



## Armed Forces and Adultery

**Prelims:** Adultery, Section 497 of the Indian Penal Code (IPC).

**Mains:** Armed Forces and Adultery.

### Why in News?

Recently, the [Supreme Court](#) has ruled that armed forces can take action against their officers for adulterous acts, while stating the decriminalization of [adultery](#) does not apply to Armed Forces.

- In September 2018 Joseph Shine Judgment, the SC struck down **Section 497 of the IPC that criminalised adultery**, ruling that it was unconstitutional and **violated women's right to equality** in treating them as inferior to their husbands.

### What is the Recent Ruling?

- The SC clarified that in the 2018 judgment, the SC was concerned **only with the validity of Section 497 of the IPC and Section 198(2)** of the CrPC dealing with adultery, and had “no occasion whatsoever to consider the effect” **with respect to the Army, Navy and Air Force Acts**.
  - Defence personnel of the three wings — **the Army, Navy and the Air Force were governed by special legislation**, the Army Act, the Navy Act and the Air Force Act.
  - These special **laws impose restrictions on the fundamental rights of the personnel**, who function in peculiar situation requiring utmost discipline.
  - The **three laws are protected by Article 33 of the Constitution**, which allow the government to **modify the fundamental rights** of the armed forces personnel
- The Bench delivered the final Order in the case, clarifying that the Joseph Shine Judgment **did not apply to members of the armed forces who are accused of ‘conduct unbecoming’ and dismissed the application**.

### What are the Significances?

- Abolishing adultery as a crime, **might prevent members of the armed services from being found guilty** of adulterous activities. When jawans and officers are deployed to hostile environments, other officers look after their families at base camp, **and the laws and regulations that specify consequences for engaging in adulterous or promiscuous behavior aid** in upholding discipline.
- Armed services soldiers who commit adultery with a coworker's wife may be cashiered from their jobs for acting unbecomingly.

### What is Adultery?

- **About:**
  - The act of adultery is a voluntary sexual intercourse between a married person and

someone other than that person's current spouse or partner.

▪ **Section 497 of the IPC:**

- It mandates that whoever has sexual intercourse with the wife of another man, **without the consent or connivance of that man**, such sexual intercourse not amounting to the offence of rape is guilty of the offence of adultery and shall be punished.
- The **law does not punish his wife**, since it presumes that only a man can seduce a woman into a sexual act, and that it is the husband who has suffered due to the sexual relationship of his wife, carried out without his consent. At the same time, **the wife is not protected from similar behaviour committed by her husband.**

▪ **Adultery in the Indian Armed Forces:**

- Regarding the Indian Armed Forces, **military personnel are subject to the provisions of the IPC**, including the law on adultery. In addition, the **Indian military has its own set of regulations and codes of conduct** that prohibit adultery and other forms of immoral behavior.
- The specific consequences for committing adultery in the Indian Armed Forces may vary, but can **include administrative action, disciplinary action, or court-martial.**
- The rules and procedures for dealing with such cases **are established by the Indian military justice system.**

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