SHAH BANO CASE IN RELATION TO FILM "HAQ"

AUTHOR DETAILS

Institution/ University

O.P. Jindal Global University

Academic Year/ Designation

2nd Year, B.A. Legal Studies

Email Address

25jgls-tgoyal1@jgu.edu.in

Contact Number

+91 9382651968

LinkedIn

TrishaGoyal-LinkedIn

Instagram Handle

@trisha.goyall

"AI DISCLOSURE STATEMENT"

The author used an AI-assistant writing tool for language editing, grammar refinement, and formatting assistance. All legal research, analysis, case law interpretation, arguments and conclusions presented in this manuscript are the author's own work.

SUBMISSION CATEGORY

Short Article/ Essay

SHAH BANO CASE IN RELATION TO FILM "HAQ"

ABSTRACT

The Shah Bano case or *Mohd. Ahmed Khan v. Shah Bano Begum* (1985), is one of the most important cases in Indian legal history. The case has a great impact on gender equality, religious freedom, personal laws, and secular law. This research studies the legal and social issues involved in the case and also examines how these issues are shown in the film *Haq* through cinematic representation. The research uses a doctrinal and socio-legal approach, studying the Supreme Court judgment, relevant constitutional provisions, the Muslim Women (Protection of Rights on Divorce) Act, 1986, and the representation of the case in the film. The research argues that the judgment recognized the right of a divorced Muslim woman to claim maintenance under Section 125 of the CrPC, regardless of her religion. The conflict between gender equality and religious and cultural rights is also highlighted in the research. The study finds that the Shah Bano case played an important role in discussions about women's rights and the Uniform Civil Code. At the same time, *Haq* presents the emotional and social struggles faced by women and makes the legal issue easier for the public to understand.

Keywords-

Shah Bano Case; Gender Justice; Religious Freedom; Maintenance Rights; Uniform Civil Code

I. INTRODUCTION

The case of *Mohd. Ahmed Khan v. Shah Bano Begum*,[1] commonly known as the Shah Bano Case is one of the most important judgments in Indian family law. It is one of the most significant legal controversies which highlights the relationship between law, religion and gender justice in India. The case was decided by the Supreme Court of India in 1985, addressing whether a divorced Muslim woman had the right to ask her former husband for maintenance under Section 125 of CrPC, despite the provisions of the Muslim personal law.

The case still influences the legal discourse in India along with the cultural representations in India. The film *Haq*, dramatizes the struggle of a Muslim woman who is seeking justice after her divorce. Broader issues of gender inequality, religious interpretation and the challenges women face in accessing their legal rights are reflected in the film.

The paper examines how the film interprets and represents these issues through the form of cinema and also analyses the case through a legal and socio-political perspective. The Shah Bano case marked a turning point in the topic of gender justice and secular law in India, while the film *Haq* represents the emotional and social dimensions of the legal battle by presenting the struggle of a Muslim woman fighting for her dignity and equality.

II. HISTORICAL BACKGROUND OF THE CASE

The case originates from a dispute between Shah Bano Begum and her husband, Mohd. Ahmed Khan, who had been married for over four decades and had five children. It began when Shah Bano asked her husband for maintenance after he divorced her through triple talaq. Her husband argued stating that according to the Muslim personal law, he was only obliged to support her financially during the period of iddat, which lasts for period of three months after the divorce. He also said that he had already paid her the mahr (dower), which according to him completed his

[1] *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556 (India).

responsibility towards her as his wife. Having no means of livelihood, Bano approached the court to seek maintenance under the Section 125 of the CrPC.[2]

The judgment through this case led to a major debate in India. Most of the people supported the court's decision because it protected the rights of the women, while others believed it interfered with Muslim personal law. This controversy led to the passing of the Muslim Women (Protection of Rights on Divorce) Act in 1986. [3]

III. SUPREME COURT JUDGMENT

In 1985, the Supreme Court made its historic decision in favour of Shah Bano. The Court ruled that Section 125 of the CrPC applies to all citizens regardless of their religion and that a divorced Muslim woman is entitled to maintenance in case she is not able to sustain herself.

