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**Critical Analysis on Practice of Nikah Halala in the light of India Rape
Laws**

Vibha V & Adhish Anilkumar Kulkarni

ABSTRACT

The practice of 'Nikah Halala' is one of the most misconceived Islamic practices which necessitate cohabitation by the woman victim of irreversible talaq with another man, in the name of marriage, so as to enable the first husband to remarry such a divorced woman. In idealism, the purpose behind the practice of Nikah Halala was to make it difficult for the impulsive man, who pronounces talaq upon his wife, to get his wife back into marriage. Thus, the stipulated procedure for Nikah Halala without any pre-design must be followed. However, fairly in recent times incidents have come to light unveiling the physical, psychological, and financial exploitation of women in the name of Nikah Halala. This is performed in the form of a ritual, generally termed as the 'Halala-fixing', whereby another man agrees to marry the woman, consummate the marriage with her and then divorce her. Such postulation of the practice of Nikah Halala has placed it into the category of one of the most heinous crimes under the Indian Penal Code that is Rape wherein the distraught female submits her body to be used, merely to pay for the thoughtless pronouncement of talaq by her husband. This paper would revolve around the analysis of the practice of Nikah Halala with special reference to rape laws in India. The paper would mainly focus on psychological and physical extortions faced by women in the name of Nikah Halala.

Keywords: Nikah halala, Triple Talaq, Polygamy, Consummation, Remarriage, Rape.

1. INTRODUCTION

Halala is an Islamic temporary marriage where a victim of instant talaq is forced to undergo marriage with another man and consummate the marriage in order to remarry her first husband. It is a blatant distortion of a Quranic injunction which, to emphasize the sanctity of marriage and the enormity of ending it for frivolous reasons, introduced a prohibited degree by warning the parties who opt for separation through the third and final talaq that they cannot entertain hopes of remarrying each other until and unless the divorced wife voluntarily decides to marry another man, further consummate the marriage and that marriage too ends in a divorce. It is understood here that only serious mutual disagreements between the couple may result in a divorce. In the rare event of such differences and misunderstandings cropping up, the wife and her new husband are required to follow the elaborate and complex Quranic procedure of divorce mentioned in the Shamim Ara ruling. In other words, the post-talaq prohibited degree of marriage instituted by the Quran makes remarriage of irrevocably divorced couples extremely difficult. It is well assumed here that couples who go through the drawn-out Quranic procedure of divorce will not be interested in remarrying each other as their decision to part with each other would have been a well-calculated one.¹ However, the same cannot be assumed about victims of instant triple talaq which is invariably pronounced in a fit of rage and irrationality which generates a sense of helplessness in the minds of the victims as they are made to believe that their marriage has been broken. *“It is this totally unjustified legitimisation of instant talaq that has led to the abominable circumvention of the Quran, as a consequence of which a pliable person is set up to marry the instantly divorced wife, consummate the marriage overnight and divorce her the next day so as to legitimise her remarriage with the original husband in accordance with the law laid down in verse 2:230”.*² This outrageousness which an innocent woman is subjected to in the name of a wrong interpretation of shariah is popularly known as nikah al-tahleel or halala in sectarian jurisprudence.

¹ Rashi Gupta, Abominable rapes in the name of Nikah Halala: An analytical study of Halala with special reference to Rape Laws in India, 3 IJAR 130, 131 (2016).

² Arun Jaitley, Does the Bareilly “Nikah-Halala” not shock your conscience?, (Feb 08 2019 01:30 PM), [https://www.arunjaitley.com/does-the-bareilly-nikah-halala-not-shock-your-conscience/;](https://www.arunjaitley.com/does-the-bareilly-nikah-halala-not-shock-your-conscience/)

2. CONCEPT OF NIKAH HAHALA

The word 'Nikah Halala' is nowhere mentioned in the Holy Quran and thus, refers to an un-Islamic impermanent marriage obligated upon the wife who has been a victim of reckless pronouncement of irrevocable instant triple talaq by her husband.³ The first two times the talaq is pronounced, it could be withdrawn. But on its third pronouncement, the divorce becomes strictly irrevocable.⁴ To apply the effect of irrevocable talaq to her is to make her "halal" which when translated to English means permissible, for another man whereas she would be considered haram for the first husband. Nikah Halala is a practice followed by the Muslim community, which stipulates that a divorced wife can only be permitted to remarry her first husband if she tends voluntarily marries another man, consummates the marriage with her second husband and then the second husband divorces her irrevocably.

