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TRIPLE TALAQ: JUDICIAL AND LEGISLATIVE HISTORY

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ABSTRACT
The Legislature and Judiciary are entrusted with the sacred responsibility and duty of reforming the society and reforming the society and bringing change to further the transformation of people's conscience. The recent past is evidence of this responsibility acquiring its practical form. There have been major ground breaking and revolutionary judicial pronouncements and legislative enactments which are aimed at doing away with archaic practices. One such instance can be ascribed to prohibition and scrapping of the unconstitutional practice of 'talaq-e-biddat' or triple talaq. The researcher in this research paper has therefore analysed the practice of triple talaq adopting a critical view. The research paper has elaborated the concept and issues associated with triple talaq by analysing various judgements as well as certain legislations relevant to the discussion. The researcher here has tried to ascertain the judicial and legislative history of the practice of triple talaq while also giving his own views on the matter as to its constitutionality and morality. In the further part of the paper the researcher has also tried to relate the matter with concept of feminist jurisprudence and concluding by stating the need of an Uniform Civil Code as enshrined under article 44 of the Indian Constitution. The aim of the researcher here is to provide a comprehensive facet of the practice of triple talaq and explain how it was ultimately abrogated.

Keywords: triple talaq, uniform civil code, feminisim.

INTRODUCTION

Indian judiciary is at its prime delivering ground-breaking judgements within such short period of time which ranges from permitting same sex marriages to allowing the entry of women in the Sabrimala temple. One of such landmark judgement is the Supreme Court verdict on the issue of 'Triple- talaq' or 'talaq-e-biddat' which was given in the case of *Shayara Bano v. Union of India*[1]. The judgment was seen as step ahead in women empowerment, gender equality and instilled in the citizens of India a hope of Uniform Civil Code. The judgement has been widely acclaimed amongst judicial experts although having been a victim of large number of Muslim population and other extremists. In spite of the wide criticisms it received, it was accepted with wide arms by the Muslim women who saw the judgment as a tool for their emancipation, liberating them from the blockades of unreasonable religious customs and traditions.

Triple talaq or talaq-e-biddat has been a practice adopted by the Muslim husbands for a very long time to divorce their wives. This practice has been called as being bad in theology, but still it was in prevalence until the judiciary finally stepped in and came up with concrete steps. However, the case of

[1] *Shayara Bano and Ors.* v. *Union of India and Ors.* (2017) 9 SCC 1.

Shayara Bano is not the first instance where the issue has been brought before the Court. There have been many earlier instances where this issue has been raised before the Indian Courts, but with no significant result. The Legislature has also been in the shadows when confronted with the issue by the public. Still India is awaiting a final act to be passed making the practice of talaq-e-biddat as unlawful, replacing the ordinances.

Taking this into consideration, the researcher in this research paper has tried to analyse the judicial and legislative trends which the practice of talaq-e-biddat or triple talaq has undergone. The research paper proceeds by first explaining the practice of talaq-e-biddat and its status in the Islamic religion followed by laying down various judicial pronouncements dealing with triple talaq and its validity. The author has tried to gasp a trend among the judicial pronouncements and then has proceeded to the legislative side of the issue to further have a comprehensive picture of how India has so long was dealing with the practice of talaq-e-biddat. Thus conclusively, it would be pertinent to say that this research paper deals with plethora of judgments of the Hon'ble Supreme court on this issue and also takes into account the actions of the Legislature to that effect.

FORMS AND KINDS OF TALAQ UNDER ISLAM AND THEIR STATUS-

Though the marriage under Islam is of sacred status, the window for dissolution has been provided under the Quran in cases where it has become apparent that the marital alliance cannot be peacefully maintained. The separation initiated at the instance of the wife is called as 'Khula', while the one initiated at the instance of the husband has been called as 'Talaq'. The separation with mutual consent is called as 'Mubarat'.[2] It is the second kind of separation of which triple talaq is a part. Talaq is further divided into three categories, namely- talaq-e-ahsan, talaq-e-hasan and last one talaq-e-biddat. The first two forms of talaq are considered as being reasonable and thus largely permitted amongst the Muslims. The reason because of the ahsan and hasan forms of talaq are considered as reasonable is because they provide an opportunity for the husband and wife to have reconciliation and also the pronouncements of talaq are not made after prescribed period of times thus giving them enough time to change their mind regarding separation. Both these forms of talaq holds good both in theology as well as in law as they are revocable.

