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## IDDAT PERIOD- A JINX TO MUSLIM WOMEN

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### ABSTRACT

*The country of India, gives the perfect definition to the word 'Diversity'. There is not a single corner left where we don't have heterogeneity in this country from different food preferences to different cultures and customs, from different religion to different laws formulated for them. But unfortunately this beautiful composition ends up hurting some vulnerable sections of our society. The section which is talked about in this paper includes the Muslim women. From the very beginning women are looked upon as the greatest sacrifice either as mother, wife, sister or a daughter. Going through the period of Iddat in the name of chastity is a kind of sacrifice that almost every Muslim widow or female divorcee has to make irrespective of the form of Marriage. Muslim Personal Law and Hindu Law have always been in conflict in some or the matters. In Islam it is believed that in case of death of the husband the women gets the time to grieve her husband's passing and in the case of divorce the husband gets the time and opportunity to return to his wife because during this time the women are prohibited from getting married to other men during this time. The time period for iddat in days and months is different in the case of death of the husband and divorce between the husband and the wife. In other words, iddat period is the time period observed by the Muslim women after the dissolution of marriage in the name of chastity. The following paper is going to describe what Iddat period is and the problems faced by the Muslim women.*

**KEYWORDS:** *Diversity, vulnerable section, Muslim women, iddat period, chastity.*

## 1. INTRODUCTION

I am talking about the Muslim married women, whose(s) lives after divorce are governed under Section 2(b) of the Muslim Women Act, 1986 which deals with the *Iddat period or Iddah*.<sup>1</sup> Iddat period is observed by a Muslim Woman after she is divorced or her husband dies. It is a time when she is expected to mourn for her deceased *Shauher* (husband in Islam), or she is asked to wait for three months after separating from her husband, to not to get solemnized in her second marriage, before the time period gets over. It is generally the period of waiting or is also called celibacy.

It is one of the mandatory rituals which has to be followed by the Muslim wife. There are no such rituals for Muslim male in the Muslim personal laws.

## 2. OBJECTIVE

- To study and find out the terms and conditions related to Iddat period which has to be maintained by a Muslim wife.
- Why this practice by the Muslim community seem to be a curse to the Muslim Women.

## 3. ANALYSIS

There are two circumstances the marriage can be terminated or dissolved and due to which a Muslim Women has to observe the Iddat period may be for the period of three months or four months or more according to the situation. So the two circumstances are stated below:

### a) Termination of marriage due to divorce:

When there is dissolution of marriage of a Muslim Couple through divorce, the women has to follow the iddat time just after her divorce in isolation to the outer world for the period of three months. When the couple had been in a physical contact also before they get separated, that is why the iddat period is observed for three months. The three-month period is retained because, according to jurists, three menstrual cycles are necessary to determine whether the woman is pregnant or not and for the same reason they are not allowed to remarry, like if she gets pregnant just after the second marriage then it will be difficult to determine that whose child it would be. Moreover, if she gets pregnant during the divorce, she has to observe the iddat period till the birth of the child. Earlier the women was entitled for getting maintenance from their husbands till the

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<sup>1</sup> Muslim Women Act, 1986, §2(b), No. 25, Acts of Parliament, 1986 (India)

end of the Iddat Period only, however now through Daniel Latifi Case women are entitled to receive the maintenance from their divorced husband till they get remarried.

In the very first place this provision of maintenance only till iddat period was challenged in the landmark and controversial lawsuit of *Mohd. Ahmed Khan v. Shah Bano Begum* also called Shah Bano case.

Brief facts: There was this lady Shah Bano from Indore, Madhya Pradesh, who got divorced by her husband in 1978. She filed a petition for maintenance under section 125 of the CrPC. The Apex Court conferred her right to alimony from her husband post the iddat period.

Unfortunately, this judgement faced lots of criticism from different communities mainly the Muslim, declaring this judgement to be against the Muslim Personal Law or Islamic Law and against Quran (The Muslim Holy Book). In the year 1986 this decision by the Supreme Court was challenged in the Parliament by the Indian National Congress, thus by majority, Muslim Women (Protection of Rights on Divorce) Act, 1986 was passed to nullify this Judgement. Hence, prohibited Muslim divorcees' ability to get alimony from their ex-husbands beyond 90 days following the divorce (which is called the Iddat period)

But again, in Daniel Latiffi v. Union of India case, the Supreme Court of India declared the above mention Act invalid and interpreted in a way that assured the legitimacy of the case, as result, Shaha Bano Case was upheld by the honourable court. This order of the Supreme Court of India to protect the right of the Muslim women to get the maintenance post the Iddat Period was supported by Some Muslims including All India Shia Personal Law Board.