3. ORIGIN OF THE CONCEPT OF NIKAH HALALA

The word 'Halala' is derived from the word 'Halal' that means 'which is considered appropriate or permitted within the bounds of Islam'. Contradictory to the concept of 'Halal' is 'Haram', which means 'what is forbidden by Allah'. The Quran explains that once a woman has been divorced by her husband, she becomes 'Haram' to him and can only become permissible if someone else agrees to marry her and once the marriage is consummated, decides to divorce her.⁵ The purpose being to catechize men that they cannot be permitted to divorce their wives by the pronouncement of talaq impetuously in a state of anger or under the influence of intoxication; and if they do, it will be difficult for them to get back their divorced wife. However, the question if this purpose has been embraced in the society till present is debatable; an argument against the same is the development of the practice of Halala in order to sustain the male domination in the society. Patriarchy reinterprets and reshapes religion, which favors its ascendancy.⁶ Customs and religion have been deformed to exercise control and domination over women to conform to the patriarchal needs of society. Consequently, the pertinent point here is that Nikah halala cannot be pre-planned.

⁴ Noor Zaheer, Angst Against Archaic Laws of Halala, Triple Talaq, Muta and Khula, HRIRJ, 100 (2015).

⁵ Debayan Roy, No Polygamy, Nikah Halala in Mahila Andolan's Proposed Muslim Family Law, News 18India, (Sept 09 2017 10:43 PM), <https://www.news18.com/news/india/no-polygamy-nikah-halala-in-mahila-andolans-proposed-muslim-family-law-1513985.html>.

⁶ Ameera V. U, Marry Him, Then Marry Me: Nikah Halala and Malayalam Movies, 1 IJRHAL 2321, 2347 (2017).

A forced marriage is a form of psychological and emotional violence. If the divorced wife marries a second husband under a pre-planned Halala, her relationship with the second husband and with the first husband to whom she returns after the performance of Halala will be designated as illegitimate. The Prophet has cursed both such men who perform Halala and for whom Halala is performed. The second Caliph Hazrat Umar pronounced ruling during his reign that he would punish with stoning to death, for those who were involved in a pre-planned Halala.

4. QURAN AND ISLAMIC JURISTS ON NIKAH HALALA

In the second chapter of the Qur'an, Allah says the following

“Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment. And it is not lawful for you to take anything of what you have given them unless both fear that they will not be able to keep [within] the limits of Allah. But if you fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself. These are the limits of Allah, so do not transgress them. And whoever transgresses the limits of Allah – it is those who are the wrongdoers.” Qur'an (2.229)

Allah then says in the Qur'an

“And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him. And if the latter husband divorces her [or dies], there is no blame upon the woman and her former husband for returning to each other if they think that they can keep [within] the limits of Allah. These are the limits of Allah, which He makes clear to a people who know.” Qur'an (2.230)

It is believed that this provision was added by the prophet himself to curb the barbaric practice of a Muslim man torturing his wife by divorcing and remarrying her for as many times as he wishes.

In accordance with the Islam, a Muslim man is vested with the liberty to divorce and remarry the same woman twice. However, if he decides to dissolve the marriage for the third time, he can remarry the same woman only if she first marries another man, consummates the marriage, and further, if the man dies or asks for a wilful divorce, the woman after the completion of the Quranic procedure of divorce can go back to her first husband and remarry him.

