Proposal on Sharia Courts

Why in news?

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The All India Muslim Personal Law Board's (AIMPLB) proposed to establish sharia courts all over the country.

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What are Sharia courts?

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- Darul Qaza (sharia courts) are not courts in the strictest sense of the term but counselling or arbitration centres.
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- According to SC's judgement "Sharia courts are not courts" because the Indian legal system does not recognise a parallel judicial system, But the court also refused to deem them unconstitutional.
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- They are accessible, useful, informal and voluntary institutions that provide speedy and inexpensive justice to the poor.
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What is the need for Sharia courts?

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- The decline of the civil justice system is a major phenomenon of our times, and alternative dispute resolution (ADR) mechanisms are the new normal.
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- The plan on establishing rightly been termed as the "economic cleansing of the civil courts", Governments too favour ADR as it leads to saving public money.
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- Thus in 2008, the UK set up five sharia courts whose rulings are enforceable with the full power of the English judicial system.
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- ADR is privatisation of justice because parties not only nominate their judges but make their own laws or adopt laws of other countries.
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What are the relevance of such courts in India?

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- Sharia courts has been establish in the second decade of 20th century in Bihar, and were subsequently established in West Bengal and Orissa.
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- Such courts are widely respected for putting in place elaborate procedures for the determination of issues, systematic recording of testimonies and speaking orders.
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- As of now about 100 such courts have been functional for decades in India and such courts provide speedy and inexpensive justice to poor women.
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- Some of these orders have been quoted with approval by the formal courts.
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What is the significance of such sharia courts?

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- A majority of women consult these courts to get divorce or to seek the dissolution of their marriages.
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- More than 60,000 cases have been amicably resolved by these courts, The cases were disposed of in less than a year’s time.
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- These courts never grant triple divorce, They always prefer the Quranic procedure of divorce.
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- Their orders are not binding and lack legal sanctity, However It’s perfectly legal if all the parties concerned want to comply with their orders.
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- Unlike the Khap panchayats, these courts do not deal with criminal cases and cannot forcibly enforce their orders.
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- There has been a steady increase over the decades in the number of cases filed with these sharia courts, Very rarely is a sharia court’s decision

challenged in a civil court.
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Source: The Indian Express

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