Talaq-e-biddat – talaq-e-biddat or triple talaq involves three consequent pronouncement of the term 'talaq', for instance "talaq,talaq,talaq" by the husband in a single sitting. The pronouncements then severs the matrimonial ends irrevocably between the husband and wife. This form of talaq is largely practiced by the Hanafi school of Islam. In the Shayara Bano case, the petitioners have made it clear that Quran does not permit this form of talaq and is therefore considered as bad in theology. Though legally permitted, it was regarded as sinful even by those who practice it.

The reason why this form of talaq has received such a mammoth criticism is due to

[2] Geeta Pandey, Triple talaq: How Indian Muslim women fought, and won, the divorce battle, BBC, 22 August 2017. http://www.bbc.com/news/world-asia-india-40484276. (accessed on 10/06/2019).

its draconian character.[3] Much of the criticism has come from Muslim women who are of the stand that permitting the man to follow the practice of talaq-e-biddat makes them the chattel of their husbands who on lives on the whim and caprice of them. The situations started to turn more bitter in the modern times when new ways of divorcing through talaq-e-biddat came in prevalence. These include divorce by way of text messages, video calls on skype, writing talaq three times on a piece of paper and handing it over to the wife and many other such imprudent ways.[4] This angered the Muslim women because such pronouncements were made without even consideration to the fact that they are pregnant, or of old age etc. but the reason that this practice was legal until now is because it constituted a part of the personal laws of Muslim and thus Judiciary as always, was reluctant to interfere with the matters of the personal law. This practice have been challenged for quite a few time before the judiciary which will be discussed in the following part of the paper. however one thing that is to be kept in mind is that the practice of talaq-e-biddat was a lopsided tool in the hands of Muslim husbands giving them a superiority in relation to their wives.

THE COURTS AND THE ISSUE OF TALAQ-E-BIDDAT

Before facing the 5-judge constitutional bench of the Hon'ble Supreme Court in the year of 2017 in case of Shayara Bano, the issue of triple talaq has been dealt with in several of the earlier judicial pronouncements. Thus it would be right to say that this issue has underwent a long road in the Indian judiciary.

Rashid Ahmed* v. *Anisa Khatun[5]- The Rashid Ahmed case is one of the earliest cases bringing triple talaq at the doors of the judiciary. The brief facts of the case were that the husband, Ghiyasuddin, after being married for about a month divorced her wife in front of two witnesses but in the absence of the wife herself. The talaq was made practicing talaq-e-biddat. In spite of the pronouncement the cohabitation continued for fifteen years until death of the husband. The divorce was challenged by the wife because of it having been pronounced in her absence and also because of continuation of cohabitation. Apart from other issues, the one pertinent for this study is the validity of triple talaq. Judgment here upheld the validity of talaq pronounced in absence of the wife and thus uphold the validity of triple talaq. However it is pertinent to note that the judgement was delivered in the year 1932, before the enactment of Muslim Personal Law (Shariat) Act, 1937. Thus the later judgements have regarded the decision as being based on incorrect understanding of the Muslim personal law Shariat.

Though upholding the sanctity of triple talaq, Justice Baharul Islam observed that talaq must be on reasonable grounds involving attempts of reconciliations involving the members of their families. It is only after such attempts have failed that divorce must be finalised.

[3] Anupama Katakam, 'There is a misconception about triple talaq,' Frontline, 2 February 2018. http://bit.ly/2DQJISG. (accessed on 10/06/2019).

