

BETWEEN COMPANIONSHIP AND ALIENATION IN LITERATURE AND CINEMA: REIMAGINING PERSONAL LAW THROUGH MAHASWETA DEVI'S STORY "THE DIVORCE (TALAQ)" AND B.R. CHOPRA'S "NIKAAH"

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SUMMARY

It is evident that literature documents the incidents of the society, shaped in the form of variety of genres. The evolution of mankind is found in a well weaved genres in the pages of literature. Indeed, through these genres mankind witnesses the society once it was. It is evident that literature educates the society with rational and irrational practices and eventually, it brings in the transformation of the society. Mahasweta Devi's story "*The Divorce (Talaq)*" and Achala Naga's play "*Nikaah*" was written according to the then societal practices of a community "the Triple Talaq" which is now the concern of the present Indian law. The Indian Constitution epitomizes the mutual vision of the people of India. It has set laws considering sectarian concerns. More specifically, the Fundamental rights of Indian citizens are much sought after topic of discussion on distinguished platforms. Nevertheless, under protection of Rights on Marriage, a Bill was passed in 2019 in protection of Muslim Women (citizens) Rights on Marriage. The Muslim Women Bill in other words 'Triple Talaq' confirms that it's a criminal offence. Does this Bill in reality accepted by all? or Does victim choose to a medial solution to Talaq? The present research throws light on these questions and also the need of the Women Bill and the consequences faced by the Muslim women before and after the Bill referring to Mahasweta Devi's story "The Divorce (Talaq)" and B.R. Chopra's Hindi cinema "Nikaah" which is based on Achala Nagar's play.

KEY WORDS: Triple Talaq, Women Bill, Indian Constitution, Subaltern, Victimization

1. INTRODUCTION

Renowned Bengali author and social activist **Mahasweta Devi** utilized her literary work as a powerful tool to challenge societal taboos and outdated norms. Through her compelling narratives, she advocated for the rights of marginalized communities, particularly tribal groups. Her female protagonists often serve as bold symbols of resistance against societal dominance.

Dr. Achala Nagar, a prominent Indian literary figure, has contributed extensively to Hindi cinemas as a screenwriter and dialogue writer. She comes from a literary background as the daughter of the famous author Amritlal Nagar. Her dialogues in "Nikaah" movie gave a new horizon to voice, women sufferings.

Mahasweta Devi mirrored then the status of the women in Islamic tradition "*The Divorce*" (*Talaq*). It was originally written in Bengali and later it was translated into English. In this story, Mahasweta Devi subtly portrayed the bond between Husband and wife during their good days and also, she exemplified the suffering of the couple after uttering talaq. The other story which is discussed in the

present research paper is a Hindi cinema based on Achala Nagar's play "Nikaah". B.R. Chopra, the director of the cinema, very sensitively sketches the emotional journey of a woman who once rejected by her husband and after Nikaah with the other man, former husband expresses the desire to reconcile with her. At the end, both the men decide to sacrifice her for the other without her concern. "The Divorce" and "Nikaah" are not the stories which portray the discrimination of women alone but also brings into limelight how men are equally victimised by the societal beliefs.

"The Divorce" main characters are Kulsum and Arshad. The story begins with Kulsum's rhetorical question "You chose him? No property, no poultry, nothing. Felt like adopting someone?" (1). Kulsum's question to her father portrays the state of mind of Kulsum; a desperate feeling of hopelessness of poor financial condition of Arshad. Despite knowing the finances of Arshad, Kulsum marries him owing to the reason that "Marriage is the reference by which the single woman is defined, whether she is frustrated by, disgusted at or even indifferent to this institution" (Beauvoir 502). Nevertheless, Kulsum realises that her life with Arshad is a peaceful journey. Arshad is a

“very even-tempered man. He knew how to live in peace” (The Divorce 1). Kulsum’s happy married life is once confirmed by her father Gonu saying “Very peaceful out here. Phuli-Duli have money, but no peace of mind” (2) and everyone in the village considered her “lucky”.

As said by Phuli, sister of Kulsum that Kulsum might be 50 years old and Arshad 60 years. “lucky” Kulsum and “very even-tempered man” Arshad experience a turbulence in their life. This turbulence is not between happy and sad, not between agreeing and disagreeing, and not between sanguinity and apprehension but it’s a forceful stop of their married life. Kulsum was “never asked ... to go out and collect dung or firewood. Never did ... have to fetch groceries from the shops” but, in a spur of moment, was ruthlessly marooned in the society. Just for a reason that Kulsum recommended their grandchild to take to “Nitai daktar” a local doctor”, Arshad got into a heated argument and spell the word for three times “Talaq”.

