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A LEGISLATIVE ELUCIDATE ON TRIPLE TALAQ; ANALYSING THE GLOBAL PERSPECTIVES

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ABSTRACT

From an Islamic perspective, marriage is a social contract, and divorce is seen as the natural process through which a marriage ends. The practice of divorce is seen as a necessary evil in society that should only be used as a last resort while the marital bond is regarded as a noble and sacred one. Practicing instant Talaq is a form among the different types of divorce according to Muslim personal law. It is crucial to examine how far the Muslim population across the globe has accepted Islamic values and how they have responded to criteria like Triple Talaq. The provisions regarding divorce are explained by the Holy Book 'Quran'. This paper titled "A Legislative Elucidate on Triple Talaq; Analysing the Global Perspectives" will extract the global perspective of the Triple Talaq in its utmost practicing law.

Keywords: Triple Talaq, Divorce, Islam, Women, Global.

I. INTRODUCTION

Having approximately 1500 years of history, Islam is regarded to be the second-largest religion in the world. Islam as a religion and as it is practised by the Muslim community, however, differ significantly from one another. Islam is the only faith that demands as many rights for women, as most Muslims do not adhere to these principles. The prophet of Islam brought revolutionary changes as regards the abominable status of women. The Holy Quran gave equal and independent space in society to women such as; political, spiritual, and social, moreover, the holy Quran especially indicates the men that women were treated equally and were created from an equal soul. Women were given equality and equal opportunity in spiritual matters and the same responsibility.

The Prophet Muhammad (peace be upon him) looked at the prevailing practice of divorce with

strong disapproval and considered divorce as demolishing the foundation of society. However, it was not possible to abolish fully the existing customs of divorce without shaping the minds of the cultureless and half-barbarous community to a higher level. Gradually, Muslim husbands were allowed to practice the power to divorce only under certain conditions.

Practicing Triple Talaq or Talaq-al-Biddat is one of the domains which attract widespread criticisms under Islamic law. While many scholars and countries around the globe view this as the unacceptable or rather sinful form of divorce, that seems to be the most indulged in the law itself¹, until very recently. Under this mode of Talaq, the husband can revoke the marriage relation in the instant by merely writing or proclaiming the word ‘Talaq’ three times continuously to his wife. Triple Talaq is regarded as a not revocable and instant mode of Talaq which was first introduced by Umayyad’s caliphate and was later practiced by the Hanafi School jurists². This model has certain inherent ridiculousness. The circumstances a Muslim husband says “Talaq, Talaq, Talaq”, then the wife becomes divorced and not lawful to him if such words were used by him, under coercion, or in a rage moment or an intoxicated mood and then in the next moment he regrets his act of pronouncement.

Triple Talaq is not supported or permitted in many Islamic countries and scholars and experts disagree on its legality. Several Muslim nations, including Saudi Arabia, Turkey, Iraq, Indonesia, Algeria, Tunisia, Malaysia, Iran, Pakistan, and Bangladesh forbid or do not perform triple Talaq. The practice tends to undermine women's self-esteem in addition to being unreasonable due to its hurried and unilateral nature.

1.1. Background

In India, the findings of the judiciary are against the practice of instant Talaq or often addressed as Triple Talaq. Before the leading judgment by the Supreme Court in *Shayara Bano v. Union of India*³ various high courts in India have observed different views on practicing the Triple Talaq. One view is that Triple Talaq is even it is good in law but bad in theology and the other view that Islam does not allow Triple Talaq without any grounds and by giving suitable chances for reconciliation between the parties and Islam considers the settling matter in a good way is better

¹Amiruddin v. Mst. Khatun Bibi, (1917) 39 All.371

² Dr.Moin Qazi, (2010) ‘Tracing the history of Triple Talaq to look to the future’ Qrius, <https://qrius.com/history-triple-talaq-future>.

³ Shayara Bano v. Union of India &Others, (2017) 9 SCC 1

than the divorce according to the Quranic verses⁴. As per the teachings of the Quran to practice the Triple Talaq the parties should give the chance for reconciliation by appointing two arbitrators for settling the matter in a good way one from each party. Now India the practice of Triple Talaq was held unconstitutional and struck down in the famous case and the bill was passed in both sabhas on 30th July 2019 inserting the penal provision for the Triple Talaq practice without considering the interest of the opposition. Hence, it is crucial to examine how far the Muslim population across the globe has accepted Islamic values and how they have responded to criteria like Triple Talaq and is inevitable to extract the global perspective of Triple Talaq in its utmost legal practice of other countries in comprehending their status of subject matter.