The Court justified this by the fact that the purpose of Section 125 is to discourage destitution and vagrancy and thus should be construed in a broad way. The judges rejected the argument that this statutory provision could be defeated by the Muslim personal law. They believed in the legal obligation of the husband to maintain his divorced wife reasonably after the iddat phase in case she did not find means of doing so.

The ruling further cited Islamic principles, which explain that the Quran in itself promotes fair treatment and financial assistance of divorced women.[4] Using religious books, the Court tried to illustrate that its decision was not conflicting with the Islamic teachings.

The other notable element of the ruling was that it referred to Article 44 of the Constitution of India[5] which promotes the state to adopt Uniform Civil Code (UCC). The Court noted that a uniform civil law would assist in fostering national integration and ridding people of contradictory personal statutes. Therefore, the opinion was considered a big leap towards gender justice and equality.

[2] Code of Criminal Procedure, 1973, § 125, No. 2, Acts of Parliament, 1974 (India). Section 125 has since been replaced by Bharatiya Nagarik Suraksha Sanhita, 2023, § 144.

[3] The Muslim Women (Protection of Rights on Divorce) Act, 1986, No. 25, Acts of Parliament, 1986 (India).

[4] Shah Bano, (1985) 2 SCC at 859–861.

[5] INDIA CONST. art. 44.

IV. THE POLITICAL AND THE SOCIAL CONTROVERSIES

The Shah Bano judgment caused an uproar across India, even though the ruling was progressive. According to the conservative Muslim organizations, the decision violated the Muslim personal law and autonomy of religion.

The decision was protested by a number of religious groups who argued that it would jeopardize the identity of the Muslim community and negate the use of the Sharia law in family and marriage matters. It was a controversial topic that immediately turned into a significant political problem that would gain significant media coverage and popular debate.

This political pressure later made the government of Prime Minister Rajiv Gandhi pass the Muslim Women (Protection of Rights on Divorce) Act, 1986. The result of this legislation was that the Supreme Court judgment was diluted since the husband was only required to pay maintenance to the wife at the time of iddat.

Women rights activists and legal scholars were very critical of the Act and claimed that it compromised gender justice and contravened the concept of equality before the law. It was believed that it was more of political appeasement and not an effort to defend minority rights.

However, with time the Act was re-interpreted by later decisions of the Supreme Court[6] to allow back the rights of divorced Muslim women to maintenance.

V. THE LEGAL SIGNIFICANCE OF THE CASE

The case of Shah Bano Begum is of high significance in shaping of the Indian constitutional and family laws. First, it reiterated the dominance of secular legal provisions in ensuring that vulnerable people are not subjected to economic disenfranchisement. Relying on Section 125 of the CrPC, the Court stressed that when it comes to Muslim women, fundamental human rights could not be taken away in the name of religion.

Second, the case revealed the conflict between personal law and the Constitution. Although personal laws are used in regulating issues on marriage, divorce, and inheritance among the various

[6] Danial Latifi v. Union of India, (2001) 7 SCC 740 (India).

religious groups, they still have to adhere to the larger provisions of interreligious equality and justice as spelt out in the constitution.

Third, the case brought back new controversies regarding the adoption of Uniform Civil Code in India. It was claimed by supporters that uniform code would remove discriminatory aspects and guarantee equal rights of all citizens. Critics, however, feared that such a code would bring down the cultural and religious diversity.

Lastly, the case led to the national attention to the issue of Muslim women rights. It showed the weaknesses of divorced women in the patriarchal societies and highlighted the necessity of legal changes.