Does “Talaq” break love and affection between Kulsum and Arshad? If Kulsum has to go back to Arshad, she should undergo a procedure of marrying other man and once again she should get “Talaq” from him and then she can marry Arshad. This procedure is known as “Halala”. In contrary, Kulsum doesn’t want to see even the face of the other man.

Mahasweta Devi portrayed the emotional attachment of a woman with the system of marriage and with her husband in a subtle way. Mahasweta Devi as a writer could not take the decision of ending the story neither Kulsum leaving Arshad which torments both nor allowing Kulsum to accept “Halala” where Kulsum’s belief system in ‘one-man-husband’ gets violated. Ergo, she suggested a medial solution for Kulsum.

Kulsum proposes Arshad “We’ll go to Calcutta, find a place to live.... You can stay at one end of the room and I’ll stay in the other. We can find some work, ...I’ll put the pot of rice on the fire to cook and you can take it off when it’s done. That way we won’t be committing any sins, but we’ll be in the same room” (*The Divorce* 8).

It is understood that Kulsum after getting divorce from Arshad she can’t go back to him unless she follows “Halala”. On the one hand, Kulsum doesn’t want to leave Arshad nor Arshad can live without Kulsum. On the other hand, they both cannot violate their societal procedure. The bond between them is so strong that they both cannot live without each other and silently leave the village without informing anyone to live together.

“The Divorce” mirrors how the society conditions the culture of one section of people. Mahasweta Devi very sensitively presents the emotional turmoil of a divorced

woman and leaves an imprint in the minds of the readers to rethink the rule of “Talaq” in which husband and wife both are victimised.

Also, “Nikaah” movie portrays the struggles of a woman who is conditioned by the society by its rigid rules and procedures after Talaq. The story moves around Niloufer, and her encounter with a complex journey in which she experiences affection, betrayal, and emotional growth. Niloufer is married to Waseem who prioritises his career achievements rather than newly-wed wife. When Niloufer seeks time from him, out of rage he spells “Talaq”. This moment of realisation sets the goal for Niloufer to rebuild her life. On this new journey, she meets her college friend Afaq Haider who has good feelings towards her. Though she initially sees him only as a friend, he becomes a potential source of emotional support and a chance for a fresh start.

The intense combat begins when Niloufer’s ex-husband desires to reconcile with her. At this juncture, should she go to her ex-husband whom she loved once or the present husband with whom she desires to start a new life. Before she decides anything, the two men decide her future by sacrificing her for each other. Niloufer exclaims

“Jo shaadi meri marzi ke bagair ho hi nahi sakti uske tootne me meri haa aur na ka dhakhal kyu nahi shamil? Inhone ne mujhe talaaq gaali ki tarah diya, aapne tohfe ki tarah.” which means

“a marriage that cannot happen without my consent, why is my ‘yes’ or ‘no’ doesn’t involve in its breaking? He gave me divorce like an insult and you gave it like a gift.” But “Talaq” is Talaq though it is given as an insult or as a gift a same trauma a woman has to get through. The significant dialogues in the story reflect the pain which Niloufer suffers to express her stand. Leaving Niloufer with Afaq Haider, Waseem leaves. Achala Nagar’s dialogues and B.R. Chopra’s direction directly triggers every man’s heart to rethink about the societal rigid procedures.

“The Divorce” and “Nikaah” are the literary genres that echoes the status of woman in the society who could not voice their discontentment and disapproval of “Talaq”.

Does a novel or a story is only for pleasure? Or does the society receive a thought-provoking message? What is the purpose of literature? It is very pertinent to know the answers for these rhetorical questions, so only, the purpose of literature is served. Since ages, the power of Literature is instrumental in reshaping the society. So do the writers. Mahasweta Devi and Achala Nagar highlighted the theme of “Talaq” not only to focus the agony of those women who were deserted by their beloved for no reason but also on the society at a larger extent that witnesses the incidents silently.

Nevertheless, do Kulsums and Niloufers exist in the society? If so, how did they bear the alienation?

Since ages women are considered weak physically and emotionally which is why women are not treated equally, in fact, women are not given equal priority. The women in Islam community are double discriminated. Beauvoir aptly avows in her book *"The Second Sex"* that "Humanity is male, and man defines woman, not in herself, but in relation to himself; she is not considered an autonomous being" (11). Post-colonial India has witnessed many transformations in all the fields. Nevertheless, the thought process of man towards woman is diversified.