II. TRIPLE TALAQ FROM A GLOBAL PERSPECTIVE

To understand Muslim women's status at the global level, very important to analyse how far Islamic principles have been embraced by the Muslim community residing at various corners of the world and their response to practices like triple Talaq, which are deemed as bad in practice even good in law. A perusal of the legislative framework prevalent in various countries across the globe would answer this search about the general status and condition of Muslim women. It would also help in understanding how far the Indian laws are at par with the current trend against triple Talaq.

In several Muslim countries around the world, the law no longer recognizes divorce by Triple Talaq as a legally valid one. Recently, many countries have come to realize that Triple Talaq doesn't have any recognition in Islamic sources and certainly practicing in any place in modern countries following Islamic law. The three pronouncements are taken as a single pronouncement of Talaq in most of these countries.

1. Algeria

Algeria is one of the theocratic States, which declares Islam as an official state religion. The Sunni of Muslims sector is regarded as the majority. As regards the practice of triple Talaq, the state has introduced "The Code of Family Law 1984"

The 49th Article of the aforesaid Act reads: "*Divorce cannot be established except by a judgment*

⁴ Jiauddin Ahmed v. Anwara Begum, (1981) 1 GLR 358, Rukia Khatoon v. Abdul Khaliq Laskar, (1981) 1 GLR 375, Nazeer v. Shemeema, 2017 (1) KLT 300.

of the court, preceded by an attempt at reconciliation for a period not exceeding three months.⁵”

2. Pakistan And Bangladesh

On December 1971 Bangladesh separated from the control of Pakistan. There was following the British-made laws which were in practice in the British regime containing India and Pakistan for the issues of personal laws.⁶

Pakistan and Bangladesh are theocratic countries with Islam as an official religion in the states. The Sunni Muslims sector constitutes the majority. They have, to handle the matter regarding divorce, “The Muslim Family Laws Ordinance 1961” -Ordinance VIII of 1961 as amended in ordinance 114 of 1985).

The relevant provisions of the said law are as under-

“Section 7; (1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of Talaq in any form whatsoever, give the Chairman a notice in writing of his having done so, and shall supply a copy thereof to the wife.

(2) Whoever contravenes the provision of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year, or with a fine which may extend to five thousand rupees, or with both.

(3) Save as provided in subsection (5), a Talaq unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of ninety days from the day on which notice under subsection (1) is delivered to the Chairman.

(4) Within thirty days of the receipt of notice under sub-section (1) the Chairman shall constitute an Arbitration Council to bring about reconciliation between the parties, and the Arbitration council shall take all steps necessary to bring about such reconciliation.

(5) If the wife is pregnant at the time Talaq is pronounced, Talaq shall not be effective until the period mentioned in subsection (3) or of pregnancy, whichever are later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by Talaq effective under this section from re-marrying the same husband without any intervening marriage with a third person unless such termination is for the third time so effective.⁷”

⁵ The Code of Family Law, 1984.

⁶ Shahid, Ayesha, (2013) "Post-divorce maintenance for Muslim women in Pakistan and Bangladesh: A Comparative Perspective," International Journal of Law, Policy and the Family: p- 197-215.

⁷ The Muslim Family Laws Ordinance, 1961.

3. Egypt

Egypt is one of the most populous Arab countries, with the largest population of 77,505,756 as reported in July 2005⁸. Nearly all the population is concentrated notably in along the Nile delta, Alexandria and Cairo, and near the Suez Canal. Approximately 94% of the population in Egypt follow Islam as their religion, mostly Sunni Muslims.

In Egypt, the statute, “The Law of Personal Status 1929” (25 of 1929 later amended in 100 of 1985) governs the matters pertaining to divorce. It does not warrant the practice of triple Talaq. The relevant provisions of the Act are:-

“Article 1: A Talaq pronounced under the effect of intoxication or compulsion shall not be effective.

Article 2: A conditional Talaq which is not meant to take effect immediately shall have no effect if it is used as an inducement to do some act or to abstain from it.

