

## Right To Privacy Is Fundamental Right Under Constitution, Declares Supreme Court

The Supreme Court pronounced that individual privacy is a fundamental right protected by the Constitution. A nine-judge Constitution Bench of the Supreme Court ruled that right to privacy is “intrinsic to life and liberty” and is inherently protected under the various fundamental freedoms enshrined under Part III of the Indian Constitution.

Reading out the common conclusion arrived at by the nine-judge Bench, Chief Justice of India J.S. Khehar said the court had overruled its own eight-judge Bench and six-judge Bench judgments of M.P. Sharma and Kharak Singh cases delivered in 1954 and 1961, respectively, that privacy is not protected under the Constitution. The Union government had argued that privacy is a common law right.

The Bench was formed as the 1954 and 1961 judgments had dominated the judicial dialogue on privacy since Independence. Both judgments had concluded that privacy was not a fundamental or ‘guaranteed’ right. To overcome these two precedents, a numerically superior Bench of nine judges was required. A five-judge Bench led by Chief Justice Khehar had referred the question whether privacy is a fundamental right or not to the nine-judge Bench.

The nine-judge Bench’s judgment gains international significance as privacy enjoys a robust legal framework internationally, though India has remained circumspect. The judgment will have a crucial bearing on the government’s Aadhaar scheme that collects personal details, biometrics to identify beneficiaries for accessing social benefits and government welfare scheme.

A bunch of petitions were filed in the Supreme Court in 2015 challenging Aadhaar as a breach of privacy, informational self-determination and bodily integrity. The petitioners argued that Aadhaar enrolment was the means to a “Totalitarian State” and an open invitation for personal data leakage. The government had countered that the right to privacy of an “elite few” is submissive to the right of the masses to lead a dignified life in a developing country. It said informational privacy does not exist before compelling State interests and is not an absolute right.

It had reasoned that collection and use of personal data of citizens for Aadhaar — now a law under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act of 2016 — benefits the lives of millions of poor by giving them direct access to public benefits, subsidies, education, food, health and shelter, among other basic rights. The government claimed Aadhaar was a panacea to end corruption in public distribution, money laundering and terror funding.

The apprehension expressed by the Supreme Court about collection and use of data was the risk of personal information falling in the hands of private players and service providers. Both the government and service providers collect personal data like mobile phone numbers, bank details, addresses, date of birth, sexual identities, health records, ownership of property and taxes without providing safeguards from third parties.

National programmes like Aadhaar, NATGRID, CCTNS, RSYB, DNA profiling, reproductive rights of women, privileged communications and brain mapping involve collection of personal data, including fingerprints, iris scans, bodily samples, and their storage in electronic form. All this adds to the danger of data leakage.

## Microsoft India to develop 'farm price forecasting model'

Karnataka Agriculture Department signed a Memorandum of Understanding with Microsoft India to develop a unique "farm price forecasting model" using latest IT tools in a bid to help farmers, administrators and other stakeholders to understand the market behaviour in advance. The proposed initiative is said to be the first-of-its-kind in the country as it is a "multi-variate" one that takes into consideration various factors beyond the conventional supply-demand equation while forecasting the prices for crops. It will examine a slew of related factors including weather, rainfall and external factors that impact market behaviour.

According to Dr. T.N. Prakash Kammaradi, chairman of the Karnataka Agriculture Prices Commission (KAPC), which is supervising the project, the model would help provide real-time market data, besides helping analyse its implications on farm sector. Knowing the market situation in advance would help farmers, policy makers and industry make informed decisions.

On the other hand, the forecast would help the government prepare in advance for market intervention if there was an indication of price crash. The model is expected to be in place for major crops by next kharif crops.

Microsoft has already taken up 100-day work on the price behaviour of onion and tur dal. Depending upon the outcome of this work, the price forecasting model would be applied to other crops later.

The State's initiative appears to have already caught the attention of the Centre as it has sought suggestions from the KAPC on the importance of price forecasting on its initiative of doubling farmers' incomes. It would also develop a software for providing sowing advisory services.

## Cabinet approves framework for merger of public sector banks

The Union Cabinet gave its in-principle approval for Public Sector Banks to amalgamate through an Alternative Mechanism (AM). The decision would facilitate consolidation among the Nationalised Banks to create strong and competitive banks.