After the pronouncement of talaq, the woman becomes 'haram' for the husband. In the context of divorce, a bar was laid down to ensure that the man did not use it as a tool for torturing his wife

by marrying and divorcing her as many times as he desired. It was the rule of irrevocability. This rule was introduced to maintain strict discipline and to ensure that the institution of marriage was not reduced to a mere mockery, says Muslim jurist Moulana Ashraf Ali Thanvi in his book *Bahishti Zewar*.⁷

It is considered that the Prophet himself established this rule. Dr. Furqan Ahmad, a Research Associate at the Indian Law Institute wrote in his book 'Understanding the Islamic Law of Divorce' that Prophet Muhammad tried to put an end to this barbarous and uncivilized pre-Islamic practice which was to divorce a wife and take her back multiple times to ill-treat her. The Prophet, by the rule of irrevocability of the triple talaq, made a clear indication that such a practice is not to be continued indefinitely. Thus, if the husband wished to take the wife back, he should go in accordance with the principles of *nikah halala*; if not, the third pronouncement of talaq after two consecutive reconciliations would act as a final bar."⁸

Jurist Maulana Ashraf Ali Thanvi further explained in his well-renowned work 'Bahishti Zewar' that if the husband and wife intended to re-marry for the third time, it was to be done only on one condition, that is, the woman had to marry another man and further sleeps with him. "After which, if the second husband dies or divorces her after sexual intercourse, then after the completion of the Iddat period, she can remarry the first husband. But, if the second husband unfortunately died or divorced her before the establishment of a sexual relationship, then it will not be taken into account and she cannot marry the first husband in such circumstances."⁹

5. COMPARATIVE ANALYSIS OF NIKAH HALALA WITH OFFENCE OF RAPE

As more and more human rights disappear under the pressure of mounting fanaticism and traditionalism in many areas of the Muslim world¹⁰, the practice of *halala* is considered to have an extremely heinous and offensive to the honor of both the man and woman.

The annihilation of *Nikah Halala* has placed this Islamic practice in equitability with the offence of rape defined under Section 375 of the Indian Penal Code, 1860. When the companion-less destitute divorced wife, in contemplation of returning to her former husband and saving her

⁷ Muhammad Aziz, *Halala Marriage and Its legal/ Sharia Status*, (Feb 01 2020 10:00 AM), <https://paklawyer.com/blog/nikah-halala/>.

⁸ Nafees Ahmad, *The challenges SC will face while reviewing petitions on banning polygamy and halala*, (Apr 06 2018 11:20 Am), <https://www.youthkiawaaz.com/2018/04/the-supreme-court-on-new-petitions-on-banning-polygamy-and-halala/>;

⁹ Aziz, *supra* note 9.

¹⁰ Gupta, *supra* note.1.

marriage, scruples at nothing including her dignity and endures the coercive tryst supported by religion, it can dexterously be termed as 'without her consent'. The definition of the offence of Rape under Section 375 of the Indian Penal Code, 1860 provides 'without her consent' as one of the circumstances under which the act of penetration by the male is made punishable¹¹. Section 375 defines the term 'consent' as an unequivocal voluntary agreement wherein the willingness of the female to participate in the specific sexual act is clearly expressed and discards the proof of the absence of physical opposition by the female to the act of penetration as a test to determine consent or voluntariness of the female to engage into the sexual act.¹² Incontestably, the grotesque Islamic practice of Nikah Halala fails to lend sufficient opportunity to the divorced wife who has been divorced and deserted by her husband. Post the pronouncement of irrevocable talaq, when the husband attempts to overcome the canonical scruples of divorcing his dutiful wife by his sincere penitence and elects to espouse the easy recourse to Nikah Halala to bring back his wife in marriage, the alternatives available for such divorced wife are exiguous. In such circumstances, when the wife is abandoned by the husband, she also yearns to return to the husband and concedes to a pre-planned Halala which as per Islamic practices, stipulates that she will only be Halal i.e. lawful for her first husband once she enters into a connubial relationship with a stranger for a single night and gets divorced by such stranger the very next day¹³. When such a divorced wife acquiesces to the presumed obligatory one-night engagement solely to preserve her first marriage, it is difficult to contend that she was acting of her own free will or consent. Consent is the exercise of a free and untrammelled right to forbid or withhold what is being consented to; it always is a voluntary and conscious acceptance of what is proposed to be done by another and concurred in by the former¹⁴. In cases of pre-planned Halala marriages, it becomes difficult to construe if the woman has an unconfined right to withhold the act into which she is dragged under compelling circumstances. The essence of the offence of Rape, under Section 375 of the Indian Penal Code, 1860 lies in the 'absence of consent' of the woman and the practice of Halala, especially the obligatory consummation of the second marriage to return to the first husband, also takes place without the consent or free will of the woman, thereby drawing parallels between the offence of Rape and the practice of Halala. It is here that the difference between consent and submission

