that the personal laws cannot be challenged under the ambit of fundamental rights is very important, which one must keep in





We should not adopt a rigid attitude, but choose a reformist approach towards social evil



I welcome the Supreme Court judgment on instant triple talaq. It is a victory for the brave Muslim women who have waged a



It is an affirmation of women's rights and would give them relief from discrimination. I welcome the Supreme **Court decision** setting aside instant talaq. I congratulate the women who fought for justice RAHUL GANDHI

United against triple talaq, divided on legal points

While Chief Justice wanted to invoke Article 142 and seek legislation to end the practice, the majority verdict set it aside as 'manifestly arbitrary'

KRISHNADAS RAJAGOPAL

Though he declared instant talaq a fundamental right, Chief Justice of India J.S. Khehar on Tuesday employed the Supreme Court's rare and extraordinary jurisdiction under Article 142 to injunct Muslim husbands from divorcing their wives for the next six months through the same instant talaq.

The issue of Chief Justice Khehar employing Article 142 was raised by another judge on the Bench. "I have serious doubts as to whether, even under Article 142, the exercise of a fundamental right can be injuncted," Justice Kurian observed.

Chief Justice Khehar issued the direction under Article 142 after observing that even theocratic Islamic States had corrected their Shariat to banish instant

In other countries

"When the British rulers in India provided succour to Muslims by legislation, and when remedial measures have been adopted by the Muslim world, we find no reason, for an independent India, to lag behind. Measures have been adopted for other religious denominations even in India, but not for Muslims. We would, therefore, implore the legislature, to bestow its thoughtful consideration, to this issue of paramount importance," Chief Justice Khehar observed.

Moreover, the Chief Justice, who wrote the minority judgment for himself and Justice S. Abdul Naz-



Sweet victory: Members of the Bharatiya Muslim Mahila Andolan share sweets with the organisation's founder Noorjehan Safia Niaz, centre, in Mumbai on Tuesday, following the Supreme Court verdict. • ARUNANGSU ROY CHOWDHURY

eer, directed the government to frame a law to address the issue of Muslim women under the voke of triple talaq, especially instant talaq. The minority verdict said social evils such as sati, infanticide and devadasi system were cast out by way of legislation and not by judicial orders.

However, the direction under Article 142 in the minority verdict failed to come alive as the majority of the judges on the Bench set aside instant talaq with immediate effect.

Gender equality

India is committed to gender equality and eradication of

discrimination on the basis of sex, the minority verdict said. "We have not the least doubt, that the Indian state is committed to gender equality. This is the clear mandate of Article 14 (equality before law) of the Constitution. India is also commiteradicate discrimination ground of sex. Articles 15 and 16 of the Constitution, prohibit any kind of discrimina-

tion on the basis of sex." "There is, therefore, no reason or necessity while examining the issue of 'talaq-ebiddat', to fall back upon international conventions.'

(With PTI inputs)

Centre to send advisory to States

SPECIAL CORRESPONDENT NEW DELHI

The Centre is all set to send an advisory to thr States, asking them to ensure compliance with the Supreme Court order declaring triple talaq void, illegal and unconstitutional.

"An advisory asking all Directors-General of Police and Chief

Secretaries to keep a close watch on the situation will be issued soon," a Home Ministry spokesperson said.

The Union Ministry will be asking the State governments to take appropriate action and ensure compliance with the Supreme Court order, the spokesperson said.

Call of conscience may have cascading effect: CJI

Advises 'absolute restraint' while hearing matters of faith

KRISHNADAS RAJAGOPAL

In his minority judgment in the triple talaq case, Chief Justice of India J.S. Khehar about the inroads "rationalists" may make into other "personal law" practices. and advises judges to exercise absolute restraint, and not activism, in matters of religious faith.

"A call of conscience may have a cascading effect ... Attorney-General ahasan and hasan [two other acceptable and revocable forms of triple talaq] to be declared unconstitutional. Halala and polygamy are already under challenge. It is not difficult to comprehend what kind of challenges would be raised by rationalists, assailing practices of different faiths on diverse grounds, based on all kinds of enlightened sensibilities,' the Chief Justice warned in his judgment, supported by Justice S. Abdul Nazeer on the Bench.

Be guarded

The Chief Justice goes on to observe that "we have to be guarded, lest we find our conscience traversing into every nook and corner of religious practices and personal law."

Having declared instant



Chief Justice J.S. Khehar

At best, the court may advise and focus the attention of the state to the issue

talaq a matter of religious faith, Chief Justice Khehar asks whether "a court, based on a righteous endeavour, can declare that a matter of faith, be replaced or be completely done away with?"

