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The Muslim Women (Protection of Rights on Marriage) Act, 2019: A Critical Analysis of Its Legal and Social Implications

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In India, which is a diverse society, all the laws based on personal laws must be reconcilable with the constitutional principles of equality and justice. This paper assesses Muslim personal law evolution and the present bottlenecks in the country by considering India's governmental reaction to the quick triple talaq marriage ceremonies. It begins with how the Prophet received divine guidance, followed by an ethical system based on monotheism and personal responsibility, and justice; research then continues with how both had their origins in Muslim law. Such values derived a legal approach based on those sacred religious writings, which scholars looked at by consensus techniques. The final part of this study aspires to execute a thorough evaluation of the Muslim Women (Protection of Rights on Marriage) Act, 2019, because it has prohibited instant triple talaq practice. This act also gives Muslim women some protection under it, that is, it considers arbitrary divorces invalid and penalises such acts. Apart from the legal rules, the law also provides support measures in the area of finance and rules on child care responsibilities. Critiquing the new law on fighting gender-based injustice, which has been praised but is still met with resistance at points by those who support its introduction and oppose points to its exclusively targeting a single religious group and what it criminalises of civil divorce practices. This research examines the positive and negative aspects of this law that create doubts whether it can harmonise gender equality with constitutional legal rights like equality and religious freedom, as well as non-discrimination provisions. The analytical assessment and evaluation presented in this research involve an investigation of the transformation of Muslim law under social, religious, and political influences, as well as the religious status of Muslim women in modern times.

Keywords: triple talaq, muslim personal law, constitutional principles.

INTRODUCTION: THE ORIGIN OF SACRED ROOTS OF MUSLIM LAW

Besides being known as Muslim law, Islamic law, known as Shari'ah, consists of a complex and detailed legal system that derives from Islamic faith teachings. The legal structure contains multiple guidelines that guide ethical conduct and moral and legal standards that directly affect individual actions, family relations, and public social exchanges. Through its complete transformation, Muslim law naturally developed along with the historical expansion of Islam into different cultures throughout the centuries. Muslim law originated at the turn of the 7th century CE through revelations given by the Prophet Muhammad (570–632 CE) to Arabia. Under its monotheistic religious identity, Islam manifested its complete ethical and legal structure in Mecca and Medina to guide personal conduct and structural organisation among communities.

His main objective revolved around asking humanity to dedicate their devotion to one deity (Allah) while stopping polytheistic traditions of worship. According to his teachings, monotheism combined with justice and compassion, and the belief that each person must answer for their actions, were core values alongside the belief in the ultimate day of Judgment. He also emphasised the motive of brotherhood and equality, and established that no one is above god and everyone should live with peace and harmony.¹

As the main source of Muslim law, the Quran reveals divine instructions that were transmitted to the Prophet Muhammad over 23 years. The Muslim religious and civil law regulates aspects such as marriage, along with inheritance rules and conduct dealing in trade, together with making criminal laws. Legal verses form a small portion of the Quranic content, yet they stand as its fundamental component. The second essential source, Sunnah, also consists of statements and actions as well as passive approval of the Prophet Muhammad. It is believed that Sunnah supplements Quranic guidance with practical guidance as it provides answers to the Quranic principles. Two of the interpretive tools of Islam include Ijtihad, which is personal reasoning and Qiyas, which uses analogy from the Sunnah or Quran to new situations. During the first Islamic centuries, these two diagnostic

¹ 'Sources of Muslim Law' (*Drishti Judiciary*, 05 October 2023) <<https://www.drishtijudiciary.com/ttp-muslim-law/sources-of-muslim-Law>> accessed 27 July 2025

instruments were used by Islamic legal interpreters to perceive and adapt religious principles to different situations.²

In India, an Anglo-Mohammedan law was introduced as a result of the legal system introduced by the British colonial government. The primary reason for this development was the British attempts to standardise the legal processes in the context of the multi-religious society at that time. Islamic laws on marriage, divorce, and inheritance, but these laws remained under the codification under the English influence of the British, who allowed them to remain in power over personal matters. The British legal mechanisms tried to uncover Islamic religious writings, such as the Qur'an and the Hadith, as their main administrative authority from an English judicial method. The British used these legal principles, which distorted Islamic law, for the reason not to apply traditional methods of reasoning based on scholarly consensus, along with societal changes.