The two women from the Islamic Society, Shah Bano and Shayara Bano are the whistle blowers who raised the concern against Triple Talaq. The former is a victim at the age of 62 years and the latter at the age of 32 years. As they could not convince "Shariah Law" and appealed to the Indian Law to preserve their "right to equality", the article 14 of the Constitution in line with "Shariah Law" (Law of Islam to its people). In the article, "Feminism and Multicultural Dilemmas in India: Revisiting the Shah Bano Case" Siobhan Mullally expresses that "Negotiating these conflicting has raised many challenges for feminism as the pursuit of gender equality is, once again, constrained by religious claims. (673)

However, the constitution of India has taken utmost care in setting the laws and acts still, the incidents in the society demands for the amendments. More specifically, the constitution has many laws for providing privileges and the protection of women. Though the Constitution treats the citizens of India equally, the sectarian society exhibits its own belief system which hinders at times, the fundamental rights. A few pain bearers from the Islamic society who felt helpless appealed the Indian Law for amendment. If one tries to understand from the perspective of talaq received women, it is the attachment and also helplessness of losing a person whom they believed to be a lifelong companion, compelled them to seek help from Indian Law.

According to Islamic Law, "Shariah" Triple Talaq or *Talaq-e-Biddat* is a practice that allowed a man to instantaneously and irrevocably divorce his wife by saying the word '*talaq*' three times successively (SCO). Even it is spelt in a spur of moment's rage there is no option to ignore, "once pronounced, cannot be revoked and taken back. The wife should instantaneously leave her husband. "What if a man realizes that out of rage, he spelled talaq though he loves his wife? Is that as simple as he can call his wife back? No, says Islamic Law. The man spelled talaq he cannot get his wife back until she undergoes the procedure of *Nikah Halala*. It is a procedure "the woman first has to marry another man and then her current husband would initiate divorce voluntarily after which she has to observe an *iddat* period and then only she can marry her former husband. *Iddat* means a period of waiting (three lunar

months) and as defined by *Mohammad Taqi al-Modarresi* in the *Laws of Islam* as "the period a woman must observe after the death of her husband or after a divorce, during which she may not marry *another man*." (ipleaders)

In Shah Bano's case, Mohd. Ahmad Khan performed Nikah (Marriage) with Shah Bano in 1932 and gave her irrevocable Talaq (Divorce) in 1978 at the age of 62 and another victim of Talaq is Shayara Bano. She was 32 years old when she received talaq papers through post.

It is understood that a marriage is a mutual agreement of a man and a woman wherein agree and abide by the invisible sentiments associated with marriage such as bind with each other lifelong, love and respect each other, understand each other's emotions and finally, share the responsibilities of children. However, in a due course husband and wife develop bond between them which enable them to live together till death apart them.

Shayara Bano's case is an epitome of woman's outburst towards instant talaq. She as a sufferer of talaq responded by filing a petition in the Supreme Court. She argued that "it violates Muslim women's right to equality among other constitutional freedoms. This argument was supported by several who intervened in this case. The 5 judge Constitution Bench of the Supreme Court heard the matter on 11th May 2017. After six days of arguments from both sides, it reserved the case for judgement" (ipleader).

It is evident that Shah Bano's and Shayara Bano's case raised a flag to reform Muslim personal laws to protect women's rights, "petition, titled 'Muslim Women's Quest for Equality', was filed by the Bharatiya Muslim Mahila Andolan and argued that Allah says men and women are equal (NDTV).

Shayara Bano is the fifth women and the four other women as stated by NDTV are:

- Ishrat Jahan from Howrah, West Bengal, whose husband called from Dubai and uttered three times talaq over phone after 15 years of their marriage relationship.
- Gulshan Parveen of Rampur, Uttar Pradesh was given talaqnama *notice* on a ₹ 10 stamp paper.
- Aafreen Rehman married in 2014 and received a letter via speed post announcing a divorce.
- Atiya Sabri, married in 2012, was also divorced on a piece of paper.