Article 3: A Talaq accompanied by a number, expressly or impliedly, shall not be effective except as a single revocable divorce.

Article 4: Symbolic expressions of Talaq, i.e., words which may or may not bear the implication of a divorce, shall not affect a divorce unless the husband intended it.”⁹

4. Indonesia

The freedom of religion among Indonesians is guaranteed by the Constitution of Indonesia. However, as per the constitution, the six religions are officially recognised by the government such as Islam, Hinduism, Buddhism, Catholicism Protestantism, and Confucianism.¹⁰ The Sunni sector of the Muslim community constitutes its majority.

Indonesia has two laws that govern marriage-related matters. They are “The Law of Marriage 1974” 1 of 1974 and “The Marriage Regulations 1975” (law of 9 of 1975).

Article 38 of “The Law of Marriage 1974” 1 in 1974 provides, “A divorce shall be effected only in the court and the court shall not permit a divorce before attempting reconciliation between the parties. Divorce shall be permissible only for sufficient reasons indicating breakdown of the

⁸ Jamila Ahmed Chowdhary, (2006) “Family Court ADR in Egypt and some exemplary provisions for other Muslim Countries.” <http://www.diac.ae/ideas/journal/volume2sp2/chowdhurye.pdf>.

⁹ The Law of Personal Status 1929.

¹⁰ Ropi, Ismatu. (2017) Religion and regulation in Indonesia. Springer.

marriage.”

The Article 41 of the said act deals with the payment of alimony. It reads, *“In the event of a divorce both the parents shall continue to be responsible for the maintenance of their children. As regards custody of children, in case of a dispute between them, the court shall take a decision. Expenses of maintenance and education shall be primarily the father’s liability, but if he is unable to discharge this liability the court may transfer it to the mother. The court may also direct the former husband to pay alimony to the divorced wife”*.

As regards divorce, the Marriage Regulations 1975 (Regulation 9 of 1975) provides for the following:

“Article 14: A man married under Islamic law wanting to divorce his wife shall by a letter notify his intention to the District Court seeking proceedings for that purpose.

Article 15: On receiving a letter the court shall, within thirty days, summon the parties and gather from them all relevant facts.

Article 16: If the court is satisfied with the existence of any of the grounds mentioned in Article 19 below and is convinced that no reconciliation between the parties is possible it will allow a divorce.

Article 17: Immediately after allowing a divorce as laid down in Article 16 above the court shall issue a certificate of divorce and send it to the Registrar for registration of the divorce.

Article 19: A divorce may be allowed on the petition of either party if the other party: (a) has committed adultery or become addicted to alcohol, drugs, gambling, or another serious vice; (b) Has deserted the aggrieved party for two years or more without any legal ground and against the said party’s will;

(c) Has been imprisoned for at least five years;

(d) Has treated the aggrieved party with the cruelty of an injurious nature;

(e) Has been suffering from a physical deformity affecting conjugal duties, or where relations between the spouses have become too much strained to make reconciliation impossible.”

5. Iraq.

Islam is declared its official religion in Iraq. The majority in Iraq are Shia Muslims. Divorce in Iraq is governed by “The Code of Personal Status 1959” (188 of 1959 later amended in 90 of

1987)¹¹. The relevant provisions in the said Act are as under:

“Article 35: No divorce shall be effective when pronounced by the persons mentioned below:

(a) One who is intoxicated, insane, or imbecile, under duress, or not in his senses due to anger, sudden calamity, old age, or sickness.

(b) A person in death-sickness or in a condition which in all probabilities is fatal and of which he dies, survived by his wife.

Article 37: (1) Where a Talaq is coupled with a number, express or implied, not more than one divorce shall take place.

(2) If a woman is divorced thrice on three separate occasions by her husband, no revocation or remarriage would be permissible after that.

Article 39: (1) When a person intends to divorce his wife, he shall institute a suit in the Court of Personal Status requesting that it be ¹²affected and that an order be issued therefor. If a person cannot so approach the court, registration of the divorce in the court during the period of Iddat shall be binding on him.

(2) The certificate of marriage shall remain valid till it is cancelled by the court.”

6. Jordan:

Jordan forms a state of secularism. The Sunni sector of Muslims constitutes the majority in the state. “The Code of Personal Status, 1976” (61 of 1976.) is the law governing divorce in Jordan.