Constitutional guarantee 'The Constitution assures believers of all faiths, that their way of life, is guaranteed, and would not be subjected to any challenge, even though they may seem to others - and even rational-

ists practising the same faith - unacceptable, in today's world and age," Chief Justice

He observed that a court of law has limited jurisdiction in matters of faith.

"While examining issues falling in the realm of religious practices or 'personal law', it is not for a court to make a choice of something which it considers as forward looking or non-fundamentalist. It is not for a court to determine whether religious practices were prudent or progressive or regressive. Religion and 'personal law' must be perceived, as it is accepted, by the followers of the faith. And not, how another would like it to be - including self-proclaimed rationalists - of the same faith," Chief Justice Khehar said.

Call for law

The minority judgment asked the government to frame a law on triple talaq, especially instant talaq.

Advising "absolute restraint" while hearing matters of faith, the Chief Justice said an "activist court" may not be fully equipped to cope with the intricacies of an issue which requires legislative attention. At best, the court may advise and focus the attention of the state to the issue, "shake it from its slumber, goading it to awaken, march and reach

A shot in the arm for gender justice

A timeline of the triple talaq case in the Supreme Court

Bench, while hearing a case under Hindu Succession Act, asks the Chief Justice of India to set up an appropriate Bench to examine whether Muslim women face gender discrimination in divorce cases

Feb. 5, 2016: SC asks then Attorney General of India to assist the court on the pleas challenging constitutional validity of triple talaq, nikah halala and polygamy

March 28: SC makes the All India Muslim Personal Law Board party to the case. apart from others. Also, asks the Centre to file a report of a high-level panel on family laws on divorce & marriage



June 29: SC says triple talag will be measured on the "touchstone of constitutional framework⁴

Oct. 7, 2016: Centre opposes the practice on the ground of gender equality and secularism

Feb. 16, 2017: SC says a five-judge Constitution Bench would be set up to hear and decide the challenge to triple talaq, nikah halala

and polygamy March 27: AIMPLB argues that the issues of triple talaq fall outside the realm of the SC Court



victim of triple talag, after the verdict in New Delhi.

Mar 30, 2017 May 11 set as the date when a Constitution hench will hear the cases

May 11: SC to practice among Muslims is fundamental to their religion

May 12: SC observes that triple talaq is the "worst" form of dissolution of marriages among Muslims and it is "not desirable"

May 15: Centre informs SC that it will bring a law to regulate marriage and divorce among Muslims if triple talaq is held void. SC says it will examine whether triple talag is an essential part of the religion under Article 25

May 16: Muslim Personal Law Board submits that triple talao is a matter of faith and compares it with the Hindu belief that Lord Ram was born in Ayodha. It also tells SC that matters of faith cannot be tested on constitutional morality

May 22: Muslim Personal Law Board files an additional affidavit stating that it has come up with quidelines to isolate men who resort to triple talaq. It also listed appointment of an arbitrator to settle marital disputes PRAGATISHEEL Aug. 22, 2017: The SC, in a 3:2

majority verdict rules that divorce through triple talag is null, void and unconstitutional

COMPILED BY SANDEEP PHUKAN

Sense of vindication for activists It's good and bad,

Arif Mohammad Khan says it won't take 30 years for change to reflect on ground

SOBHANA K. NAIR NEW DELHI

Arif Mohammad Khan, who quit the Rajiv Gandhi Cabinet in 1986 over the government's stand on the Shah Bano case, is a satisfied man after the Supreme Court verdict against instant triple talaq.

"Honestly, today we are not in a position to realistically assess the impact this judgment will have on our social and national life. Muslim women have fought against great odds. Today, they are an inspiration to all women not to cede their rights. The message will go not just to Muslim men but to all men to beware," Mr. Khan, who delivered a stirring speech defending the Shah Bano judgment in 1986, told The Hindu.

"Shah Bano case happened at a time when lit-

OMAR RASHID

"I have felt the pain of hav-

ing my home broken. I don't

want other women to feel

that way. It is a historic day

for Muslim women and for

their improvement," said

Shayara Bano moments after

the Supreme Court declared

its judgment setting aside in-

For Ms. Bano, the original

petitioner, the SC's verdict

setting aside the unilateral

practice was nothing short of

a personal triumph. Though

she regularly faced domestic

harassment, after 13 years of

marriage and two children,

Ms. Bano's life was shattered

in October 2015 when she re-

ceived a speed post from her

husband, Rizwan Ahmed, a

property-dealer based in Al-

lahabad. The letter con-

stant triple talaq.



Arif Mohammad Khan

eracy rates were alarmingly low; women were not aware. It had a trickle-down impact. In 1986, no one would put their neck out. Today, I am not needed; women themselves are capable of fighting their battle," he said.

He said it would not take 30 years for the change to reflect on ground.

