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Presidents nod to Triple Talaq Ordinance

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President has promulgated the Muslim Women (Protection of Rights on Marriage) Ordinance 2018, popularly known as Triple Talaq ordinance.

This ordinance makes Instant Triple Talaq or Talaq-e-biddat a cognizable offense.

Background

- In August 2017, the Supreme Court ruled that Instant Triple talaq or talaq-e-biddat is unconstitutional and illegal in *Shayara Bano vs. Union of India and Ors.*
- To enforce the Supreme Court ruling, the government brought The Muslim Women (Protection of Rights on Marriage) Bill, 2017.
- The bill was passed by Lok Sabha, but the bill remains pending in Rajya Sabha.
- The ordinance gives effect to amended version of The Muslim Women (Protection of Rights on Marriage) Bill, 2017 as presented in Rajya Sabha by the government.

Provisions in Ordinance

- Any pronouncement of Talaq by a Muslim husband upon his wife in any manner, written, spoken or electronic, will be illegal.
- Any husband who pronounces triple talaq can be punished by a jail term up to three years and will also be liable for fine.
- Muslim women will now be entitled to custody of her minor children.
- Muslim women are now entitled to receive maintenance for herself and her dependent children upon whom talaq is pronounced.
- Triple talaq is now a cognizable offense if the case is filed by married Muslim women or any person related to her by blood or marriage.
- The offense will be compoundable, i.e. there can be a compromise but only on the insistence of the wife and magistrate will determine the terms and conditions.
- The offender can be granted bail by a magistrate but only after hearing the victim wife and magistrate is satisfied that there is reasonable ground for bail.

What is instant triple talaq?

- In the practice of talaq-e-biddat, when a man pronounces talaq thrice in a sitting, or through phone, or writes in a talaq-nama or a text message, the divorce is considered immediate and irrevocable, even if the man later wishes to re-conciliate. However, Women cannot pronounce triple talaq and are required to move a court for getting the divorce under the Sharia Act, 1937.
- 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 talaq-e-Biddat is irrevocable.
- Triple talaq is a practice mainly prevalent among India's Muslim community following the Hanafi Islamic school of law.
- Triple talaq divorce is banned by many Islamic countries, including Pakistan, Bangladesh, Turkey, UAE, and Indonesia.