The Code provides for the following:

“Article 88: (1) Talaq shall not be effective if pronounced under intoxication, bewilderment, compulsion, mental disorder, depression or effect of sleep. (2) Bewildered is one who has lost senses due to anger or provocation, etc., and cannot understand what he is saying.

Article 90: A divorce coupled with a number, expressly or impliedly, as also a divorce repeated in the same sitting, will not take effect except as a single divorce.

Article 94: Every divorce shall be revocable except the final third, one before consummation and one with consideration.

Article 98: Where an irrevocable Talaq was pronounced once or twice, renewal of marriage with the consent of parties is not prohibited.”

¹¹ Kelsey Cherland, (2014) “The Development of Personal Status Law In Jordan & Iraq,” CMC Senior Theses , 89, http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1926&context=cmc_theses.

¹² The Code of Personal Status 1959.

7. Morocco

Islam is declared the official religion in Morocco. The Sunni sector of the Muslim sector constitutes its majority. Provisions pertaining to divorce are contained in “The Code of Personal Status 2004” 70.03 in 2004). The said law provides as;

“Whoever divorces his wife by Talaq must petition the court for permission to register it with the Public Notaries of the area where the matrimonial home is situated, or where the wife resides, or where the marriage took place¹³. Such petition will mention the identity of spouses, their professions, addresses, number of children, if any, with their age, health condition, and educational status. It must be supported by a copy of the marriage agreement and a document stating the husband’s social status and financial obligations”¹⁴.

Upon filing the petition, *“the court shall summon the spouses and attempt reconciliation. If the husband deliberately abstains, this will be deemed to be a withdrawal of the petition. If the wife abstains, the court will notify her that if she does not present herself the petition may be decided in her absence. If the husband has fraudulently given a wrong address for the wife, he may be prosecuted at her instance”¹⁵.*

“Thereafter the court will hear the parties and their witnesses in camera and take all possible steps to reconcile them, including the appointment of arbitrators or a family reconciliation council, and if there are children such efforts shall be exhausted within thirty days. If reconciliation takes place, a report will be filed with the court”¹⁶.

“If reconciliation attempts fail, the court shall fix an amount to be deposited by the husband in the court within thirty days towards payment of the wife’s post-divorce dues and maintenance of children”¹⁷.

As per the laws of Morocco, a divorce which was occurred by a person insane or under provocation or coercion will not amount to a valid divorce¹⁸

On Triple Talaq, Code provides that multiple expressions of divorce, whether written or oral, will affect only a single divorce only. Further, all pronouncement of the Talaq by the husband shall

¹³ Article 79 Code of Personal Status 2004 (Law 70.03 of 2004)

¹⁴ Article 80 The Code of Personal Status 2004.

¹⁵ Article 81 of The Code of Personal Status 2004

¹⁶ Article 82 of the Code of Personal Status 2004.

¹⁷ Article 83 of the Code of Personal Status 2004.

¹⁸ Article 90 of the Code of Personal Status 2004.

have the effect of only revocable, except in a third-time divorce, divorce mutually consenting, divorce before consummation of the marriage, and the Talaq by Talaq-e-Tafweez or Khula.

8. Sudan

Sudan is a state of theocratic Islam is considered as its official religion. The Sunni sector of the Muslim sector constitutes its majority. The “Law on Talaq, 1935” (No.4 of 1935) is the law governing divorce in Sudan.

According to the provision of the above statute, a divorce under the condition of intoxication or by threat or provocation will not amount to the valid one.¹⁹ Further, it which is not meant to be effective that a contingent divorce immediately and the divorce occurred under the threat or the inducement will amount to the effect of the void.²⁰

As regards triple Talaq, the pronouncement of many Talaqs in one situation will amount to the effect only on Talaq.²¹ The law also provides in the term that the expression by the husband stated during the pronouncement of divorce will get the effect of the divorce when only the husband intends and meant the divorce by using those terms²².

9. United Arab Emirates

UAE is a state theocratic it has its Federal Constitution. Islam has been declared the official religion in the state. The constitution ensures the freedom of religion in the state .Shia sector of Muslims is the majority group in the state.