### Salient Features

The salient features of the approval Framework for Consolidation of Public Sector Banks are as follows:·

- The decision regarding creating strong and competitive banks would be solely based on commercial considerations.
- The proposal must start from the Boards of Banks.
- The proposals received from Banks for in-principle approval to formulate schemes of amalgamation shall be placed before the Alternative Mechanism (AM).
- After in-principle approval, the Banks will take steps in accordance with law and SEBI's requirements.
- The final scheme will be notified by Central Government in consultation with the Reserve Bank of India.

### Background

In 1991, it was suggested that India should have fewer but stronger Public Sector Banks. However, it was only in May 2016 that effective action to consolidate public sector banks began to be taken by announcing amalgamation of six banks into the State bank of India. The merger was completed in record time, unlike earlier mergers of State Banks of Indore and Saurashtra.

SBI is now a single bank with about 24000 branches, over 59000 ATMs, 6 lakh POS machines and over 50,000 business correspondents, which serve all parts of the country, including far flung areas. Indeed 70% of SBI's network lies in rural and semi urban areas. In that sense, the bank serves to unite India through a uniform banking culture. It also has a significant international presence, and is one of the largest global banks. Its size, financial strength and outreach have made it possible for customers to access a worldwide network of branches across all time zones, as well as to a very wide variety of banking products and superior technology. Loans to the small business man or woman and to the Krishak have become cheaper as SBI offers the lowest lending rates. More than 8.6 lakh merchants have been on board on BHIM Aadhaar, Bharat QR and POS, increasing the digital banking footprint. SBI has successfully raised Rs.15,000crore QIP.

There are now 20 PSBs other than SBI. The banking scenario has changed since 1970/80 when banks were nationalised, with an increased banking presence from Private Sector Banks, non-banking Financial Companies, Regional Rural Banks, Payment Banks and Small Finance Banks. The decision is expected to facilitate the creation of strong and competitive banks in public sector space to meet the credit needs of a growing economy, absorb shocks and have the capacity to raise resources without depending unduly on the state exchequer.

The Supreme Court by a majority verdict held the triple talaq practice of instant divorce among the Muslim community as "unconstitutional", "arbitrary" and "not part of Islamic faith".

## Supreme Court strikes down triple talaq

A five-judge constitutional bench by a 3:2 majority judgement said there is no constitutional protection for triple talaq as it is arbitrary and "whimsical" as it leaves no scope for conciliation and violates Muslim women's rights.

Justices Kurian Joseph, Rohinton Fali Nariman and Uday Umesh Lalit held that triple talaq is not integral to Islam, is bad in law and lacks approval of the Shariat. Chief Justice J S Khehar and justice S Abdul Nazeer held triple talaq to be part of fundamental right to religion of Muslims and said it was not unconstitutional.

Chief Justice J.S. Khehar held that triple talaq was integral to the Muslim faith and enjoyed constitutional protection. Chief Justice Khehar in his judgement urged parliament to pass a law to deal with the issue. He, however, enjoined Muslim men from pronouncing instant triple talaq for next six months within which he implored the political parties to shed their difference and enact a law.

Saying that the Holy Quran attributed "sanctity and permanence to matrimony" and only in "unavoidable situations" it permits talaq, but not before attempts for reconciliation are made, Justice Joseph said: "In triple talaq, this door is closed; hence, triple talaq is against the basic tenets of the Holy Quran and consequently, it violates Shariat." "What is held to be bad in the Holy Quran cannot be good in Shariat, and in that sense, what is bad in theology is bad in law as well," he said in his judgment differing with CJI Khehar and Justice Nazeer.

Pronouncing the minority judgment, Chief Justice Khehar said: "Talaq-e-biddat' is integral to the religious denomination of Sunnis belonging to the Hanafi school. The same is a part of their faith, having been followed for more than 1,400 years, and as such, has to be accepted as being constituent of their 'personal law'."

Chief Justice Khehar said that being a part of 'personal law', it has a "stature equal to other fundamental rights... The practice cannot therefore be set aside, on the ground of being violative of the concept of the constitutional morality, through judicial intervention."

Referring to the advances in Muslim personal law the world over including by theocratic Islamic States, the Chief Justice in his judgment directed the Central government to consider appropriate legislation, particularly with reference to 'talaq-e-biddat'. He implored the legislature, to bestow its thoughtful consideration, to this issue of paramount importance.