#### **b) Termination of Marriage due to the death of the husband.**

When the marriage gets dissolved due to the death of the husband the women has to observe four months and 10 days of Iddat period. The reason is that she is given time to mourn for her deceased husband and pray Allah (the Muslim Deity) for the peace of his soul. If the wife gets pregnant just after the husband dies she has to follow one year of Iddat Period i.e. nine months of pregnancy and three months of Iddat.

Generally the iddat period starts from the date of the death per se of the husband and not when the wife was made knowledgeable about his death. Same goes with when marriage is annulled due to divorce.

No matter where the wife stays or visits before the death of the husband she has to survive the iddat period in her permanent house i.e. in the house of her husband.

#### **4. MAINTENANCE DURING IDDAT PERIOD**

A Muslim woman is not eligible to receive maintenance from her husband's estate during the iddah period because she is also an heir to it. This is so that the husband alone is responsible for providing for the wife, not the other heirs. She would be entitled to obtain her dower (Mehr) as a first charge from his estate if she did not renounce it or receive it.

#### **5. THE DO'S AND DON'TS FOR A MUSLIM WIFE DURING THE IDDAT PERIOD**

- They can't wear makeup or bright coloured and silk clothes or do anything to beautify themselves.
- They can't debouch of the house where they are observing the Iddat period till this period ends.
- They are not allowed to meet the strangers or attend any funeral, no matter how close the relative would be.
- Some even prohibited women from seeing the moon or glancing in the mirror during the Iddat period.

#### **6. REASONS BEHIND THE IDDAT PERIOD**

- a) The primary goal of this time is to determine if the wife is impregnated or otherwise, regardless of when her husband passed away or divorced. She must honor the iddat period because it will be difficult to determine the child's biological father if she remarries and gets pregnant.
- b) Second reason behind this period is giving time to the divorced couple to rethink and resolve the issue, because there is a great importance of a family in Islam.
- c) Third reason behind this period, is to give a widowed woman adequate time to grieve her husband's passing, to prevent her from getting married soon after his passing, and to prevent her from making fun of society since, in their opinion, doing so will make society despise the lady.

So far, I have discussed almost all the aspect of the Iddat period and on my opinion this practice is unfair to the Muslim married women. Let's discuss why, in my opinion, marriage is an extremely auspicious, sacred, and important aspect of a person's life.

Its dissolution due to one partner's death is not in the hands of the other partner; rather, it is through a divorce that is handled by individuals; that being said, spouses are free to file for divorce if their

union does not work out for any reason. In addition, under Muslim law, if a marriage is dissolved by one of them, the woman must observe the iddat period and can only get married after the period has ended. This is unjust to her. <sup>2</sup>

Talking about the laws of other religion, there is no such bar on the women. All the rules and regulations which I mentioned above can prove to be really harsh on one's life which only Muslim women has to follow.. Being pregnant and spending one year around the four walls is not at all easy, talking about the laws of other religion, the situation is quite different, it is the straight violation of so many rights of a Muslim women. This disturbs the definition of secular law. Such laws and requirements are nothing more than obstacles in the lives of women today, who are working hard to become financially and socially independent. Iddat is thus, in my opinion, nothing more than a curse on women's life.

## 7. CONCLUSION

Muslim women exercise iddat to determine whether they are pregnant and if they are who the parents of the kid are and who the result of that pregnancy is. In accordance with Muslim personal law, a husband is only required to support his wife during the iddat time; once iddat begins, the lady is left on her own. The Supreme Court broke with precedent in the Shah Bano case and permitted maintenance even after the iddat period.

As a result, there was uproar among the Muslim community, and the 1986 Muslim Women Law was passed to overturn the Shah Bano case ruling. Furthermore, there was debate concerning this act in the High Court, but the Supreme Court resolved it by construing the statute in the wife's favour.

As it can be seen, regardless of the women's economic circumstances, a husband is now clearly required by Islamic law to support his ex-wife even after the start of the iddat term (even a step ahead of Shah Bano judgement). In a male-dominated society, the court has enhanced the status of women and established that they are treated equally in patriarchal nations like India.

The life of a woman has many ups and downs and the practices like Iddat period contributes to the problems of their lives, in this case to Muslim married women. We can say each religion have their different rules and rituals to follow, the main motive of these rituals shouldn't be to harm the basic rights of anyone or restrict them to live freely and following the old rituals which are not in

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<sup>2</sup> Varleen kaur, IDDAT under Muslim Personal Law, Legal Service India, (08. 09. 2022), [legalserviceindia.com/legal/article-7822-iddat-uner-muslim-personal-law.html](https://legalserviceindia.com/legal/article-7822-iddat-uner-muslim-personal-law.html)

consonance with today's world is unreasonable. In the above analysis we came to know what is iddat period, what Muslim women have to go through during this period and what is the reason behind this practice.