

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.

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- So, instant triple talaq will continue to be a "non-bailable" offence i.e. the police cannot grant bail at the police station.
- \bullet However, the accused can approach a magistrate for bail even before trial. \n

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Why an ordinance now?

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• The Supreme Court, last year, gave a landmark <u>verdict</u> that made triple talaq unconstitutional.

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• But despite this, the practice of triple talaq continued unabated across the country.

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• Nearly 20o cases had been reported after the Supreme Court banned triple talaq in August 2017.

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• Besides, the Lok Sabha has also passed the <u>Muslim Women (Protection of Rights on Marriage) Bill, 2017</u>.

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- 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.

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 Also, there is an ongoing debate on the desirability of criminalising instant triple talaq.

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- Given this, the matter required more elaborate deliberation.
- \bullet On the other hand, due to Opposition concerns, the government proposed significant changes to dilute the provisions. $\mbox{\sc h}$
- Despite a notice for these amendments being given, the matter was not taken up in the Rajya Sabha in the last session.
- \bullet The Bill has eventually been deferred to the next session of Parliament. $\mbox{\ensuremath{\backslash}} n$
- \bullet Given these, the rationale for the government to take the ordinance route remains disputable. $\ensuremath{\backslash} n$
- 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.
- \bullet As, the Bill has been passed in one House and the other is likely to consider it in an amended form. \n

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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.

• 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

