

# THE SC'S RULING ON ADULTERY IS ANOTHER TRIUMPH FOR GENDER RIGHTS

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“Husband is not the master. Equality is the governing parameter.” This part of the judgment read out by Chief Justice Dipak Misra is the crux of the verdict delivered by a five-judge bench while striking down Section 497, which deemed adultery a crime. The archaic law stipulated that only a married man can invoke Section 497 against another man for having a relationship with his wife. A woman with a similar grievance could not approach the court. The law also interpreted adultery as a married man’s sexual relationship with a married woman which meant that his relations with, say, a single woman was not.

What activists and many women found unpalatable is that the law only saw adultery as a dispute between two men, one of whom could decide on his wife’s behaviour. The verdict is acknowledgment that what may be deemed a moral wrong by some is not a criminal wrong. It also firmly supports the fact that the law alone cannot protect a marriage. The state, as made clear from the underlying sentiments of the verdict, has no place in the private lives of people as long as they are engaged in consensual relationships. The judges made clear that women no longer lived in the shadows of their husbands and are not mere objects who can be preyed upon by men who then become criminally liable if the woman’s husband has not given his consent to an adulterous relationship. Earlier, too, the apex court had responded positively to challenges to this outdated law. It expressed its unhappiness with women being treated as victims and their dignity being undermined. However, adultery is still a ground for divorce but now that onus is on the two parties involved.

Perhaps the most progressive bit of the verdict came from Justice Chandrachud ,who said that partners in marriage do not mortgage their sexual autonomy to each other, effectively taking the morality argument out of adultery. This comes soon after the landmark judgment that decriminalised homosexuality. The court has shown itself to be far more in sync with changes in society than the Centre which until now had maintained that marriage is the cornerstone of a cohesive society. This regressive thinking has now been firmly swept aside in a triumph for gender equality.

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