[4] Michael Safi, India court bans Islamic instant divorce in huge win for women's rights, The Guardian, 22 August 2017. http://bit.ly/2imH7dd. (accessed on 10/06/2019).

[5] *Rashid Ahmed* v. *Anisa Khatun* AIR 1932 PC 25.

Jiauddin Ahmad* v. *Anwara Begum[6]**-** This Guwahati High Court judgment dealt with the validity of talaq-e-biddat. The husband here contested the claim for maintenance by his wife on the ground that he has divorced her by the pronouncement of triple talaq. While delivering the judgement, the learned judges relied on the commentaries of eminent scholars such as Mohammad Ali and Yusuf Ali which have described triple talaq as being whimsical and capricious and therefore has considered as being bad in theology. The court also acknowledged the fact that in the instant case there was no reasonable ground and any attempt of reconciliation initiated by the husband. Having being short of these essentials, the court held the divorce pronounced by the husband as being invalid and thus the marriage was found to be still in existence. Also it was observed that though the husband pleads that divorce has been pronounced but there has been no proof presented for the approval of this fact.

Must. Rukia Khatun* v. *Abdul Khalique Laskar[7]**-** As other cases, the facts of this case too are related to the issue of talaq-e-biddat's validity. When maintenance was demanded from the husband by the wife, he contended that he has divorced her by following the practice of triple talaq and was therefore under no obligation to pay her the maintenance. Deliberations included references to Quran and Ameer Ali's Treatise on Mohammadan Law among others. It was observed that when talaq is given on unreasonable ground's, it amounts to stupidity and ingratitude towards god. Also by having made references made to the Quranic verses, conclusion was derived at that for a talaq to be effective there are certain conditions precedent to it. These conditions include, and which have been reiterated from time to time in other judgements, attempts at reconciliation through appointment of arbitrators from each side. It is only after the failure of arbitration that husband is finally able to talaq his wife.

For these conditions to operate, a certain time period is requisite which under triple talaq is not possible. It for this reason that the court in this case ruled that the triple talaq pronounced by the respondent husband to his wife was not a valid one because it fell short of all the requisite pre conditions. Thus the talaq was held be invalid.

Masroor Ahmed* v *State (NCT of Delhi)[8]**-** The facts were that Aisha Anjum, the wife was married to Masroor Ahmed, marriage was consummated, and they had a daughter. After she left the matrimonial home due to demands of dowry, the husband filed for restitution of conjugal rights after which she returned. However, there was once again some discords between them following which the husband pronounced talaq-e-biddat to her wife. The wife then complained that husband lied to the court and has already divorced her while he was claiming for restitution of conjugal rights and that if she had known this fat earlier she would not have agreed to have conjugal relations with him.

While forming the issues, the Court had before it the challenge on the legality and effect of triple talaq and whether talaq given in anger result in dissolution of marriage. The court in its conclusions observed that the Islamic schools consider the practice of triple

[6] *Jiauddin Ahmed* v. *Anwara Begum* ,1981 1 GLR 358.
[7] *Must.Rukia Khatun* v. *Abdul Khalique Laskar* (1981) 1 GLR 375.

[8] *Masroor Ahmed* v *State (NCT of Delhi)* 2008 (103) DRJ 137.

talaq as sinful and invalid. It is bad in theology but still good in law. However the distinctive feature of this judgement was that it considered the pronouncement of three consecutive talaqs under talaq-e-biddat as a single pronouncement of talaq and therefore for final separation the husband would have to follow the procedures of other forms of talaq namely, ahsan and hasan.