Wherever British judges ventured into the interpretation of juridical principles for the use of colonial service and British legal standards, however, they did not have the full knowledge of Islamic jurisprudence. Sharia ceased to function in areas beyond personal matters because British authorities gave criminal legislation and governance to their statutes, resulting in Islamic principles separating from other laws. Under this arrangement, British authorities restricted Muslim legal principles from full expression, which contributed significantly to British-guided law changes in Muslim territories during colonial times.³

EVOLUTION OF MUSLIM LAW: FROM MECCA TO COURTROOM IN INDIA

Family matters of Muslims in India were typically dictated by regional customs till 1937 throughout the country. Most Islamic customs, in many cases, went against the correct interpretation of Shariat law. Muslim leaders, together with scholars, advocated for legal mechanisms that would enforce true Islamic principles from Qur'an and Hadith verses to displace tribal and regional customs. This resulted in authorities implementing the Shariat Act. The Act applies to Muslims in matters of:

² 'Muslim Law:- Introduction' (Vidhi Judicial Academy) <<https://vidhijudicial.com/muslim-law:-introduction.html>> accessed 27 July 2025

³ 'Islamic law' (Privy Council Papers) <<https://privycouncilpapers.exeter.ac.uk/contexts/law-and-the-british-empire/the-laws/islamic-law/>> accessed 27 July 2025

1. Marriage (Nikah),
2. Dissolution of marriage (Talaq, Khula, Mubarat),
3. Maintenance,
4. Inheritance and Succession,
5. Waqf (Religious Charitable Endowments),
6. Guardianship of Children,
7. Gifts (Hiba),
8. Trusts and Religious uses.

Later in the Shah Banocase,⁴ in one Case, a 62-year-old Muslim woman from Madhya Pradesh filed a Section 125 of the Criminal Procedure Code (CrPC) petition to claim maintenance from her divorced husband. The Supreme Court supported her petition by declaring divorced Muslim women need financial support past the iddat period when they cannot support themselves. The Court drew its ruling from the CrPC secular conditions because these regulations extend their protection to every citizen regardless of faith. Muslim groups with conservative viewpoints challenged the judgment since they believed the verdict violated Islamic personal laws. The judgment seems to challenge religious freedom that Article 25 of the Constitution promises to its citizens in the eyes of certain observers. The Rajiv Gandhi administration established the Muslim Women (Protection of Rights on Divorce) Act, 1986⁵, to invalidate the Shah Bano ruling while re-establishing Muslim personal law as the authority for divorce cases.

Despite its restrictive language, the Supreme Court in *Danial Latifi v Union of India*⁶ upheld the constitutional validity of the Act but interpreted it liberally. The Court ruled that:

⁴ *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556

⁵ The Muslim Women (Protection of Rights on Divorce) Act 1986

⁶ *Daniel Latifi & Anr v Union of India* (2001) 7 SCC 740

The reasonable and fair provision mentioned in the Act must include maintenance beyond the iddat period, and the husband must make a lump-sum payment during the iddat period that would support the wife for the rest of her life.

Later in 2017, in the case of *Shayara Bano v Union of India*,⁷ the Supreme Court of India issued a historic decision by declaring talaq-e-biddat (triple talaq) the Muslim instant divorce practice unconstitutional and illegal. Muslim woman Shayara Bano from Uttarakhand fought the Court because her husband divorced her through triple talaq, while she made a legal challenge to prove the unconstitutional nature of this practice because it undercut her basic rights under Articles 14 (equality), 15 (non-discrimination), 21 (right to life and dignity), and 25 (freedom of religion). The five-judge constitutional bench reached contradictory decisions (3:2) in their ruling because the three judges against triple talaq determined that the practice offered neither constitutional validity nor Islamic necessity nor acted as a lawful practice. Justice Kurian Joseph said, What is bad in theology is bad in law as well.⁸ Emphasising that the Qur'an does not approve of talaq-e-biddat.

Through the Muslim Women (Protection of Rights on Marriage) Act 2019,⁹ the Indian government made triple talaq (talaq-e-biddat) illegal because it enabled Muslim men to divorce their wives through three talaq declarations in one session. The 2017 Supreme Court decision in *Shayara Bano v Union of India* led to the creation of the Muslim Women (Protection of Rights on Marriage) Act 2019. This legislation, passed by the Union of India, established instant talaq as both void and forbidden under Section 3, while Section 4 states the punishment guidelines, including imprisonment and monetary fines. A valid arrest may be made without a warrant because instant divorce holds a cognizable status (Section 7), yet the wife receives sole approval for receiving bail from a Magistrate following court proceedings. The law allows couples to reunite if the wife gives consent because this particular offence remains compoundable.

