



## Amendment to Triple Talaq Bill

The Union Cabinet has approved three crucial amendments to the triple talaq Bill. The provisions provide additional safeguards from the Act being misused.

- **The Muslim Women Protection of Rights on Marriage Bill**, makes instant triple talaq illegal and imposes a jail term of up to three years.

### The Provisions

- The '**offence**' of instant triple talaq will remain a **non-bailable** one when a man is arrested but he **will be able to apply for bail before the trial**, but only after the magistrate hears a wife.
  - The offence has been made **compoundable**, that is, if the wife and husband desire to settle differences, then the magistrate can compound the offence on appropriate terms and conditions.
- The complaint in such a case **can only be filed by the victim (wife) or blood relations**, and that a magistrate can grant bail with terms and conditions.
- The woman can approach the magistrate to seek **subsistence allowance for herself and her minor children**, and can also seek custody of her minor children from the magistrate who will take a final call on the matter.

### Background

The Muslim Women (Protection of Rights on Marriage) Bill, 2017, was introduced after the landmark 3-2 verdict of the Supreme Court which set aside the centuries-old practice of talaq-e-biddat or instant triple talaq in which Muslim men divorce their wives by uttering talaq three times in quick succession.

### What is Triple Talaq?

- There are three forms of talaq (divorce) in Islam: Ahsan, Hasan and Talaq-e-Biddat (triple or instant talaq). Ahsan and Hasan are revocable but Biddat is irrevocable.
- Triple talaq is a practice mainly prevalent among India's Muslim community following the Hanafi Islamic school of law.
- Under the practice, a Muslim man can divorce his wife by simply uttering "talaq" three times but women cannot pronounce triple talaq and are required to move a court for getting divorce under the Sharia Act, 1937.
- Triple talaq divorce is banned by many Islamic countries, including Pakistan, Bangladesh and Indonesia.

### Triple Talaq and the Indian constitution

- **Article 25** of the Constitution guarantees religious freedom as Freedom of Practice and Propagation of Religion.
- Like all other Fundamental Rights, it is subject to restrictions and does not protect religious practices that can negatively affect the welfare of citizens.
- Hence, Article 25 is overridden by **Article 14**, which guarantees the Right to Equality as triple

talaq denies a Muslim woman's equality before the law.

- Article 25 is also subject to **Article 15 (1)** which states that the State "shall not discriminate against any citizen on grounds only of religion, race, caste, sex..." Since triple talaq does not work in the favour of women, it violates Article 15 (1) of the Constitution.

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