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# Case Study Analysis: Shah Bano Begum Versus Mohammad Ahmad Khan

## Introduction

This was one of the most historic case in the history of Independent India especially from view of Muslim Community. It dealt with the extremely sophisticated issue of 'Triple Talaq'. It deals with the story of a brave woman named Shah Bano who fought against her community and to seek justice. She put up an exemplary performance against her rigid community. One can argue that she got late justice but none can deny the fact that she has changed the system eternally.

First things first, what is Triple Talaq? Triple Talaq is a method to get instant divorce used by Muslim man. All he need to do is that he needs to utter the word talaq 3 times either in oral or written. Electronic media will also do. So, if a husband sends 3 whatsapp text messages to her wife stating talaq, well the divorce is done! However unjust it may seem, it is written in Quran, the ultimate book followed by all Muslims around the globe.

## Timeline

1932: Shah Bano was married to Mohammad Ahmad Khan. Later on, Shah Bano became the mother of 3 sons and 2 daughters.

1946: Mohammad Ahmad Khan married to another woman (As far as Muslim law is concerned, a man is allowed to have up to four wives. However, a wife cannot have more than one husband). He lived for years with two wives, and then he threw Shah Bano and her 5 children out of his house. She had turned 62 by then. Apparently, he promised to pay her a maintenance of Rs 200.

April 1978: Shah Bano raised her voice against this injustice at a local court in Indore and she was entitled to be paid a maintenance of Rs 500 per month.

November 1978: Mohammad Ahmad Khan uttered the word Talaq 3 times to get rid of his wife and to escape from this maintenance fee. Henceforth, it was no more mandatory for him to pay Rs 500 per month as Shah Bano was no longer his wife. He just needs to pay an amount of Rs 5400 in total according to Islamic law.

August 1979: The local court ordered Mr. Khan to pay an amount of Rs 25 per month as maintenance.

July 1980: On the re-application of Shah Bano, the High Court of MP directed Khan to pay an amount of Rs 179. 20 per month. Mr. Khan was of course not happy with the verdict and approached the Supreme Court stating that Shah Bano is no longer his wife and is thus no longer his responsibility as per Islamic law.

## Major issues pertaining to the case

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Whether the Section 125 which deals with maintenance of wives, children and parents is applicable or not. If the Uniform Civil Code is applicable to all religions or not.

Judgement by the Supreme Court: On 3rd Feb 1981, the Honourable Supreme Court of India gave the judgement in favour of Shah Bano. It was a unanimous decision. The Supreme Court invoked that Section 125 applies to all citizens of India regardless of religion, caste or creed.

According to Supreme Court, the Muslim Personal Law here was unjust as the wife is not in a situation to maintain herself economically. Hence, after a long procedure, the Court concluded that the husband shall not be liable to give maintenance to his wife if she is competent to manage herself economically. However, in case if she is not competent, she cannot be denied from her maintenance by her husband. Response from community :As expected, the verdict received several protest from Muslim community. The Indian Press turned it into a national issue. They were led to believe by their religious heads as a threat to their personal law and their exploitation of right to religion. After all, the verdict was against the preaching of Quran. This protest was led by All India Muslim Personal Law an organization set up to protect Muslim Personal Law.

Overturning of the judgement: There was general election set up in 1984. Rajiv Gandhi won the election by an absolute majority winning 414 seats out of 533. Many Congress leaders advised PM Rajiv Gandhi that if they did not overturn the verdict of the Supreme Court, they might face severe consequences in the next elections. After all, Muslim vote bank has always been one of the pillar behind the stellar dominance of Indian National Congress. They brought up The Muslim Women Protection Act in 1986 that enforced the maintenance of divorced woman only till the period of 90 days or till the period of iddat. This was strikingly opposite to the Section 125. Hence, the judgement given by the Supreme Court was ruled over by this act.

Reactions to the act: This time the act received several criticisms from many sections of the society. The act was opposed by All India Democratic Women's Association (AIDWA). BJP called it a "violation of the sanctity of the country's highest court". Makarand Paranjape saw it as non-secular activity. Critics stated that divorce can be considered according to personal laws, but maintenance cannot. It is one of the basic right of a divorced woman. It is indeed discriminatory to exclude Muslim Women from Civil law.

Aftermath: On 22nd August 2017, a panel of 5 judges reviewed the triple talaq law. Of the 5 judges, 3 of them deemed the law to be unconstitutional. Other 2 opined that it is constitutional, but the government should enact the law to ban it.

The BJP government led by Prime Minister Modi formed a bill named The Muslim Women Protection Bill 2017 and introduced it our Parliament. It was eventually passed by the end of December 2017. Not only does this bill make triple talaq invalid, but also illegal. The husband giving triple talaq can be put to jail for a period of up to 3 years. Few parties like AIADMK, BJD, AIML, AIMIM opposed the bill stating it as a faulty proposal. However, the opposition leader Indian National Congress was in support of the Bill. The practise was also opposed by Muslim liberals and Hindu nationalists.

## Critical Analysis

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On account of Mohd. Ahmad Khan V/S Shah Bano Begum, the Supreme Court particularly underlined the that Triple Talaq can't take away the support right of a separated from Muslim ladies who isn't in a condition to keep up herself or her kids when she is abandoned or separated by her significant other. The period when the decision of Shah Bano Case was conveyed by the Supreme Court it confronted a considerable opposition. At that time Muslim ladies weather married or unmarried were not given opportunity. They were even suspended from basic freedom, which is against humankind and it essentially disregards the essential or fundamental rights of a person. Muslim ladies were in backward status when contrasted with other ladies of the world. They were not well educated and independent when contrasted with other ladies. They confronted major issues which prompted the abatement in their level of self-assurance and their knowledge in various sectors. Alongside these things, they were not permitted to educate or teach themselves and they were likewise denied to work either. Since they confronted every one of these things from their extremely youth it was exceptionally characteristic that they in their troublesome time can't win their living and can keep up themselves so for them provision or maintenance was genuinely necessary. Shah Bano case was an ordinary case simply like different instances of maintenance which has occurred and furthermore the decision that was finished up by Supreme Court was also more or less equivalent to previous verdicts.

Yet the two exposed truth that was seen for this case which put forth this case as a milestone judgment case were: firstly, spirituality of religious personal laws was criticized and then it was questioned whether Uniform Civil Code is applied to all religion and their followers and secondly, whether CrPc (Code of Criminal Procedure) is applied to personal religious laws.