Muslim women involved in such divorce proceedings have rights established under this law. According to Section 5 of the law, the court allows the woman to receive financial support from her husband for herself and her dependent children through a magistrate-determined

⁷ *Shayara Bano v Union of India* (2017) 9 SCC 1

⁸ *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556

⁹ The Muslim Women (Protection of Rights on Marriage) Act 2019

subsistence allowance. The legislation grants the woman both physical possession of her minor offspring and financial support under Section 6. With this law, women acquire influence by addressing unfair divorce practices because it ensures everyone receives equal treatment under both the Constitution and the law. People disagree on whether studying gender equality laws works correctly when the law deals with private marital matters.

LOOPHOLES IN MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE) ACT, 2019)

The Muslim Women (Protection of Rights on Marriage) Act, 2019, has also given constitutional recognition to prevent Muslim women from instant and unnecessary divorces. However, the legislative intention to safeguard women's rights through this law had been a cause of concern, as the law is laden with multiple weaknesses. Many issues regarding the Muslim Women (Protection of Rights on Marriage) Act, 2019 include: use of criminal measures to address civil issues and lack of clarification in the maintenance regulations, inconsistent implementation, procedural risks and weakness in systems, in place for the women victims.¹⁰ These loopholes make the law fundamentally weak, question the power of the law to deliver full empowerment, but also weaken the fundamental protection Muslim women were supposed to receive from it.

Criminalisation of Civil Matter: Marriage, divorce, and the associated family breakdown procedures under civil legislation are mostly concerned with the resolution of such dispositive family issues as property legislation and inheritance in a marriage context. The law declares that the triple talaq has become a criminal offence, which is a form of unlawful behaviour under criminal jurisdiction. This makes it problematic for it to be adopted, as it raises a critical question about the present situation of the female affected. Under Muslim law, Marriage is a contract and certainly, breach or violation of a contract does not lead to criminal sanctions. Hence, criminalising the utterance of triple talaq shows that the legislature has put the civil wrong into criminal consequences.¹¹

¹⁰ Shraddha Chaudhary, 'Criminalisation Without an Object: Critical Reflections on the Muslim Women (Protection of Rights on Marriage) Act, 2019' (2021) 17(2) Socio-Legal Review <<https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1089&context=slr>> accessed 27 July 2025

¹¹ Aziza L. Karkun et al., 'The Muslim Women (Protection of Rights on Marriage) Act, 2019: A Law with A Hollow Scheme' (2022) 43(1) Journal of Advanced Zoology <<http://dx.doi.org/10.17762/jaz.v44iS-5.1289>> accessed 27 July 2025

With respect to the penalties to the husband, the aim of the Act is relief, but this overlooks the real-life effects of the Act upon the woman. Financial challenges will emerge when the imprisoned husband loses his role as the main provider because prison time separates the husband from his financial responsibilities. Moving from civil to criminal law systems fails to deliver the practical support needed by a woman whose husband performs this act. Wider support through economic and emotional assistance should be given to the woman rather than punitive measures following criminalisation, because it ensures her safety.

Maintenance Provision: The Act creates controversial maintenance provisions because it presents an unclear framework for financial support. Under the Act, the woman receives a subsistence allowance, yet there are no guidelines provided regarding the determination of this payment and its actual value. The poor definition in this law allows Magistrates to make subjective determinations about allowance amounts and procedures, thus creating inconsistent results between different cases. The Act fails to define how often or for how long the financial support should be provided to the woman. The Act lacks specific guidelines about maintenance payments, so enforcement becomes difficult, and women may have no way to receive the financial benefits guaranteed by the legislation. The maintenance provisions without clarity in the Act create serious deficiencies because they allow inconsistent legal application and additional hardship against vulnerable women.

Ignorance of Other Religious Communities: The Act remains very controversial because it establishes triple talaq as a criminal charge, which applies only to Muslim males. Strict targeting of Muslim men who say triple talaq faces criticism because it creates substantial issues with constitutional equality as guaranteed through Article 14. The Act provides its divorce protection for Muslim women without expansion to defend other religious communities' members against their religious divorce practices. Punishing only one community for instances of its community members committing the same type of challenges to women incites the complaints of discrimination, as other communities were not punished for creating identical challenges for women. A more equitable way would have been a single law, the same for all the personal law systems, that would protect women uniformly. It may be that the current framework might produce religious bases' notion of unfair treatment that may destroy the main goal of gender equality.