These are the judgements which expressly dealt with the issue of triple talaq as the main challenge and there seem show be a clear fact that only the Rashid Ahmad case is the only one which had upheld triple talaq. The similar thing was witnessed in the case of *Sarabai* v. *Rabiabai*[9] where it was expressed that in spite of biddat being bad in religion and considered as sinful, still it is good in law and 'good' here refers that it is permissible under law. Another judgement pronounced in the year 1917 held that, "*Basically Sunna sanctions only two modes of divorce, but since the second century of the Mahomaden Era talaq-e-bidat has been recognized as a valid mode of repudiation and once pronounced cannot be revoked*".[10] The similar is the case with other judgment's which upheld the practice of talaq-e-biddat due to it being the most common form of practicing talaq[11] as well as due to being the most prevalent form of talaq among the Muslims.[12]

After going through the judgements of the Courts on the issue of triple talaq few things are apparently clear that the reason why triple talaq is being considered as invalid is because it lacks the time period for fulfilling the condition of conciliation. This has been reiterated in plenty of cases.[13]

Though the above mentioned judgments have dealt greatly with the practice of talaq-e-biddat, however they were unable to reach a decisive result considering the hardships caused by it being in prevalence. It was in the year of 2017 that Supreme Court finally declared the practice as being unconstitutional and being violative of the fundamental rights in the ground-breaking judgment of Shayara Bano v Union of India.

Shayara Bano and Ors.* v. *Union of India and Ors.[14]- The popular case of Shayara Bano v. Union of India strikes the practice of triple talaq from its roots. The five judge constitutional bench of the Supreme Court delivered the judgement on 22nd August, 2017. The petitioner in this case challenged the triple talaq pronounced to her by her husband calling it as discriminatory and making the wives appear as chattel of their husbands.

While deliberations were taking place in the court, wide range of cases were taken into consideration dealing with the practice of triple talaq. Also the position of talaq under Quran and Muslim personal law Shariat was dealt with for ascertaining its religious sanctity.

Some of the major contentions of the petitioners challenging the validity of the practice were that first of all the practice of talaq-e-biddat is considered as sinful under

[9] *Sarabai* v. *Rabiabai* ilr 1906 30bom537.
[10] *Amiruddin* v. *Musammat Khatun Bibi*, (1917) 39 Ind. Cas. 513 (All)
[11] *Zohara Khatoon* v. *Mohd. Ibrahim*, (1981) 2 SCC 509.
[12] *Amad Giri* v. *Mst. Begha*, AIR 1955 J&K 1.
[13] *Kunhimohammed* v.. *Ayishakutty* 2010 (2) KHC 64*; Dilshad Begum Ahmedkhan Pathan* v. *Ahmad khan Hanif Khan Pathan & Anrs* LNIND 2007 Bom 61.
[14] (2017) 9 SCC 1.

the Islamic religion and it only the Hanafi school of Islam which considers it to be valid. The Hanafi school though considers it to be valid regards it as sinful. Thus what has been already declared as unpracticable by its followers itself should also be declared as being unlawful by the courts.

Another contention on the behalf of the petitioners was that it is in violation of right to equality[15] which is a constitutionally guaranteed right available to all the citizens of the country. The practice permits the husbands to arbitrarily divorce his wife without her having any say in it. It was also violative of article 15[16] of the Indian Constitution which prohibits discrimination on grounds of sex. The learned counsels thereafter contended that the practice of triple talaq does not constitute an essential religious practice of Islam. This point negates the contention of the rival parties which contends that talaq-e-biddat constitutes and essential religious practice and is sacrosanct to the religion. This contention if was upheld would have given the practice constitutional protection form intervention by the virtue of article 25 of the constitution. It was the point of the conditions that since it is not, therefore the court had all the powers to intervene and end the practice because of violative of fundamental rights.

To further strengthen their contentions the petitioners' side argued that in other countries, even Islamic Theocratic countries, the practice of triple talaq has been done away with legislation and thus India should also do the same, that is , do away with the practice. Mr. Anand Grover, senior counsel on behalf of the petitioners further added that the reason why the triple talaq has not already been abolished is because of the British courts ignore independence era validating the practice. This is reference to the *Rashid Ahmed* case.

The issues before the Hon'ble bench of Judges were that whether the practice was an essential religious practice, whether it was Islamic and whether the practice has been made statutorily enacted by section 2[17] of the Muslim Personal Law (Protection) Act, 1937.

