

## Triple Talaq Essay for UPSC 2021

### What is the Triple Talaq?

Triple Talaq is the process of divorce under Sharia Law (Islamic law) where a husband can divorce his wife by pronouncing 'Talaq' three times. This is also called oral talaq. There are three types of divorce under Islamic law, namely, Ahsan, Hasan and Talaq-e-Biddat (triple talaq). While the former two are revocable, the last one is irrevocable. It is mainly prevalent among India's Muslim communities that follow the Hanafi School of Islamic Law.

Under this law, wives cannot divorce husbands by means of triple talaq. Women have to move a court for divorcing her husband under the Muslim Personal Law (Shariat) Application Act 1937. This Act was passed to make provisions for the application of Shariat or Islamic personal law to Muslims in India. It can be argued that the British colonial government passing such acts was a part of their divide and rule policy.

To know more about other [Legislations passed in British India](#), visit the linked article.

### Arguments against Triple Talaq

- It goes against the rights of equality and women's empowerment. It propagates the dominance of men over women.
- According to a study, 92% of Muslim women in India wanted the triple talaq to be banned.
- It gave men the right to arbitrarily divorce their wives without any valid reason.
- New-age technology has given birth to new modes of triple talaq such as through skype, text messages and email.
- Many Islamic countries have outlawed this practice including Bangladesh, Pakistan and Indonesia. There is no reason for a democratic and secular India to continue this lopsided practice.
- It goes against the constitutional principles of gender equality, [secularism](#), right to life of dignity, etc. It goes against Article 14 (Right to Equality) and Article 15(1) which states that there shall be no discrimination against any citizen based on gender, race, etc. and this kind of talaq is biased against the interests of women.
- The [constitution of India](#) says that it shall strive to bring a uniform civil code for the entire country. Doing away with triple talaq will definitely be a step closer to the constitution-makers' dream of having a uniform civil code for all citizens.
- However, the National Commission of Women says that this matter cannot be linked to uniform civil code. Nevertheless, it should be banned in order to protect the interests of Muslim women.
- The [Supreme Court](#) has also declared that this practise is unconstitutional and not protected by Article 25 which regards the freedom of religion. Also in December 2016, the Allahabad High Court had said that no personal law board was above the constitution.
- Experts also opine that only the essential or integral features and aspects of a religion are protected by the Constitution. Triple talaq was not an integral feature of Islam.

## Challenges in banning Triple Talaq

- Religious groups infer the banning of a traditional practice sanctified by Sharia as interfering in the religious aspects of minorities.
- The courts should decide two things basically:
  - Whether personal law can be subject to the constitution or not
  - How to view the relationship between triple talaq and Muslim personal law.

### Past rulings:

- In the Shah Bano case in 1985, the SC granted Shah Bano, a 62-year old woman the right to alimony from her husband.
- But in 1986, the government passed the Muslim Women (Protection of Rights on Divorce) Act which diluted the positive impact created by the Shah Bano case.
- In 2001, in the Danial Latifi & Anr versus Union of India case, the SC upheld the validity of the Shah Bano judgement.
- In August 2017, a five-judge bench of the SC declared the triple talaq unconstitutional in a majority 3:2 judgement. This was the culmination of a petition filed by Shayara Bano, whose husband, after 40 years of marriage, had divorced her through a letter where he pronounced talaq three times to declare the divorce as void.