Mr. Khan, who joined the BJP in 2004, but quit it three

Shayara Bano, who started it all

The original petitioner and women's groups have welcomed the judgment

Good news: Bharatiya Muslim Mahila Andolan's co-founder

Zakia Soman speaks to the media in New Delhi. • PTI

tained a pronouncement of

instant divorce - "talaq,

ism against triple talaq, Ms.

Bano approached the Su-

preme Court with the de-

mand that the talaq-e-biddat

pronounced by her husband

be declared void. She also

contended that such a unilat-

eral, abrupt and irrevocable

In 2016, spurred by activ-

talaq, talaq".

years later, said the government's role needed to be acknowledged.

"Prime Minister Narendra Modi supported Muslim women; the government's own affidavit took their side. The entire credit for this judgment lies with Muslim women and their lone struggle. At the same time, the government's positive role cannot be denied," he added.

A step forward

Legal activists too welcomed the judgment.

This battle has been going on for 25 years now. It began with the Mary Roy judgment [1986] against inheritance laws, which, till then, were biased towards sons. It resurfaced during the Geeta Hariharan judgment [2015] that gave rights to mothers to be sole guardians of their children. Today's

form of divorce be declared

Like Ms. Bano, Aafreen

"I am very happy with the

Rehman from Jaipur was

also overjoyed at the verdict.

decision. It is a positive way

forward," said Ms. Rehman,

also a petitioner. Ms. Reh-

man, who was married in

August 2014 through a matri-

monial site, was divorced

judgment is also a step forward," said Indira Jaising, counsel for Muslim women petitioners.

AIMPLB exposed

Historian and social commentator S.I. Habib said had the All India Muslim Personal Law Board initiated reforms, things would not have come to this.

"These women had first knocked on the doors of the AIMPLB, which ignored and mocked them. This situation would not have arisen had the Board, whose members claim to be leaders of Indian Muslims, had acted on the issue long ago. Instant triple talaq is an un-Islamic practice. And the triple talaq that the Koran recommends is a complicated and complex method that all maulvis simply ignore," Mr. Habib

through triple talaq commu-

nicated to her through post.

Forward-looking verdict

Several women's groups is-

sued a joint statement saying

that "In arguing that the

practice of triple talaq is

both, un-Koranic and Un-

Constitutional, it [the Su-

preme Court judgment] is an

important departure from

earlier judgments on all wo-

men's rights, because it is

based on the tenets of equal-

ity, dignity and secularism as

Zakia Soman, one of the

petitioners and co-founder

of Bharatiya Muslim Mahila

Andolan, which was at the

forefront of the campaign.

described the verdict as "his-

toric" and "music to the

ears" of Muslim women.

enshrined

Constitution."

says AIMPLB

'Personal laws are protected'

OMAR RASHID

The All India Muslim Personal Law Board (AIMPLB) has interpreted the Supreme Court judgment as vindication" of its stand that personal laws needed to be protected even as it disagreed with the court's decision to hold triple talaq as unconstitutional.

The AIMPLB said it would hold internal deliberations before responding in detail to the judgment, which, according to an executive member of the body, will have "wide ramifications" as it had affected the religious rights of minority groups.

The next course of action will be decided by the AIM-PLB in its executive meet, where deliberations will be held with its legal committee, scheduled for September 10 in Bhopal.

In a statement, the AIM-PLB welcomed the verdict "since it accords protection to Muslim personal law and says that personal laws cannot be tested by courts on the grounds of violation of fundamental rights."

"The judgment vindicates our stand and ensures the fundamental right of citizens of this country to freely profess and practice their religious faith/beliefs," the Muslim body said.

Two sides

Talking to The Hindu, Kamal Faruqui, executive member of AIMPLB, said the judgment had both positive and negative sides to it.

The positive part is that the majority of judges said that personal laws are protected by Article 25 of Constitution of India. That is a big, big victory," Mr. Faruqui

He, however, said the SC



Kamal Faruqui

setting aside triple talaq as "illegal" had "disturbed" the AIMPLB. "Our contention is we are for putting as much restriction as possible on triple talaq, but we cannot delete anything that is allowed under the Sharia. This is what is disturbing us," Mr. Faruqui said.

"The Court said that triple talaq is not in the Quran. But the Sharia is not what the entire Ouran is. It is a mixture of Quran, Hadees and Ijma. This is where they have faulted. We will see what corrective steps we can take," he added.

Detailed response

AIMPLB member Zafaryab Jilani said a detailed response would be released only after the executive body meet.

"So far as the government is concerned, I don't think it will be required to bring in any legislation because that will be again against our fundamental rights," Mr. Iilani said.

Islamic seminary Darul Uloom Deoband also supported the opinion of the AIMPLB. Deoband spokesperson Ashraf Usmani said the seminary would issue a detailed comment only after taking a look at the full

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