

Muslim Women (Protection of Rights on Marriage) Act, 2019

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The **Muslim Women (Protection of Rights on Marriage) Act, 2019** was enacted to protect the rights and dignity of married Muslim women and **to prohibit the practice of instant and irrevocable divorce through Triple Talaq, also known as talaq-e-biddat**. The Act followed the Supreme Court's 2017 judgment declaring the practice unconstitutional.

Why was the Muslim Women (Protection of Rights on Marriage) Act, 2019 Enacted?

The **Muslim Women (Protection of Rights on Marriage) Act, 2019** was enacted **to provide legal protection to Muslim women against the practice of Triple Talaq**, which allowed a Muslim husband to divorce his wife instantaneously by pronouncing talaq three times.

Triple Talaq, also called talaq-e-biddat, was a form of divorce in which the husband did not need to give a reason, and the wife did not necessarily have to be present when the pronouncement was made. The practice could therefore end the marital relationship instantly and unilaterally.

- The practice was challenged before the Supreme Court by **Shayara Bano**, whose husband ended their 14-year marriage through instant Triple Talaq by a letter. She challenged the practice on the ground that it was discriminatory and against the dignity of women.
- On 22 August 2017, in **Shayara Bano v. Union of India (2017)**, the Supreme Court, by a **3:2 majority**, set aside the practice of **instant triple talaq (talaq-e-biddat)**, holding it **manifestly arbitrary and violative of Article 14** of the Constitution.
- The Court considered the practice manifestly arbitrary, as it allowed a Muslim husband to break the marital tie capriciously and without any attempt at reconciliation.

However, the practice reportedly continued even after the judgment. Around 100 instances of Triple Talaq were reported between the Supreme Court judgment of 22 August 2017 and the introduction of the Bill on 28 December 2017.

Muslim Women (Protection of Rights on Marriage) Act, 2019 Legislative Journey and Enactment

To give immediate effect to the verdict of the Supreme Court the Government first promulgated the **Muslim Women (Protection of Rights on Marriage) Ordinance, 2018** on 19 September 2018, followed by two further Ordinances.

The **Muslim Women (Protection of Rights on Marriage) Bill, 2019** was passed by the **Lok Sabha** on 25 July 2019 and by the Rajya Sabha on 30 July 2019. After receiving Presidential assent, the Muslim Women (Protection of Rights on Marriage) Act, 2019 came into force with retrospective effect from 19 September 2018.

Key Provisions of the Muslim Women (Protection of Rights on Marriage) Act, 2019

The **Muslim Women (Protection of Rights on Marriage) Act, 2019** makes instant Triple Talaq legally ineffective while also providing punishment and specific protections to affected women.

- **Triple Talaq is Void and Illegal:** Under Section 3, any pronouncement of ***talaq-e-biddat or any similar form of instantaneous and irrevocable divorce is void and illegal***. The provision covers pronouncements made through spoken or written words, electronic form, or any other manner.
- **Punishment for Pronouncing Triple Talaq:** Under Section 4, a Muslim husband who pronounces the talaq covered by Section 3 is punishable with ***imprisonment for up to three years and fine***.
- **Subsistence Allowance:** Under Section 5, the ***Muslim woman upon whom talaq is pronounced is entitled to receive subsistence allowance for herself and her dependent children*** from her husband. The amount is determined by the **Magistrate**.
- **Custody of Minor Children:** Under Section 6, the ***affected Muslim woman is entitled to custody of her minor children***, in the manner determined by the Magistrate.
- **Cognizability, Bail and Compounding:** Section 7 lays down specific safeguards regarding the criminal process. The offence is **cognizable** when information is given to the police by the affected woman or a

person related to her by blood or marriage. It is **compoundable** at the instance of the affected woman, but only with the permission of the Magistrate and on terms determined by the Magistrate. The accused cannot be released on bail unless the Magistrate hears the affected woman and is satisfied that there are reasonable grounds for granting bail.

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Significance

The **Muslim Women (Protection of Rights on Marriage) Act, 2019** gives statutory backing to the protection of Muslim women against the arbitrary practice of instant Triple Talaq.

- It strengthens gender equality and dignity by providing legal protection against an arbitrary form of divorce.
- It provides statutory remedies through subsistence allowance and custody of minor children.
- The punishment of up to three years provides a deterrent against the continuation of the practice.
- The Government has reported an 82% decline in Triple Talaq cases within one year of the Act.
- “Muslim Women Rights Day” was observed across the country on 1st August 2021 to celebrate the enactment of the law against Triple Talaq.
- The reform has been presented as contributing to **women’s empowerment**, self-reliance, self-respect and self-confidence.

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