¹¹ Indian Penal Code, 1860, § 375.

¹² Roy, *supra* note 6.

¹³ Debayan Roy, Supreme court to begin Nikah halala and polygamy hearing from july 20, News 18 India, (July 12 2018 10:48 Am),<https://www.news18.com/news/india/supreme-court-to-begin-nikah-halala-and-polygamy-hearing-from-july-20-1808713.html>;

¹⁴ *State Of Karnataka v. K.P. Thimmappa Gowda*, ILR 4465, 4471 (KAR: 2004).

becomes crucial. An act of helpless resignation in the face of inevitable compulsions is not deemed to be consent in law.

In *Rao Harnam Singh, Sheoji Singh v. State*¹⁵, the Punjab & Haryana High Court laid down the below points while distinguishing between the concept of 'consent' and 'submission':

- 1) A mere act of submission in the face of inevitable compulsion, non-resistance, passive giving in, when volitional faculty are either troubled by fear or vitiated by duress, cannot be considered as 'consent' as understood in law.
- 2) The submission of her body under the influence of fear or terror is no consent. There is a difference between consent and submission. Every consent involves a submission but the vice versa need not be true thus, a mere act of submission does not involve consent.
- 3) Consent of the girl in order to relieve an act, of a criminal character, like rape, must be an act of reason, accompanied with deliberation, after the mind has weighed as in a balance, the evil and the good on each side, with the existing power and capacity to withdraw the assent according to one's will.

Thus, the passive acquiescence by the woman when she is not in a position to rationally accept the predetermined practice of Nikah Halala, but still involve herself in it barely to desperately return to her first husband, can only be considered as 'submission' and not 'consent', which has to be proved as a defence to the allegation of Rape. The cases of Nikah Halala, especially when the woman does not voluntarily, in the ordinary course of nature, after getting divorced from her first husband engages in a second marriage, must fall within the definition of the offence of Rape.

6. LEGALITY OF NIKAH HALALA IN INDIA

In India, personal laws have dominated for a long period of time and continue to do so. While the center is keen on eradicating such practices, which deprive citizens of their fundamental rights, these practices are being followed by people under the cover of religion.¹⁶

Nikah halala is followed by a small Muslim community as they believe that the personal laws pertaining to marriage and divorces are deeply anchored in their religious texts and no law of the country can trump that. Triple talaq where a man can divorce his wife by pronouncing talaq thrice

¹⁵ *Rao Harnam Singh, Sheoji Singh v. State*, AIR 120, 123 (P H:1958).

¹⁶ Astha Jain, [Legality of Nikah halala in India](https://blog.iplleaders.in/nikah-halala/), Legality of Nikah Halala (Oct 5 2018 11:23 Am), [https://blog.iplleaders.in/nikah-halala/;](https://blog.iplleaders.in/nikah-halala/)

one of such personal laws is the perfect example of a grave and antagonistic issue in our country. However, muta (conditional marriage) is considered a sin in Islam, and people practicing it are considered to be sinners under the sharia law.