VI. REPRESENTATION OF THE CASE IN MOVIE '*HAQ*'

The Shah Bano case has attracted the artistic and the filmic interpretations due to the legal and social implications they entailed. The film *Haq* is one such depiction and portrays the efforts of a Muslim woman who tries to get justice after the divorce.

It is not a documentary account but a fictionalized one which is based on the true events of the Shah Bano case. The courts have accepted that the movie is a dramatization of the facts of the story and not a direct retelling of events that took place in history.[7]

The movie reveals aspects of gender discrimination, legal battle, and the bravery needed to break the societal norms through its storyline. It is a representation of the main character being a strong woman who does not tolerate injustice and defends her rights in the law despite the pressure of the community.

VII. GENDER JUSTICE IN THE FILM

Gender justice struggle is one of the main themes of *Haq*. The movie explains why women tend to be economically and socially vulnerable following divorce, especially in a patriarchal society where one might not be financially independent.

[7] *Ms. Siddiqua Begum Khan v. Union of India & Others*, Writ Petition No. 42708 of 2025 (Madhya Pradesh High Court, 4 November 2025).

Through the legal fight that the protagonist has to face, the movie focuses on the issue of the law as a means of empowering people. It illustrates how the legal consciousness and law accessibility can be used to empower oppressed persons to confront the oppressive systems.

The emotional and psychological effects of divorce and social stigma are also highlighted by the story. The movie brings about humanity to the legal debate around the Shah Bano case through its depiction of individual struggles.

VIII. CONSTITUTIONAL PRINCIPLES INVOLVED

The decision in the case posed some serious constitutional issues concerning the connections between the personal laws, gender equality and the secular legal system of the Indian state. Though the case dealt with a petition to maintain under the criminal law, the case eventually involved larger constitutional ideals of equality, non-discrimination, dignity, religious freedom, and object of a Uniform Civil Code. These are the principles of the Indian constitutional order and they were instrumental in the rationale of the Supreme Court.

a) Equality Before the Law (Article 14)

Article 14 of the Constitution of India[8] was one of the most significant constitutional principles that were applied in the Shah Bano case, namely, the guarantee of equality before the law. Article 14 guarantees that every person will be subjected to equality by the judiciary system, and he or she shall have equal protection of the law.

In the Shah Bano case, the Supreme Court stressed that the secular clause in maintenance as provided in Section 125 of the Criminal Procedure Code covers all citizens irrespective of their religious affiliation. The end result of this provision is that it helps to prevent destitution and provide the individuals that cannot take care of themselves with financial assistance that is provided by the ones legally liable about them.

And in case divorced Muslim women were not under the protection of Section 125 due to personal religious law, it would raise inequity with regard to women of other religious groups. In declaring

[8] INDIA CONST. art. 14

that Shah Bano is entitled to maintenance, the Court strengthened the point that the law should reach out to the vulnerable members of the society equally, irrespective of their religious affiliation.

b) Banning Discrimination (Article 15)

The other constitutional principle that can be applied to the case was in Article 15 of the constitution of India[9] stating that no one can be discriminated against on grounds of religion, race, caste, sex or place of birth. Most of the conventional interpretations of personal law have left divorced women to financial vulnerabilities and lack of legal safeguards. Critics also claimed that refusal of maintenance to divorced Muslim women beyond the iddat period was a discrimination against them on both gender and religion grounds.

This concern is reflected in the way the Supreme Court understands the section 125 and makes sure that the divorced Muslim women do not lose financial assistance just because they are Muslim. By so doing, the Court was indirectly advancing the constitutional promise of combating discrimination and bringing gender equality.

c) Right to Life and Dignity (Article 21)

Article 21 of the Constitution of India[10] that provides the rights to life has been widely construed by the Indian courts as the right to live with dignity and basic economic security. The Shah Bano judgment did not narrowly concentrate on Article 21, but the concept of ensuring a divorced woman is not left in the lurch in the judgment is directly associated with this provision in the constitution.