Possibility of False Cases: This Act's criminal law enforcement provisions create opportunities that are susceptible to improper use. When cognizable offences are also one of the conditions of non-bailability, law enforcement authorities can make immediate arrests without warrants. These provisions on rapider offender prosecution may, without due care, be used as weapons for personal disputes and even for destructive information. There is a lack of proper investigation coupled with a lack of checks that leads to the chance of false cases being created, and that leads to the imprisonment of innocent people without adequate evidence. The law sometimes allows them to make use of it against malicious persons, against men in difficult situations of marriage, so that opportunity may be given to them to make baseless acts against them. The application of this law is dubious in heated emotional analogues of people making use of this law of revenge or submitting fake evidence, as there is inadequate protection against the wrong use of this application.

No Provision for Long-Term Support: While the Act is criminalising triple talaq practices, there is no law to help the divorced women affected by it. Penalties are imposed for any criminal action, but social or economic rehabilitation of women, who find themselves without any means to live, furnished by the law is quite lacking. Through the Act, there is no provision for legal help, counselling or housing that exposes the women who are divorcing through triple talaq to financial and social misery. However, the law does not introduce full welfare systems, which are aimed at providing job training, monetary support and various rehabilitation programs at the same time. Because women are likely to stay in their suffering conditions after getting their divorce order, it is due to the absence of support networks.

No Measures for Children: The Act concentrates mainly on women's rights, especially in relation to triple talaq, while neglecting the safety needs of children whose parents have split. Triple talaq divorces leave children without sufficient support from their parents since parents usually lack proper arrangements for their parental responsibilities. The legislative framework fails to establish particular rules about child guardianship or to protect the welfare of children after divorce. Children lack certainty about their housing plans and economic support since the Act concentrates on providing instant help to women without considering their future security.

No Guidelines for Subsequent Marriages Post-Conviction: Under the law, the practice of triple talaq becomes criminal; however, it fails to outline rules which govern marriages of

convicted husbands. Under the Act, there exists no regulation when men face conviction for this offence and attempt to take another spouse after the conviction. The law fails to specify if a convicted man can remarry and what restrictions might exist for his subsequent marriages. The law does not specify what financial and legal responsibilities men have for their ex-partners and children, so they can escape their obligations after committing domestic violence.

FACTORS THAT LEAD TO CONTINUED PRACTICE OF TRIPLE TALAQ IN INDIA DESPITE CRIMINALISATION

In *Shayara Bano v Union of India* (2017),¹² the Supreme Court made its decision, but the Muslim Women (Protection of Rights on Marriage) Act, 2019, subsequently criminalised instant triple talaq (talaq-e-biddat). The instant triple talaq (talaq-e-biddat) receiving criminal penalties through *Shayara Bano v Union of India* (2017) and the Muslim Women (Protection of Rights on Marriage) Act, 2019, has not eliminated the practice from certain parts of India. The ongoing existence of this practice presents substantial factors affecting the ability of legal reform to transform established social and religious traditions.

Triple talaq survives as an illegal practice despite being unconstitutional and criminalised due to several factors, including religious tradition, women's lack of legal understanding, traditional male dominance, and weak law enforcement. Multiple social entities view triple talaq as both a religious privilege and a traditional marital ending that typically violates women's human rights and treats them disrespectfully. The problem shows how law has not caught up with societal realities and reveals that achieving changes in personal law systems proves challenging.

Religious Misunderstanding: Some Muslims support triple talaq as an Islamic tradition, yet dozens of scholars from both Sunni and Shia sects confirm that this divorce practice was never taught by Muhammad. The procedure was formed during the early Islamic centuries before Islamic scholarly orders officially declared its prohibition. Right-wing ideological groups continue to support triple talaq despite their incorrect interpretations of sacred religious texts and ignore accepted mainstream Islamic teaching.

¹² *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556

Resistance by Muslim Leaders: Certain Muslim clerics, along with traditional factions, fought against the adoption of the Muslim Women (Protection of Rights on Marriage) Act, 2019. These parties argue that state intervention in personal laws represents a violation of religious freedoms because the matters should be handled by Islamic institutions and society. The law represents to these groups the government's excessive involvement in matters of religious practice.

Lack of Awareness: Many parts of the Muslim population have not learned about the defences enabled through the 2019 Act and its consequences regarding triple talaq. Rural areas, along with portions of the Muslim population, show limited knowledge about the complete prohibition of triple talaq and the existing methods by which they can obtain financial support and legal protection. Muslims continue using triple talaq due to insufficient educational initiatives and suitable awareness programs, which could help them understand how to take legal action.