Defending their disdainful religious views, the All India Muslim Personal Law Board (AIMPLB) has said that any aberration from the Quranic injunction is considered to be going against the almighty himself. The triple talaq was declared unconstitutional last year and the bill to impose a penal provision was passed in the Lok Sabha. When the issues were raised to impose a law prohibiting polygamy and Nikah halala as well, the apex court said to consider these issues separately and is bound to hear petitions against it.

The former union minister Arif Mohammad Khan, whose advice on triple talaq was sought last year by the government said that Nikah halala is not a relevant issue. According to him Nikah halala in its repulsive forms practiced in the cases of triple talaq where the husband would give talaq in a fit of rage and then regret his decision. Then the religious scholars would tell him that he can only marry her if she marries someone else and consummates the marriage. He said that if practiced in the original form it actually empowers the woman.

The Bhartiya Janata Party (BJP) led the central government has taken a stand against the practice of polygamy, triple talaq and Nikah halala which are widely practiced across the country under the Muslim personal law. While triple talaq was declared unconstitutional and a bill of making the practice of triple talaq as a penal provision has been passed. The Supreme Court said to hear the petition against the other two separately. Without getting into the accounts of religious freedom the government plans to take a stand on the basis of gender equality with citing examples of our neighboring countries which are Pakistan and Bangladesh which have shunned these practices.¹⁷

All India Muslim Personal Law Board (AIMPLB) has taken strong opposition to the prohibition of Nikah halala and polygamy as they believe that any variation from Quran is the disrespect of the prophet himself. They also believe that all of this is just a political ploy by the government.¹⁸ It is believed that they will agree to codification to the personal laws and it will pave a way for the implementation of the uniform civil code in the country. The secretary and legal counsel of

¹⁷ Hari Kumar, [BJP pledges to legislate bill to prohibit and eliminate triple talaq and nikah halala](https://www.business-standard.com/article/pti-stories/bjp-pledges-to-legislate-bill-to-prohibit-and-eliminate-triple-talaq-nikah-halala-119040800772_1.html), (Apr. 08 2019 05:35), https://www.business-standard.com/article/pti-stories/bjp-pledges-to-legislate-bill-to-prohibit-and-eliminate-triple-talaq-nikah-halala-119040800772_1.html.

¹⁸ Debayan Roy, [AIMPLB says Nikah halala is quranic practice beyond challenge](https://www.news18.com/news/india/nikah-halala-is-a-quranic-practice-beyond-challenge-says-muslim-personal-law-board-1812517.html), News 18 India (July 15 2018 10:36 PM), <https://www.news18.com/news/india/nikah-halala-is-a-quranic-practice-beyond-challenge-says-muslim-personal-law-board-1812517.html>.

AIMPLB Zafaryab Jilani added that the practice of Nikah Halala cannot be deemed to be unconstitutional as it is in accordance with the Quran, therefore cannot be altered.¹⁹

The All India Muslim Personal Law Board has further contested in favor of Polygamy and the oppressive practice of Nikah Halala in a submission to the Supreme Court. This submission was a response to a Public Interest Litigation filed by Mr. Ashwini Upadhyay of the Bharatiya Janata Party. The AIMPLB emphasized on the fact that ‘Mohammedan Law is based on Hadith and Quran’ and that such practices cannot be tested on the basis of fundamental rights neither can it fall within the purview of expression ‘laws in force’ as mentioned in Article 13 of the Indian Constitution and therefore its validity cannot be tested”²⁰.

In modern India, these laws are misinterpreted and misused to a greater extent. These personal laws are crude and deprive the citizens of their basic fundamental rights which are guaranteed by our constitution. Despite their exploitative, inhuman nature, the practices yet continue to receive constant support from the AIMPLB. These laws have no place in modern India and should be abolished to make a way to a country where the citizens have equal rights not just in theory but in real spirit as well.

