

## SC verdict on Triple Talaq

### Why in news?

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

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### What are the justifications of minority judges?

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

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- 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.

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

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

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

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- 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).

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

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- An individual's dignity and equality is placed at the mercy of their communities by this practise.

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- **Religious** - It is noted that triple talaq is against the basic tenets of the Holy Koran.

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- Shariat Act had in the past put an end to unholy, oppressive and discriminatory customs and usages in the Muslim community.

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- So similarly Triple Talaq can also be invalidated.

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- **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.

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- This makes triple talaq outside the ambit of Article 25.

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- 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.

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- Article 13 mandates that any law, framed before or after the Constitution, should not be violative of the fundamental rights.

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### **What are the shortcomings?**

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- 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.

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- 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.

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- Though it reached the right conclusion, there was no consensus on first principles.

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- The majority has not ruled that our basic constitutional values override religious belief and practice and as a result proper precedent was not set.

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- A more elaborate consideration of how Article 14 might affect personal laws would have laid down a better precedence for the future.

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**Source: The Hindu, Indian Express**

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