Cultural Norms: Traditional communities view triple talaq as one of multiple approved ways to end marriage because it exists as a traditional practice in their culture. The social atmosphere within these communities maintains both cultural traditions and social acceptance standards, which frighten people into abstaining from challenging the established divorce practices or adopting modern divorce methods. The adherence to triple talaq continues despite illegality because people feel compelled by both social demands and cultural traditions. People remain aligned with the practice due to their belief in its societal validity or because they are worried about facing negative consequences from their community.

SUGGESTIONS TO IMPROVE LIVING CONDITIONS OF MUSLIM WOMEN IN INDIA

Gender, religion, socioeconomic background, and community discrimination combine to generate specific challenges that Muslim women in India face. Numerous Muslim women experience social exclusion despite legislative advancements in education, work, healthcare and access to justice. Muslim women face heightened risks because patriarchy persists in personal laws, and disability results from both political exclusion and policy-making absence. The legislative ban against triple talaq represents progress; however, it solves just

one aspect, while various other fundamental problems that obstruct Muslim women's life quality remain unaddressed. The necessary approach needs to incorporate legal changes together with background awareness raising and cultural respect, as well as

Literacy at the Grassroots Level: A program of legal literacy must begin in villages while addressing how to protect residents from abuse at home, together with property rights and individual regulations. We use trained local women as paralegals to deliver awareness programs through workshops, street plays, and WhatsApp group interactions in their native languages.

Legal Aid Programs: Local Muslim scholars and legal experts will collaborate through madrasa and mosque programs to deliver special Shariah-aligned legal education for the community. The implementation of this strategy provides two fundamental benefits for women: educational resources about their rights according to Islamic law and the constitution, as well as cultural acceptance.

Establish Women's Courts: Women-only dispute resolution venues within the community should implement alternative dispute resolution (ADR) techniques for handling domestic issues about child custody and maintenance, and family violence situations. The platforms achieve higher levels of effectiveness and local acceptability when they merge gender justice with religious ethical principles.

Muslim Women's Policy Institutes: Active involvement with independent organisations investigating how gender and religion affect Muslim women should be encouraged through both university research centres and think tank units. Such initiatives can break standard media and political stereotypes, thereby redirecting evidence-based policy advancement.

Health Initiatives: Female physicians and religious scholars should develop specific health programs for reproduction to address taboo issues around maternal health services while providing education about menstruation and contraception within conservative Muslim communities.

CONCLUSION

Through the Muslim Women (Protection of Rights on Marriage) Act, 2019, the Indian government enacted a transformative and bold piece of legislation aimed at altering how

personal laws affect Muslims in India. The government devised the law to protect Muslim women by eliminating the uncontrolled practice of triple talaq (talaq-e-biddat) that had been denying marriage security to women for many years. While the law displayed positive intentions, its implementation, together with its framework and social and legal outcomes, reveals complex but advanced conditions.

The research findings demonstrated that converting triple talaq into a civil offence triggered intense arguments regarding fair punishments after family dissolution. Through its implementation of imprisonment for husbands, the Act may endanger both the financial stability and the well-being of the female beneficiaries despite its protective intent. The legislation exhibits a substantial deficiency in restorative practices and welfare remedies because the criminal element lacks guaranteed routes toward rehabilitation, support, or reconciliation.

The Act contains ambiguous legal elements due to its unclear definitions related to maintenance calculation and duration, along with procedural safeguards available to defendants and the roles and powers of magistrates. The unclear aspects within the law trigger doubts about its irregular enforcement as well as its potential misuse. By making the offence cognisable and non-bailable without establishing strong procedural protections, such actions expose themselves to misuse or false complaints during times when marriages could still be reconciled. The system's issues result in decreased intercommunal trust, which subsequently intensifies both political and communal conflict because it negatively affects the cause of gender justice. Research confirms triple talaq remains active, though it is against the law.

Many complex issues affect the continued use of triple talaq, including unawareness and strong male dominance. A law alone cannot alter traditional customs that have existed over many generations until people receive targeted educational programs and learn how gender-inclusive laws work. Religious authority figures unwilling to change have obstructed the complete implementation of this law. The research confirmed that creating better lives for Muslim women needs comprehensive social and legal solutions beyond legal penalties. The real empowerment of women will result from community-driven reforms on personal laws plus equal access to education, law practice, healthcare, and financial opportunities. Muslim

women should lead in fighting for their rights alongside the state administration to build better gender equality support.

The Muslim Women (Protection of Rights on Marriage) Act 2019 marked a significant step forward in protecting women's rights, but requires additional progress to become a complete solution. The law needs substantial social development alongside broad, proper participation from society to lead to lasting results. Through this progress, we will reach our objective of giving women in India equal treatment and freedom regardless of their religious identity.