



Impatient move

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Highlights

- The Union Cabinet's decision to take the ordinance route to enact a diluted version of its law making instant triple talaq a criminal offence is a sign of undue impatience.
- This is a matter that required deliberation, especially after serious objections were raised to some provisions of the Bill passed by the Lok Sabha; also, there is an ongoing debate on the desirability of criminalising instant triple talaq.
- The Muslim Women (Protection of Rights on Marriage) Bill, as approved by the Lok Sabha, sought to give statutory form to the Supreme Court ruling of 2017 that declared talaq-e-biddat as illegal.
- The Bill made this form of divorce punishable by a three-year prison term and a fine.
- Despite a notice for these amendments being given, the matter was not taken up in the Rajya Sabha in the last session due to a lack of consensus.
- Clearly, the Centre wants to demonstrate that it is espousing the cause of Muslim women.
- But the mere lack of consensus in the House is not a good enough reason to promulgate an ordinance.
- It could even amount to subversion of the parliamentary process, as the Bill has been passed in one House and the other is likely to consider it in an amended form.
- However, the changes to be introduced through the ordinance do address some of the reservations about the original Bill.
 - The first makes the offence cognisable only if the woman, or one related to her by blood or marriage, against whom triple talaq has been pronounced, files a police complaint.
 - Second, the offence has been made compoundable, that is, the parties can settle the matter between themselves.
 - And third, it provides that a magistrate may grant bail to the husband after hearing the wife.
 - These amendments will not only restrict the scope for misuse by preventing third parties from setting the criminal law in motion against a man pronouncing instant triple talaq against his wife; they will also leave open the possibility of the marriage continuing by allowing bail and settlement.
- But the core issue that arises from the proposed law remains: whether a marital wrong, essentially a civil matter, should lead to prosecutions and jail terms.
- Also, when the law declares instant triple talaq to be invalid, it only means the marriage continues to subsist, and it is somewhat self-contradictory for a law to both allow a marriage to continue and propose a jail term for the offending husband.