[15] Article 14- Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

[16] Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them
(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
(a) access to shops, public restaurants, hotels and palaces of public entertainment; or
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public
(3) Nothing in this article shall prevent the State from making any special provision for women and children
(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

[17] Application of Personal law to Muslims.—Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including talaq, ila, zihar, lian, khula and mubaraat, maintenance, dower, guardianship, gifts, trusts and

The judgment of the Supreme Court delivered received a majority of three with two being in minority. The majority opinion included Justice Nariman who wrote the judgement on Justice U.U. Lalit's behalf too which shows his concurrence. A separate majority judgement was written by Justice Joseph highlighting his own observations on the issue. While Justice Nariman, Justice Lalit concurring with him, held it to be violative of fundamental rights of the enshrined under the constitution and thus invalid, Justice Joseph observed that having already been regarded as bad in theology, it was only pertinent to delve into the legal sanctity of the practice. He relied on the judgement of Shamin Ara v. State of U.P. which declares that triple talaq lacks legal sanctity. His judgement relied on the earlier judgements which had already declared the practice of triple talaq as being invalid and unlawful. Having considered these pronouncements, Justice Joseph declared the practice as unlawful, unconstitutional and therefore liable to be abolished.

Justice Nariman in his separate judgement came to the conclusion that the practice of talaq-e-biddat is not an essential religious practice under practice under Islam and thus the Court has the authority to intervene and abolish the foresaid practice. Learned judge held that the Act of 1937 transformed the personal law into aa statute and was thus a law in force. Since it was violative of the fundamental rights it was to be struck down by the virtue of article 13 [18]of the Constitution.

However the minority opinion of the Chief Justice Khehar and Justice Nazeer differed on the opinions holding that the practice constituted essential practice of the religion and thus was under protection of article 25. They therefore regarded that having constitutional protection, the Court does not have the authority to declare it as unlawful, rather it is the Legislature who has the power and responsibility to pass relevant law on the mater and declare it as unlawful and ultimately ban it.

In the end however, it was ultimately decided that the practice need to be declared as unconstitutional to stop it from being practiced by the Muslim husbands all over India. It is worth mentioning that this judgement while arriving at the conclusions

trust properties, and wakfs (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (Shariat).

[18] Laws inconsistent with or in derogation of the fundamental rights

(1)All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void

(2)The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void

(3)In this article, unless the context otherwise requires law includes any Ordinance, order, bye law, rule, regulation, notification, custom or usages having in the territory of India the force of law; laws in force includes laws passed or made by Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas

(4)Nothing in this article shall apply to any amendment of this Constitution made under Article 368 Right of Equality.

took into its ambit wide variety of sources and dealt with mammoth concepts ranging from the stand of Quran on talaq, legislations all over the world on triple talaq and a numerous list of cases f Indian courts on the practice and related issue. Thus it can be aptly said that the decision was not taken haste but was done after proper considerations and deep research on the issue.

Thus after going through a plethora of judgments over around eight decades, triple talaq was ultimately done away with by the judiciary.

LEGISLATIONS CONCERNING TRIPLE TALAQ

The Indian Legislation has largely been silent on the issue of triple talaq, though it has a codified law in the form of Dissolution of Marriages Act 1939. The Act of 1939 does not mention of the validity or invalidity of triple talaq. Also the act of 1937, 'Muslim Personal Law (Shariat) Application Act' does not provide for triple talaq explicitly but gives validity to personal.

With the pronouncement of the triple talaq verdict by the supreme Court, the Legislature became active in partaking the issue on its hand and has thereto tried to come up with an Act banning the practice in its entirety. However the Legislature has failed to come up at consensus and what India has had in the meanwhile is listed below-

The Muslim Women (Protection of Rights on Marriage) Bill, 2017[19]- Among the present legislations, to protect Muslim women against the crime of triple talaq stands the Muslim Women (Protection of Rights on Marriage) Bill, 2017. According to which whoever pronounces talaq upon his wife, such pronouncement is illegal and void. Adding to the bill, it is stated that such an act is a punishable offense, leading to a imprisonment extending up to 3 years and fine. Furthermore, it is clearly expressed that any other law present shall not disentitle the victim wife to demand a amount of sustenance for her and her children . She shall further be entitled to the custody of her minor children. The act has been taken as a cognizable and non-bailable offense.