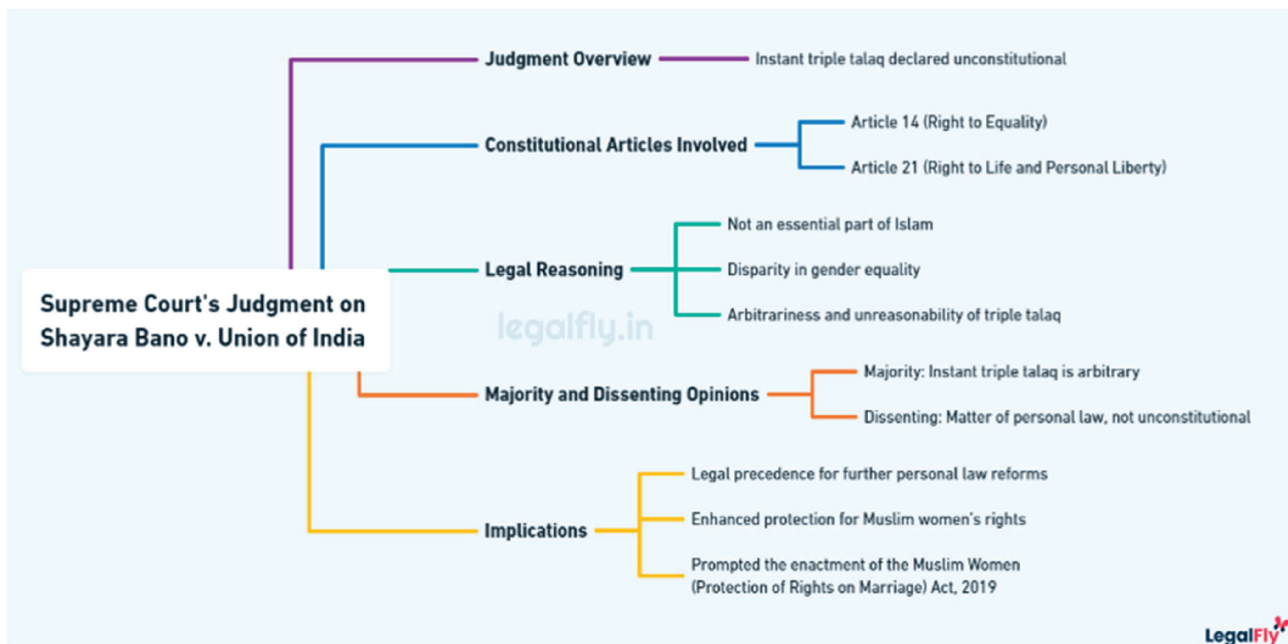
Marriage is an agreement between two people to stay together sharing and experiencing the essence of family. While doing so, an invisible string that connects husband and wife is love and affection. It is well said that, men are logical beings and women are emotional beings. Certainly, women depend on men. Nevertheless, human beings are dependent on each other. The woman of any religion is

no exception to this. After marriage, a woman “takes his name; she joins his religion, integrates into his class, his world; she belongs to his family, she becomes his other “half.” She follows him where his work calls him: where he works essentially determines where they live; she breaks with her past more or less brutally; she is annexed to her husband’s universe; she gives him her person: she owes him her virginity and strict fidelity. She loses part of the legal rights of the unmarried woman (Beauvoir 506) despite being a woman of a man, surprisingly, after spelling Talaq, at once she has to cut emotional relationship with her man and also with the status of being married. When both men and women are equal in front of god, why is weapon of talaq given to a man so that he can kill all the emotions associated with marriage in a spur of moment.

A conflict of interest arises that the belief system of the Islamic Society in considering “Triple Talaq or *Talaq-e-Biddat* and Halala”. If this system is followed by the Islamic society, then the definition of Nikah should be changed. as “Marriage, it’s a lifelong agreement between two people to stay together sharing and experiencing the essence of family responsibilities” till the husband is interested in the relationship.

Islamic Law vs. Patriarchal Systems: A Woman’s Perspective, Azizah Y. al-Hibri clearly states that “The Qur’an asserts that God created the male and the female from a single nafs (soul or spirit). This establishes the spiritual and onto logical equality of the two genders” (9). If it so, why do Muslim women are not treated equally to their counterpart? While performing Nikah “Kubul hai” (willingness of bride) is sought but Talaq is declared without her concern and “Shariah Law” also doesn’t come in rescue of Muslim women.

On August 22, 2017, the Supreme Court of India declared Talaq unconstitutional and further, stated that it is violation of fundamental rights of Muslim women” (*TOI*). Further, “The Parliament has passed the Muslim Women (Protection of Rights on Marriage) Bill, 2019, thereby criminalizing the practice of instant Triple Talaq. The Supreme Court in Shayara Bano case (2017) had declared the practise of Triple Talaq (talaq-e-biddat) as unconstitutional. However, the penal provision of the bill i.e. a Muslim husband declaring instant Triple Talaq can be imprisoned for up to three years is alleged to be disproportionate for a civil offence. (*Indian Express*)



Courtesy: LegalFly.in

It is not the women Bill which brings the changes in the lives of the divorced women but it is the heart of man who feels the pain of a woman.

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