



# IAS PARLIAMENT

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## Ordinance on Triple Talaq

### Why in news?

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The Union Cabinet has cleared an ordinance that makes talaq-e-biddat, or instant triple talaq, a criminal offence.

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### What are the key provisions?

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- Instant triple talaq will now attract a maximum jail term of three years.
- The new law has some safeguards, including bail to the accused before the start of trial.
- So, instant triple talaq will continue to be a “non-bailable” offence i.e. the police cannot grant bail at the police station.
- However, the accused can approach a magistrate for bail even before trial.

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### Key provisions

The Muslim Women (Protection of Rights on Marriage) Bill makes instant triple talaq illegal and imposes a jail term of up to 3 years

**BAIL PROCESS:**  
While the proposed law will remain “non-bailable” — bail cannot be granted at the police station — the accused can approach a magistrate for bail even before the trial



**BY THE AGGRIEVED ALONE:**  
Police can register the FIR only when a complaint is made by the victim (wife) or her blood relative

**BURYING THE HATCHET:** If the offence is compoundable, i.e. the husband and wife can have a settlement before a magistrate, the case can be withdrawn

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### Why an ordinance now?

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- The Supreme Court, last year, gave a landmark [verdict](#) that made triple talaq unconstitutional.
- But despite this, the practice of triple talaq continued unabated across the country.
- Nearly 200 cases had been reported after the Supreme Court banned triple talaq in August 2017.
- Besides, the Lok Sabha has also passed the [Muslim Women \(Protection of Rights on Marriage\) Bill, 2017](#).
- The Bill seeks to give statutory form to the Supreme Court ruling of 2017.
- But it is pending in the Rajya Sabha due to lack of consensus driven by some controversial provisions.

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### **Is the ordinance route reasonable?**

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- Already, serious objections were raised to some provisions of the Bill passed by the Lok Sabha.
- Also, there is an ongoing debate on the desirability of criminalising instant triple talaq.
- Given this, the matter required more elaborate deliberation.
- On the other hand, due to Opposition concerns, the government proposed significant changes to dilute the provisions.
- Despite a notice for these amendments being given, the matter was not taken up in the Rajya Sabha in the last session.
- The Bill has eventually been deferred to the next session of Parliament.
- Given these, the rationale for the government to take the ordinance route remains disputable.

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- Also, mere lack of consensus in the Rajya Sabha is not a good enough reason to promulgate an ordinance.  
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- It could even amount to subversion of the parliamentary process.  
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- As, the Bill has been passed in one House and the other is likely to consider it in an amended form.  
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### **What are the favourable changes though?**

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- Despite the dispute, the changes to be introduced through the ordinance do address some concerns with the original Bill.  
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- It makes the offence cognisable only if a police complaint is filed.  
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- [It is to be made by the woman, or one related to her by blood or marriage, against whom triple talaq has been pronounced.]  
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- The offence has been made compoundable i.e. the parties can settle the matter between themselves.  
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- It also provides that a magistrate may grant bail to the husband after hearing the wife.  
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- These amendments will restrict the scope for misuse by preventing third parties from setting the criminal law in motion.  
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- They will also leave open the possibility of the marriage continuing, by allowing bail and settlement.  
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- Nevertheless, the core issue remains - whether a marital wrong, essentially a civil matter, should lead to prosecutions and jail terms.  
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- Also, it is self-contradictory for a law to both allow a marriage to continue (as tripe talaq is invalid) and propose a jail term for the offending husband.  
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**Source: The Hindu**

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