

Muslim Women (Protection of Rights on Marriage) Bill, 2018

Why in news?

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The triple talaq bill was recently passed in the Lok Sabha and is to be passed by the Rajya Sabha.

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What is the Bill on?

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- The [Muslim Women \(Protection of Rights on Marriage\) Bill, 2017](#) was introduced and passed in Lok Sabha.

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- But the 2017 Bill was listed for withdrawal, due to lack of consensus in the Rajya Sabha.

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- So an [Ordinance](#) was passed in September 2018 for the interim period.

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- The Muslim Women (Protection of Rights on Marriage) Bill, 2018 now replaces the ordinance.

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- The 2018 Bill underwent a near debate less passage in the Lok Sabha.

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- The government rejected the Opposition's demand in the Rajya Sabha to send the Bill to a joint select committee for further scrutiny.

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- So there is again a standoff in the Rajya Sabha for its passage.

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What are the key changes in 2018 Bill?

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- The Bill makes all declaration of talaq, including in written or electronic

form, to be void (i.e. not enforceable in law) and illegal.

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- Definition of talaq includes talaq-e-biddat or any other similar form of talaq pronounced by a Muslim man resulting in instant and irrevocable divorce.

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- **Offence and penalty** - The Bill makes a declaration of talaq a cognizable offence.

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- It could attract up to 3 years imprisonment with a fine.

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- [A cognizable offence is one for which a police officer may arrest an accused person without a warrant.]

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- The offence will be cognizable only if information relating to the offence is given by -

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- i. the married woman (against whom talaq has been declared), or

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- ii. any person related to her by blood or marriage

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- **Bail** - The Bill provides that the Magistrate may grant bail to the accused.

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- The bail may be granted only after hearing the woman.

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- The Magistrate has to be satisfied that there are reasonable grounds for granting bail.

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- **Compounding** - The offence may be compounded by the Magistrate upon the request of the woman.

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- Compounding refers to the procedure where the two sides agree to stop legal proceedings, and settle the dispute.

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- The terms and conditions of the compounding of the offence will be determined by the Magistrate.

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- **Allowance** - The woman is entitled to seek subsistence allowance from her husband for herself and for her dependent children.

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- The amount of the allowance will be determined by the Magistrate.
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- **Custody** - The woman is entitled to seek custody of her minor children.
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What are the concerns?

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- Contrary to the intent of the legislation, it would weaken the position of Muslim women.
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- The question over the need for law when the five-judge Supreme Court Bench had outlawed the practice remains unanswered.
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- The Bill stipulates a three-year prison sentence and a fine. It is unclear why a civil contract should carry a criminal penalty.
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- The original Bill stated that the offence would be non-bailable, which has been reduced to a bailable offence in the latest version.
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- The woman is entitled to receive from her husband a subsistence allowance for her and her dependent children.
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- Expecting a man, who is incarcerated for 3 years and with less chance to earn a livelihood, to pay allowance is illogical.
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Source: PRS India, Business Standard

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