Maintenance laws are meant to provide remedy to those people who are not able to sustain themselves are not left to go without the bare essentials. In the case of divorced women, especially those who have spent years in the domestic career, and are not earning any money of their own, financial aid of a former spouse can be necessary to live a dignified life.

d) Freedom of Religion (Article 25)

[9] INDIA CONST. art. 15

[10] INDIA CONST. art. 21

Another issue that was brought up by the case was the extent of religious freedom as specified in Article 25 of the Constitution of India[11] that provides people with the right to follow and spread their religion. Those who criticized the Supreme Court ruling contended that the use of Section 125 in cases involving divorced Muslim women encroached on Muslim personal law and as a result, infringed on religious freedom. The Court, however, made it clear that Section 125 is a secular statute aimed to avoid poverty and social injustice. Because it does not control the practice of religion, only guarantees the financial assistance to those who are in need, it does not violate the constitutional right to the freedom of religion.

This argument is indicative of a significant constitutional canon: although religious freedom is guaranteed, it is not absolute and should be ensured within the framework of social justice and common good.

e) Uniform Civil Code (UCC) (Article 44)

The Court citing Article 44 of the Constitution of India, which advocates the state to strive towards adoption of Uniform Civil Code (UCC) to all citizens, was one of the most talked-about facts about the Shah Bano judgment. Article 44 belongs to the Directive Principles of State Policy and, thus, could not be legally enforced in courts. But it represents the constitutional vision of establishment of a unified system of civil laws to control such issues like marriage, divorce, and inheritance.

In its ruling, the Supreme Court noted that in some cases the presence of various personal laws governing various religious groups results in the unequal treatment especially of the women. The Court indicated that a Uniform Civil Code may facilitate the integration of the nation and guarantee more gender equality. This observation raised a heated controversy in India since most of the minority groups became scared that a Uniform Civil Code would deprive them their cultural and religious identity.

f) Finding the balance between constitutional values

The Shah Bano case eventually demonstrates how difficult a task balancing between various constitutional principles can be. On the one hand, the Constitution guarantees freedom of religion and cultural diversity. Conversely, it places emphasis on equality, dignity and social justice. The

[11] INDIA CONST. art. 25

Supreme Court tried to balance these notions by reading Section 125 as a non-religion effort to avoid destitution instead of meddling in the religious dogma. By so doing, the Court emphasized the use of the constitutional law in protecting the rights of the vulnerable people and at the same time upholding the pluralistic society of India.

g) Significance

The constitutional principles that were involved in the Shah Bano case are still influencing legal discussions in India. The case revealed the necessity to make sure that there is no violation of the fundamental rights, especially those connected with gender equality and human dignity, by personal laws. It also fuelled debates on the connection between religion and secular law in the Indian constitution. As a result, the Shah Bano case has become a historic occasion in the Indian legal history and has shown how the concept of constitutional values can be applied to the interpretation of the family law as well as safeguarding the rights of women.

IX. CONCLUSION

The *Mohd. Ahmed Khan v. Shah Bano Begum* is still considered as one of the most important cases in the Indian constitutional law history. By holding that a divorced Muslim woman can claim maintenance under Section 125 of the CrPC, the Supreme Court reiterated the concept of gender justice and equality, as well as equality before the law.

Nonetheless, this was seen to be a political issue when the judgment and the consequent passing of the Muslim Women (Protection of Rights on Divorce) Act, 1986, exposed the ambiguities of the solution of the tension between freedom of religion and constitutional ideals.

The movie *Haq* can introduce this legal battle to a wider audience, because the film depicts the emotional and social aspects of the situation. The film, through its storyline, draws attention to the bravery of those women who oppose unfairness and struggle to defend their rights. In conclusion the Shah Bano case is a watershed in the process of gender equality and a re-evaluation of the law in India. Its legacy endures in the discussion of individual law, secularism, and women’s rights in a pluralistic culture.