As per the laws of UAE²³, when a husband desires the legal divorce of the wife without the consent of the wife then he is liable to provide the wife reasonable compensation that his liability for the maintenance for the Iddat period. The amount of compensation will be decided by the court concerning the means of the husband and the hardship suffered by the wife on the part of the husband, but the amount of the compensation will not the above the amount of maintenance for which the husband is liable to pay concerning the status of the wife. The court will order them

¹⁹ Article 1 of the Law on Talaq, 1935.

²⁰ Article 2 of the Law on Talaq, 1935.

²¹ Article 3 of the Law on Talaq, 1935.

²² Article 4 of the Law on Talaq, 1935.

²³ Article 140 of the Law of Personal Status 2005

to pay the compensation as a total one-time amount or by the way of instalment capability of the husband and also will consider fixing and method of payment of the amount.

10. Yemen.

Yemen is a state of theocracy; Islam is the official religion in the state. The Sunni group of Muslims sector is the majority group in the state. The rules and regulations regarding divorce are contained in the statute of “The Decree on Personal Status, 1992” (20 of 1992). The pronouncement of the Talaq by the husband of an insane or intoxicated condition will amount to ineffective if the divorce²⁴. Also, the words used for the divorce is a conditional to the act of the wife also will not amount to a valid divorce²⁵. Or the word used by the oath or the vow by the husband then if the oath or the vow is broken then also the divorce will not be effective legally.²⁶ With regard to triple Talaq, the law lays that a divorce will affect only a single revocable divorce²⁷.

The law further provides that a husband can revoke the wife from the divorce during the period of Iddat. After then a direct remarriage between them will be lawful²⁸. However, when a husband desires the legal divorce of the wife without the consent of the wife then he is liable to provide the wife reasonable compensation that his liability for the maintenance for the Iddat period. The amount of compensation will be decided by the court concerning the means of the husband and the hardship suffered by the wife on the part of the husband, but the amount of the compensation will not be above the amount of maintenance for which the husband is liable to pay concerning the status of the wife. The court will order the to pay the compensation as a total one-time amount or by the way of installment, the capability of the husband also will consider fixing the method of payment of the amount²⁹.

11. Kuwait

Kuwait is one of the theocratic States. Islam is the official religion of the state and the Sunni sector of Muslims is the majority in the state. According to “The Code of Personal Status, 1984” (51 of 1984), according to the law, a Talaq should be done from a sound mind and with the

²⁴ Article 61 of the Decree on Personal Status, 1992.

²⁵ Article 65 of the Decree on Personal Status, 1992.

²⁶ Article 66 of the Decree on Personal Status, 1992.

²⁷ Article 64 of the Decree on Personal Status, 1992.

²⁸ Article 67 of the Decree on Personal Status, 1992.

²⁹ Article 71 of the Decree on Personal Status, 1992.

intention, of the free will of the party for the legal validity of the Talaq. If a husband divorces in an insane condition, intoxication or he is in a condition of unknowing the nature of the act or under threat or coercion the divorce will not effective but void³⁰.

The law of Kuwait does not recognize triple Talaq and provides that where the pronouncement of Talaq by more than one word, or writing or using the signs then only one Talaq will have legal effect³¹.

12. Lebanon

Lebanon is one of the secular States. Islam is declared the official religion in the state. The Sunni sector of the Muslim is the majority group in the state. As per the laws of Lebanon, divorce by a drunken person or made under threat or coercion will not have the effect of Talaq³².

13. Libya

Libya is one of the theocratic States; it declares the official religion of the state is Islam Sunni sector of the Muslim sector constitutes its majority. "The Family Law,1984" (10 of 1984 amended by Law 15 of 1984) embodies the law pertaining to divorce. As per the same, divorce is a process of terminating a marital contract so the divorce will be effective only if it is approved by a competent court.³³

The law further provides the nature of all divorce is revocable except in the case of Triple Talaq for the prescribed consideration the effect of this will be irrevocable before the consummation of marriage,³⁴.A divorce pronounced by a minor or insane person, or without the clear intention for the divorce, or if pronounced under coercion, shall not have legal effect³⁵.

Divorce by more than one number will be effective in only one Talaq and in the case of Triple Talaq the Talaq will have an immediate irrevocable effect³⁶. Thus, the law repudiates the practice of triple Talaq.