7. RECENT CASES OF MISUSE OF NIKAH HALALA IN INDIA

In modern India, the practice of nikah halala has been misused and manipulated. In October 2016, an Indian Muslim woman claimed that she was raped by her husband’s acquaintance raped her. The husband had lost his wife to his friend in the game of gambling and therefore was forced to divorce her. In order to get her back, the husband asked his friend to sleep with his former wife. The accused (husband’s friend) called it part of the “nikah halala”, so that her divorced husband could remarry her.²¹

There have been numerous reported incidents of the laceration of the practice of Nikah Halala. As dreadful as it may sound, several Islamic religious scholars, popularly known as the Maulavis are offering themselves up for a one-night stand with divorced Muslim women under the moral

¹⁹ Parbina purkayastha, [Muslim law board endorses Nikah Halala](https://www.indiatoday.in/india/story/muslim-law-board-endorses-nikah-halala-says-it-is-quranic-practice-and-cannot-be-challenged-1286497-2018-07-15), India Today (July 15 2018 10:33 PM), <https://www.indiatoday.in/india/story/muslim-law-board-endorses-nikah-halala-says-it-is-quranic-practice-and-cannot-be-challenged-1286497-2018-07-15>.

²⁰ Utkarsh Anand, [Based on Quran, cannot be challenged over laws based on Constitution: Here is how AIMPLB is battling for Nikah Halala and Polygamy](https://www.opindia.com/2020/01/aimplb-muslim-law-nikah-halala-polygamy-quran-hadith-constitution-triple-talaq-supreme-court/), OpIndia (Jan 27 2020 12:50 PM), <https://www.opindia.com/2020/01/aimplb-muslim-law-nikah-halala-polygamy-quran-hadith-constitution-triple-talaq-supreme-court/>.

²¹ Arun Raj, [AIMPLB moves Supreme Court to impleadment in pleas challenging validity of polygamy and Nikah halala](https://economictimes.indiatimes.com/topic/Nikah-Halala/news), (Jan 27 2020 01:09 PM), <https://economictimes.indiatimes.com/topic/Nikah-Halala/news>.

cover of trying to save their marriages under the disputable Islamic law²². Should such religious scholars who are psychologically, physically as well as financially exploiting woman in the name of misconstrued religious practice of halala and charging them a sum of money between Rs 20,000 and Rs 1.5 lakh to participate in Nikah Halala, not be held guilty of Rape?

Reports also show that there are online services to ostensibly help Muslim women to enter into halala marriages to get back together with husbands who divorced them. For example, a twitter page by the name Halal Nikah reads, “Assalamu’alaykum Alhamdulillah, this is a marriage service for Mahamadans worldwide. Such sites offer men who are willing to marry and establish a sexual relationship with the distraught and divorced woman in exchange for a fee.”²³

In an awful case in Bareilly, Uttar Pradesh where a woman was a victim of triple talaq twice and was forced to sleep with her father-in-law to facilitate her remarriage to her first husband. But the woman's misery did not end here. Her husband pronounced triple talaq again against her after the remarriage and this time was again forced to consummate her marriage with her brother-in-law to remarry her first husband again.²⁴

Consequently, on the lifting of the veil of the Nikah Halala, a loutish diabolical practice will be exposed which was primarily designed to exploit women physically in the name of religion.

8. SUGGESTIONS FOR IMPROVEMENT

- Muslim women are left with no remedy as practices like triple talaq; polygamy and Nikah Halala have a legal cover under the Muslim personal law. In order to fight such social evils, these practices should be considered criminal offences under the purview of Sections 354 (outraging modesty of women), 375 (rape), and 494 (bigamy) of the Indian penal code.

²² Sushant Pathak & Jamshed Adil Khan, Exposed: How Maulavis take money for one night stand with divorced women trying to save marriage, India Today (Aug 16 2017 11:20PM) <https://www.indiatoday.in/india/story/nikah-halala-islamic-scholars-one-night-stand-divorced-muslim-women-marriage-1029887-2017-08-16>.

