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**Review Document**

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

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

### **Significance**

The Supreme Court in the matter of Shayara Bano Vs. union of India and others and other connected matters, on the 22nd August, 2017, in a majority judgment of 3:2, set aside the practice of talaq-e-biddat (three pronouncements of talaq, at one and the same time) practiced by certain Muslim husbands to divorce their wives. This judgment gave a boost to liberate Indian Muslim women from the age-old practice of impulsive and eccentric technique of divorce, by some Muslim men, leaving no room for reconciliation.

### **Objective**

This Bill will protect the rights of married Muslim women and prohibit divorce by pronouncing talaq by their husbands and to provide for matters connected therewith or incidental thereto.

The practice of instant divorce by Muslim men will be punishable by a jail term of up to three years.

### **Important provisions**

- **Section 2(b):**Any offence under the Act is to be tried by the “Judicial Magistrate of the first class, exercising jurisdiction under the Code of Criminal Procedure, 1973”.
- **Section 3:**Any pronouncement of talaq by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal.
- **Section 4:**The Act prescribes a punishment of imprisonment up to 3 years and fine.
- **Section 5:**A subsistence allowance is to be paid by the husband to the wife, taking into consideration the dependent child/children if any, as determined by the Magistrate.
- **Section 6:**The custody of the minor child/children if any remains with the Muslim woman.
- **Section 7:**The offence under the Act is cognizable, non-bailable and compoundable at the instance of a Muslim woman who is the victim of triple-talaq.No bail application is to be

entertained until the woman on whom the talaq has been pronounced, is heard and is satisfied that there are reasonable grounds for granting bail to such person.

## **Recent amendments**

Parliament passed the Muslim Women (Protection of Rights on Marriage) Bill 2019, on 30-07-2019 and it would replace Muslim Women (Protection of Rights on Marriage) Second Ordinance, 2019.

## **Loopholes**

- Muslim men's are not given with the right to be heard under the bill.
- The mutual divorce provision is missing.
- The terms of imprisonment up to three years is arbitrary and excessive as on one side the law says that the triple talaq is invalid and the marriage will continue and on the other hand proposes imprisonment to the offended husband.

## **Conclusion**

The bill is in the right direction to provide power to women over their own lives contributing to the society, and in their communities freely by removing fears, restrictions and empowering women by giving them their rights. But the bill should be clearer with some provisions to prevent legal loopholes as not only Muslim women but Muslim men are also the sufferers of talaq-e-biddat.

## **References**

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## **About the Author**



I'm Divya Soni from Indore Institute of Law and I had the opportunity to undergo a one-month internship at LeaglEagle Law Forum. I must say this was an enriching experience for me. Mainly this was an online internship and bare act review program. Each intern was provided with six bare acts to review which we have to submit at the 20<sup>th</sup> day. It was difficult and interesting for me to review each bare act as I haven't read few bare acts before. In general, I can say that this internship was an invaluable experience for me, and the knowledge and skills I gained during this period will certainly help me in the future.