



## SC verdict on Triple Talaq

### Why in news?

\n\n

Supreme Court has invalidated the triple talaq practise by calling it arbitrary and unconstitutional in a 3-2 majority judgment.

\n\n

### What are the justifications of minority judges?

\n\n

\n

- Two of the five judges have argued that talaq as a personal law practise was an **integral part of Article 25** (Freedom of Religion).

\n

- It has been practised for over 1,400 years hence becomes a matter of firm **religious faith** and that it cannot be tested on the touchstone of Article 14.

\n

- They held that personal laws like instant talaq were an '**exception**' to the **Constitution's** stated aim to protect gender equality.

\n

- They had reasoned that instant talaq cannot be invalidated just because the Koran does not expressly provide for or approve of it.

\n

\n\n

### What are the justifications of the majority judges?

\n\n

\n

- Three of the five judges have set aside instant talaq terming it as 'manifestly arbitrary' which makes it **violative of Article 14** (Right to Equality).

\n

- **Social** - A mere prevalence of the practise for over 1,400 years itself cannot

make it valid.

\n

- An individual's dignity and equality is placed at the mercy of their communities by this practise.
- **Religious** - It is noted that triple talaq is against the basic tenets of the Holy Koran.
- Shariat Act had in the past put an end to unholy, oppressive and discriminatory customs and usages in the Muslim community.
- So similarly Triple Talaq can also be invalidated.
- **Legal** - A section of the Muslim Personal Law (Shariat) Application Act of 1937 has already recognised triple talaq as a **statutory right** and not a fundamental right.
- This makes triple talaq outside the ambit of Article 25.
- Hence it was made clear that instant talaq was no longer a personal law and it comes under the ambit of **Article 13** of the Constitution.
- Article 13 mandates that any law, framed before or after the Constitution, should not be violative of the fundamental rights.

\n

\n\n

## What are the shortcomings?

\n\n

\n

- The narrow majority with which the judgement has come raises doubts on the long term impact on the issue of community rights over individual rights.
- Only Triple Talaq (Talaq-e-biddat) is invalidated. The other forms of Talaqs like 'Talaq Hasan' and 'Talaq Ahsan' are still available to Muslim men.
- Though it reached the right conclusion, there was no consensus on first principles.
- The majority has not ruled that our basic constitutional values override religious belief and practice and as a result proper precedent was not set.
- A more elaborate consideration of how Article 14 might affect personal laws

\n

would have laid down a better precedence for the future.

\n

\n\n

\n\n

**Source: The Hindu, Indian Express**

\n



**IAS PARLIAMENT**  
*Information is Empowering*  
A Shankar IAS Academy Initiative