³⁰ Article 102 of the Code of Personal Status, 1984

³¹ Article 109 of the Code of Personal Status, 1984

³² Article 104 and 105 of the Family Rights Law, 1962

³³ Article 28 of the Family Law,1984

³⁴ Article 30 of the Family Law,1984 (Law 10 of 1984 as amended by Law 15 of 1984)

³⁵ Article 32 of the Family Law,1984 (Law 10 of 1984 as amended by Law 15 of 1984)

³⁶ Ibid

Further, for the divorce by mutual consent the approval court is required as the form of the divorce by mutual consent is approved one. If the parties are not ready to comply with the terms then they can approach the court for appointing an arbitrator to deal with the matter³⁷. According to the law, the divorce should be in the open court with the presence of the opposite party or in the presence of the representative.³⁸

14. Malaysia

Islam is recognized as the official religion of the state. The Sunni sector of the Muslims is the majority group in the state. Even though, the states allow the practice of other religions as its policy of harmony and peace among the religion.

According to the provisions of the Islamic Family Law Act 1984 (Act 304 of 1984), the party who intends for the mutual divorce should follow the following certain procedures. the party should file an application to the court for the divorce with details containing the marriage particulars address, sex, name, age, and the number of children with their details and including the jurisdiction of the court to try their application and the application should state the reason for the divorce and the details of the steps taken by the mediators in a matter of the reconciliation of the parties by mediation and the provisions of maintenance of the wife and the children after the divorce and the source of the property and the other sources also contain in the application. If the provision of the maintenance is not contained the party can seek from the court an order for the maintenance also along with the application for divorce.

By getting the application filed from the party the court will serve to summon the opposite party for appearing in court to take consent of the party in the divorce by enquiring on the grounds of the divorce.

If the second party gives consent for the divorce and the court is satisfied after the investigation on the ground of the divorce then the court will direct the husband for the pronouncement of the Talaq of the wife instantly. The court will record the declaration of the divorce and will send the details to the concerned registrar for registration and the chief registrar also.

³⁷ Article 35 of the Family Law, 1984 (Law 10 of 1984 as amended by Law 15 of 1984)

³⁸ Article 47 of the Family Law, 1984 (Law 10 of 1984 as amended by Law 15 of 1984)

If the matter of the divorce appears to the court then when seeking the consent of the party the other party is not consent to the divorce then the court will try for the settlement of the matter by constituting the committee of the mediation constituting by a religious office in chairman and other two members acting as the representative of each party and the issues will refer to the committee by the court. When appointing the members the court will consider the close relations of the parties who will know the background and the circumstances of the parties and their issues. The court will direct the appointed committee for conciliation to conduct the mediation between parties for the reconciliation of the parties. When the court is not satisfied with the act of the selected committee then the court can cancel the committee and constitute a new one for the purpose. If the committee is unable to the reconciliation then by the order of the court the committee can try for reconciliation again after waiting for six months or more when the court recognizes. The Committee has powers such as requiring the attendance of the parties hearing the parties by giving each of them an opportunity of being heard making such inquiries as it thinks fit and adjourning the proceedings from time to time. Then the court may issue the certificate relating to the matter of the custody of the children, maintenance of the wife and her dependents and division of the property, and other marital issues.

The committee will avoid the matter to the court itself when the committee fails in deciding on the issue of reconciliation after their effort by submitting the report to the court on the matter.

Without the leave of the mediation committee, not anyone can be represented by a person, not his nearest relatives, and also for the proceedings before the committee no solicitor or advocate can represent the parties in the matter like in the court. Where the Committee reports to the court that the relationship can go forward between the parties then will order to continue their conjugal relationship, by dismissing the divorce application by the court.

When the Committee submits to the court a report that it is the parties cannot go with the marital relation peacefully then the court will direct the husband in the pronouncement of the Talaq, and when the husband refuses to pronounce one Talaq or when the court cannot ensure the husband's presence after a prescribed time then the court will refer the issue to the '*Hakams*' [arbitrators] in dealing with.

The practicing of Talaq by the husband himself or by way of the court will come into effect after

the expiry of the prescribed period if Iddat and the if the wife is pregnant then the time will expire by the wife gets delivery of her pregnancy.

