west Bengal. The study also looks into the socio-psychological problems of divorced and separated women. The present study is an exploration of the practice of divorce among the muslim women in India with particular reference to west Bengal. It examines the Incidence of divorce and separation. The manner in which take place the social and other causes due to which it persist and the position of the divorced and separated Muslim women in society he has been found that of the interviewed families at least 77 percentages in murshidabad and 57 Percentage in bardhman belong to the low income group and the data can be said to provide the complete picture of the relationship between divorce and income levels in the selected Areas.

### **Objective of the Study:**

- To understand meaning of triple talaq.
- TO know right of muslim woman to pronounce talaq under the dissolution of Muslim marriages act 1939".
- To know right to claim maintenance under the Muslim women (Protection of rights on Divorce) act 1986.
- To study the Muslim women (Protection of rights on marriage) act 2019.

### **Research methodology:**

This research study is based on secondary data sources the secondary data collected from sources like different published research papers, book articles and this study is descriptive nature.

### **Meaning of triple talaq:**

Talaq is an Islamic word for divorce denoting dissolution of marriage. Triple talaq which is also known as talq-ul-biddat is a practice of giving talaq by uttering continuously three times and such practice is neither recognized by the Quran nor by the prophet Mohammad (PBUH). It is an instant and irrevocable kind of talaq with immediate effect without any recourse to arbitration or reconciliation with the help of relatives friends and sharia courts.

**Right of Muslim woman to pronounce talaq under "The dissolution of Muslim marriage act 1939'** - before 1939 act a Muslim wife was having no right to ask for divorce except on the ground of false charges of adultery insanity or impotency of the husband. But after passing of the dissolution of Muslim marriage act 1939 it lays down several other grounds on the basis of which a Muslim wife many get her divorce decree passed by the order of the court.

**Right to claim maintenance under the Muslim women (protection of rights on divorce) act 1986** – a section to Muslim community opposed this verdict as being against the shariyat and alleged that maintenance to divorced wife beyond iddat period is Islamic where as others among the Muslim community favoured this judgment being in accordance with the shariat and in the larger interest of Muslim women. However conceding to the demands of a section of the Muslim community the parliament enacted the Muslim women (Protection of rights on Divorce) Act 1986. The Act is applicable to every

such divorced women who was married according to Muslim law and has been divorced by her husband under the provision of Muslim law.

**Muslim Women (Protection of Rights on Marriage) Act 2019** – Triple talaq law also known as Muslim women (Protection of Rights on marriage bill 2019) was passed by Indian Parliament as a law on July 30, 2019 to make instant triple talaq a criminal offence and provides for a jail term of three years for a Muslim man who commits the crime. According to clause 3 in chapter 2 of the bill any pronouncement of talaq by a person upon his wife by words, either spoken or written or electronic form or in any other manner whatsoever shall be void and illegal.

The clause 3 also states that who ever pronounces triple Talaq upon his wife shall be punished with imprisonment for a term which may extend to three years and fine.

**According to clause 7 (C)** – “In Chapter 3 “No person accused of an offence Punishable under triple Talaq law shall be released on bail after the magistrate on an application filed by the accused and after hearing the married Muslim woman upon whom Talaq was pronounced is convinced that there are reasonable grounds for granting bail to the accused”

### **Custody of children:**

clause 6 in chapter 3 of the bill states that “ A married Muslim woman shall be entitled to custody of her minor children in the event of pronouncement of Talaq by her husband in such manner as may be determined by the magistrate.”

### **Finding:**

We are living in the 21<sup>st</sup> century and we still have to argue for such basic rights when it comes to women. 85 percentage higher secondary madarsa girls and 80 percentage higher secondary school girls expressed the bill seeking to criminalize the practice of instant triple talaq is illegal (Parveen 2016), divorce rate is 11.14 Percentage among economically weak strata Muslims and among them 8.67 Percentage divorce are given by instant triple Talaq ( Bhartiya Muslim Mahila Andolan 2017) the divorce rate is the highest for the Buddhist Community 6.73 Per 1000 marriages followed by Christians 5.67 and Muslims 5.63 per 1000, other communities 4.1, Jain 3.04, Hindus 2.60 and Sikhs 2.56 (The India Express report 5 May 2017).

### **Conclusion :**

Considering the social and historical background of India, a bitter truth to be accepted is that women are always considered as the inferior gender. The society has always and possibly even today is discriminating women. One of the most important conclusions to be drawn through the abolishing of Muslim women protection of rights on marriage act 2019 is that no Muslim women will face such discrimination and injustice in their life in future.

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