

General Studies-1; Topic: Role of women; social empowerment

Criminalising Triple Talaq

1) Introduction

- The Muslim Women (Protection of Rights on Marriage) Bill to make instant triple talaq illegal and void was passed by Lok Sabha.
- Any pronouncement of triple talaq by a person upon his wife, by words, either spoken or written or in electronic form or in any other manner, shall be void and illegal
- Triple talaq will be a crime punishable with three years in jail and a fine
- The proposed law would be applicable to the entire country except Jammu and Kashmir.

2) What is Triple Talaq?

- An instant and irrevocable divorce where a Muslim man can divorce his wife by uttering "talaq" thrice
- The husband does not need to cite a cause for divorce or the presence of his wife during the announcement
- It is not universal among Muslims
- Many Islamic nations including Bangladesh, Morocco, Indonesia, Malaysia and Tunisia have regulated this.

3) Arguments favouring the Bill

- Triple talaq adversely impact rights of women to a life of dignity and is against constitutional principles such as gender equality, secularism, international laws etc.
- The penal measure acts as a "necessary deterrent"
- It significantly empowers Muslim women
- The practice of triple talaq has continued despite the Supreme Court order terming it void.
- The practice is arbitrary and, therefore, unconstitutional
- The law is about justice and respect for women and is not about any religion or community
- It protects the rights of Muslim women against arbitrary divorce
- Instant triple talaq is viewed as sinful and improper by a large section of the community itself.
- The fine amount could be awarded as maintenance or subsistence allowance.

4) Arguments opposing Criminalisation

- It is well established that criminalising something does not have any deterrent effect on its practice.
- Since marriage is a civil contract, the procedures to be followed on its breakdown should also be of civil nature only.
- Civil redress mechanisms must ensure that Muslim women are able to negotiate for their rights both within and outside of the marriage
- The harsh punishment defies the doctrine of proportionality.
- Three years in prison of the convicted husband will end up penalising the already aggrieved wife and children too.
- The punishment will aggravate the insecurity and alienation of the Indian Muslim community
- In the recent Supreme Court judgement, it never said that triple talaq is to be criminally punished.
- Invoke a secular law that already exists: Protection of Women from Domestic Violence Act (PWDVA), 2005.

- Parliament should have passed a law stating that the utterance of the words “talaq, talaq, talaq” would amount to “domestic violence” as defined in the PWDVA.
- The PWDVA was conceived as a law that ensures speedy relief — ideally within three months — to an aggrieved woman
- While PWDVA is civil in nature, it has a reasonably stringent penal provision built into it.

5) **Concerns / Challenges**

- It would be difficult to prove triple talaq
- The bill violates the fundamental rights guaranteed by the Indian Constitution under article 14 and 15.
- Some Muslim women’s groups raised concerns about “maintenance” if the husband is sent to jail.