The Muslim Women (Protection of Rights on Marriage) Bill, 2018[20]**-** Amendments in the present bill are necessary from keeping the laws from getting obsolete and therefore a ordinance was passed in the parliament in the year of 2018. Since the supreme court struck down the detrimental practice of triple talaq, the courts have been observing no change in the practice of such an act, and hence a new ordinance had to be formed. Although the basic content was same, there were amendments regarding the act being cognizable, compoundable and punishable. It also creates grounds for bail of the accused under such act. Such amendments are required for the protection of women, however this bill created limited scope for the accused to be protected in cases where there is a mutual agreement on the issue.

The Muslim Women (Protection of Rights on Marriage) Ordinance, 2019-

After the lapse of 2018 ordinance, the central government promulgated this ordinance of 10th January, 2019 receiving presidential

[19] (Bill No. 247 of 2017).
[20] (Bill No. 181 of 2018).

assent on 12th January, 2019. The ordinance of 2019, creates scope for both the parties from avoid the exhausting procedures of court. The bill introduced that in cases where the victim on whom such talaq has been pronounced , request such act to be compoundable , the act can be treated as a compoundable offense, and both the parties can mutually agree on the terms and condition under the magistrate, and avoid the exhaustive legal procedures. This ordinance was to work up to the new bill is passed by both the houses.

The Muslim Women (Protection of Rights on Marriage) Bill, 2019-

After the lapse of 2018 bill and the formation of new house, the bill of 2019 ultimately passed through both the houses successfully though there have been plethora of opposition to it. The bill, once converted to Act, seeks to uphold the decision of the Supreme court in the *Shayara Bano* case. The salient features includes; triple talaq through any mode of communication is to be declared void and illegal, instant triple talaq is a cognizable and non-bailable offence with punishment extending to 3 years along with fines, information of offence can be given by wife as well as one of her blood relatives. The wife will also be entitled to allowances and is entitled to seek custody of her children, the manner of which will be determined by the magistrate.

After much turmoil, the bill has been passed by the upper House receiving 99 favor votes and about five hours of debate. The only destination left in the journey of the bill is to receive the assent of the president which will convert it into an act thus concluding what was started by the judiciary in combating the practice of triple talaq.

The Muslim Women (Protection of Rights on Marriage) Act, 2019- The bill after being successfully passed in both the houses, amid plethora of criticisms from the opposition, has ultimately received the assent of the President, thus concluding its legislative journey and its transformation into law. The provisions of the Act seeks to criminalise the practice of triple talaq and provides for imprisonment of three years to the husband divorcing her wife by way of this. Thus it can be said that what was started by the judiciary has been concluded by our Legislature.

However this must not be regarded as an end to this, it is now for the actual subjects who will be governed by this law to accept it whole heartedly to further the constitutional morality. It is on the society to implement the law effectively and thus fulfil the aim of the Legislature.

FEMINIST JURISPRUDENCE AND THE ISSUE OF GENDER JUSTICE-

The Supreme Court judgement quashing instant triple talaq – talaq-e-biddat – is not only a big relief for Muslim women who suffer unilateral and irrevocable invalidation of marriage, but also a liberating step in their fight for justice against unjust and archaic practices[21]. The Shayara Bano case dealt not only with question of constitutional validity or protection of fundamental rights but it has been a great leap in achieving justice or more precisely gender justice. The practice of triple talaq was seen as discriminating and arbitrary

[21] A L I Chougule, SUPREME COURT VERDICT WAKE UP CLL FOR GENDER JUSTICE(article),2017, https://www.freepressjournal.in/editorspick/supreme-court-verdict-wake-up-call-for-gender-justice-ali-chougule/1128258.

against the women giving the man an upper hand and thus subjugating the feminine gender.