15. Philippines

The Philippines is a secular state. Christian communities are their majority. In the Philippines, a Talaq may be affected by a single pronouncement by the husband in the period of thuhr of the wife by the total time of abstaining he from the marital relation. The repudiations from the marital relation made during one Thuhr will consider as only one repudiation if it is any number too and the thalaq will be revocable until the expiry of the Iddat period. A husband has the right to take back his wife before expiry of the Iddat period and before entering in to a new marriage. The repudiation shall become irrevocable if the husband fails to do so³⁹.

The husband should send the statement of the divorce by the consent of the wife to the registrar of the circuit within seven days of the divorce.⁴⁰

A Muslim male who had pronounced a Talaq should serve the notice to the wife then he will send the notice to the clerk in the Sharia court in his jurisdiction where he resides, The Talaq will be in effect of the revocable until the expiry of the Iddat period. Then the clerk of the court will serve the notice for hearing to both parties or their representatives to appear in the court. the representative of the parties should be appointed by the court in constituting the scholar for the arbitration on the matter by concerning the report and other pieces of evidence the court will go for passing order regarding the matter in hand.⁴¹

This Act also assures compliance to the provisions by penalising non-compliance with imprisonment for a term of two years or a fine not less than two hundred may extend to two thousand or both.

III. CONCLUSION

The above being the legislative trend as regards the Triple Talaq, instant divorce, it is notable that while it is imperative people move towards the reformation in the law argued by women of the

³⁹ Article 46 of the Code of Muslim Personal Law 1977.

⁴⁰ Article 85 of the Code of Muslim Personal Law 1977.

⁴¹ Article 161 of the Code of Muslim Personal Law 1977.

community equally, in India, there is a need for a power full secular laws which deals on essentially civil matters.

According to related with fundamental rights Triple Talaq violates fundamental women's rights. The freedom of religion in religious practices is applied equally to the Muslim man as well as the woman. It is nowhere like permitting the male in oppressing and avoiding the women in the destitute condition.

India in the Muslim Women (Protection of Rights on Marriage) Act was enacted in 2019. The Act was passed following the landmark ruling by the Hon'ble Supreme Court in the *case of Triple Talaq* wherein the practicing the Triple Talaq was held unconstitutional. The act makes illegal the practicing of ripple Talaq and instant Talaq. The Muslim husband who pronounces Triple Talaq is liable to imprisonment for a term of three years and a fine as per the penal provision of the act.

The type of offense under this act is cognizable and the police can take action according to the information received by the aggrieved women by the practice of the Triple Talaq or any relative of that woman. This provision was inserted in this statute for preventing outsiders from interfering in the issues. Under the provision, and also bail can be granted in this case by the magistrate after only hearing the complainant and finding the reasonable ground for grading the bail.

The statute provides the divorced wife the substitute allowance regarding their dependents which is calculated and determined by the magistrate such as the right of custody the offense punishable in this Act has also been compoundable that the court determines according to the status of the woman and the discretionary power of the magistrate.

This is a fact that more than 20 countries where Islam is the official religion have already set the laws and made enactment for the eradicating the socially evil practices in the name of Islam and misusing Islamic practices but we, the secular country has taken 70 years to think about that and enacting the law for eradicating such evils the so effective protests also the petition from the part of the activists and the aggrieved women.

The Muslim personal board in their argument contented that they will try to educate the Muslim community and they prevent them from such a bad practice in society. But the board started to

criticise the parliament-enacted laws for the protection of the rights of Muslim women instead of the educating their community and the making awareness among the Muslims. This indicates that the Islam community itself is caring in the matter of Muslim women, in their journey towards protecting the gender equality and justice.

A law against practicing Triple Talaq is a welcoming one. The Muslim women were calling for a reformation in the personal law mainly for misusing the law relating the divorce by the husbands in Islam. Because Muslim women are entitled to legal protection in matters related to family law such as all other Indian women.

Despite the Quranic grants equal rights to women in matters of divorce; they have not been explained into reality for Muslim women. As a result, several women including the activist group started to protest against the practice of Triple Talaq and as a result of their activism the matter came into consideration of the Supreme Court and by the famous judgment on August 2017 the court declared it void. Even after the judgment, many incidents were having Triple Talaq throw women to a destitute conditions in many parts of India this takes into consideration enacting a law on practicing triple instant Talaq to protect the rights of Muslim divorced women in India. Gradually the parliament passed the act against Triple Talaq by penalizing the practice of Triple Talaq in India.

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