²³ Sachin Dubey, Nikah Halala: A law that demands a woman to sleep with stranger to remarry her divorced husband, (Apr 05 2017 11:38), <https://www.outlookindia.com/website/story/nikah-halala-a-law-that-demands-a-woman-to-sleep-with-stranger-to-remarry-her-di/298450>.

²⁴ TN Nath, Bareilly woman claims serial halala, (Feb 07 2019 04: 43 PM), <https://timesofindia.indiatimes.com/india/bareilly-woman-claims-serial-halala/articleshow/67876738.cms>

- Muslim women should be made more aware of their fundamental rights. The society and the government should create for them an atmosphere where they can fight against injustice, ignorance, and violence caused to them in the name of religion.
- There should be a provision made where brave Muslim women can themselves address and counsel other women of their kind in order to protect them from harmful traditions like triple talaq, polygamy, domestic violence, and nikah Halala.
E.g. A non-profitable group, Ala Hazrat Helping Society, ran by Nida Khan a victim of triple talaq and domestic violence herself.
- The government and non-governmental organizations should focus more on setting up self-help groups, shelter homes, and other aiding camps to transform these women into independent and empowered citizens so that reconciliation with their husbands is not the only way further.
- The Muslim women should be made aware of the consequences of their silence and should be made heard of stories of the fewer Muslim women like Shah Bano, Shayara Bano, Nida Khan and other courageous women who fought against these unjust practices to protect their own rights and to bring a change in the mindset of the Muslim society.

As long as they fail to help themselves nobody really can.

“The best place to find a helping hand is at the end of your own arm”. Therefore, as long as the women of these communities do not come out and make audible their grievances no remarkable change could be brought about.

9. CONCLUSION

Islam at present is the fastest growing religion of the world through the 1500 years of its existence, yet has been by far one of the most misunderstood and misused religion. The reason for this is the mere ignorance by certain classes of its own followers²⁵. Majorly, due to the non-codification of the Muhammadan laws, the practice of Nikah Halala has similarly been widely misinterpreted. So much so that Muslim divorced women are increasingly exploited and forced to build a sexual bound with strangers to legitimize their remarriage with their former husband. The extremely traumatic stitch of Halala²⁶ is the obnoxious corollary of triple talaq which has been declared

²⁵ Samreen Hussain, *Triple Talaq: A Socio-Legal Analysis*, ILI Law Review 129, 129 (2010).

²⁶ Tilak Raj, *Jaitley taunts congress over nikah halala*, Jagran (Feb 08 2019 01:50 PM), <https://www.jagran.com/politics/national-does-the-bareilly-nikah-halala-not-shock-your-conscience-says-arun-jaitley-18931988.html>.

unconstitutional by the Hon'ble Supreme Court of India in the landmark verdict of *Shayara Bano v. Union of India*²⁷. After winning a hard-fought battle against the instant triple talaq, the Bhartiya Muslim Mahila Angolan is all set to draft 'Muslim Family Law, 2017', which, if debated and enacted by the parliament, would be the destruction of practices like polygamy and Nikah Halala as well. Appropriately, a codified law imposing a ban on these practices can remarkably leash out the despondency faced by women in the name of Islam. Regarding the need for flexible law that would render to the changing needs of the society, it has been fairly commentated that, 'If the law is unable to respond to the needs of changing society, then it will either stifle the growth of the society and choke its development or if the society is vigorous, it will cast away the law which would hinder its growth. Law must therefore constantly be on the move of adapting itself to the dynamic society, cater to its needs and not lag behind'.

In patriarchal societies like India, religious laws have often been lopsided, favoring men. Laws such as triple talaq and nikah halala are not merely archaic, but they are also debilitating for Islamic women. The legality of such laws needs to be challenged and eventually, discarded.

²⁷ *Shayara Bano v. Union of India*, SCC 960, 963 (SC: 2017).