The supporters of the school of feminist jurisprudence works in the favour of Rights of Women. The petitioners themselves can be seen as proponents of this ideology. It is clear from their contentions that what they advocate is essential to establish gender equality in India. The verdict has not only benefitted the appellant party but it can be seen as a boon to a large section of Muslim women who were earlier subjected to several atrocities at the hands of their husband. The triple talaq Act can be seen as adoption of feminist jurisprudence in the working of the Parliament. The working and law making is now slowly becoming woman need centric, which have long been a demand of the Indian society.

NEED FOR UNIFORM CIVIL CODE- ANALYSIS

The Judiciary and Legislature has done what they were entrusted to do. The practice of triple talaq has been declared as void and illegal , the practitioner of which will be imprisoned for three years. The Muslim women are the special, or we can say, the prime beneficiary of the triple talaq Act. From a long period of time, a Muslim woman's marital life was always under sword of being declared dissolved. Women were treated as mere chattel off her husband who can at his will dispose of her anytime he wanted by simple utterance of talaq three continuous time in a single seating. But the judiciary and Legislature both took upon them a daring task, which is rarely seen, to bring changes in the practices associated with, o sanctioned by the religion itself. They interfered in, what was contended by the opposing parties in the *Shayara Bano* case, their personal matters. The whole issue emerged due to absence of a Uniform Civil Code which would have made uniform laws applicable to every community and people irrespective of their religion.

The need for personal laws to be replaced by a uniform law emerges for the reason that there are several discrepancies in the personal laws of different communities and it would be prudent that such diversified communities would be governed by a single code of law. The benefit of the uniform code will be that the work of parliament would become hassle free if they wish to amend certain religious practices which are, 'though good in theology, but bad in law'. The prominent benefactors would ultimately those governed or comes within the ambit of law, that is the society at large.

This could not be explained any better without taking into consideration the practices permitted under Muslim law. The practices such as '*Nikah halala'* and allowance of keeping four wives, that is polygamy, are permitted under Muslim law, but doesn't find a place in other personal laws. though they are considered draconian by even those for whom they are, not much success has been achieved in abrogating them. The Uniform Civil Code as mentioned in Article 44[22] of our Constitution, would prove to be the only effective solution for such practices. Since such practices are not permitted under other religions but only in Islam, it is violative of article 14 of our

[22] Article 44- Uniform civil code for the citizens The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Constitution. The hope in the future is to take some lessons from the acts of Judiciary and the Parliament to finally bring a Uniform Civil Code to reform and make the religions free from evils.

CONCLUSION

Having gone through the judicial and legislative trends which the practice of talaq-e-biddat has been a witness of, it can be concluded that the year of 2017, the year when the judgement of Shayara Bano was pronounced was nothing but a victory for the Muslim women who have been for long been a subject of discrimination and arbitrariness at the hands of their husbands who have hitherto kept them at their whim and caprice. This practice had been followed for about 1400 years and it has always been derogatory for the women. It was however with the growth of legal system which ultimately provided them with the ground to raise their voices. The Supreme court in the year 2017 has done what the Indian judiciary had for so long had been unable to do. It fulfilled the aspiration of thousands of Muslim women suffering from the draconian practice of talaq-e-biddat and saved uncountable women who may have suffered if the practice would not have been done away with. After Indian Judiciary performing its part, the legislature has also taken an active role in bringing an Act, as CJI Khehar has said, is necessary by keeping aside their differences, to make the practice as unlawful and provide for stringent punishment for those who still profess it. Apart from judicial and legislative sides, it is also necessary that the Indian society also show it readiness for change which would finally free India from its clutches of age old customs having derogative affect on it. It is also for the All India Muslim Personal Law Board to cooperate with the Legislature on the matter. The Judiciary and Legislation has done its part. It is now time for the society to accept the change and fulfil the constitutional mandate to further the rule of la, gender equality and secularism.

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