

**No longer a crime**  
The following is the timeline of events leading to the Supreme Court declaring the penal provision on adultery as unconstitutional, saying it was manifestly arbitrary and dented the individuality of women

**Oct. 10, 2017:** Plea filed in SC challenging the constitutional validity of Section 497 of the IPC, by an NRI from Kerala, Joseph Shine, who in his petition said Section 497 was “prima facie unconstitutional on the ground that it discriminates against men and violates Article 14, 15 and 21 of the Constitution”  
**Dec. 8:** SC agrees to examine the constitutional validity of the penal provisions on adultery  
**Jan. 5, 2018:** SC refers to a



five-judge Constitution Bench the plea challenging the validity of the penal law on adultery  
**July 11:** Centre tells SC that striking down Section 497 will destroy the institution of marriage

**Aug. 1:** Constitution Bench commences hearing  
**Aug. 2:** SC says matrimonial sanctity is an issue but the penal provision on adultery is apparently violative of the right to equality under the Constitution  
**Aug. 8:** Centre favours the retention of the penal law on adultery, says it is a public wrong which causes mental and physical injury to the spouse, children and the family  
**Aug. 8:** SC reserves verdict on pleas challenging the constitutional validity of the penal law on adultery in the hearing that went on for six days  
**Sep. 27:** SC holds Section 497 of the Indian Penal Code as unconstitutional and strikes down the penal provision

**The Supreme Court judgment referred to the list of countries where adultery is a crime and where it is not. India is now part of the second list**

**Countries where adultery is a crime**

Afghanistan | Bangladesh | Indonesia | Iran | Maldives | Nepal | Pakistan | The Philippines | United Arab Emirates | Some states of the United States of America | Algeria | Democratic Republic of Congo | Egypt | Morocco | Some parts of Nigeria

**Where adultery has been done away with as a crime**

People's Republic of China | Japan | Brazil | New Zealand | Australia | Scotland | Netherlands | Denmark | France | Germany | Austria | Republic of Ireland | Barbados | Bermuda | Jamaica | Trinidad and Tobago | Seychelles | South Korea | Guatemala



SOURCE: PTI

# ‘Don’t bring adultery back as crime’

It will be tantamount to State entering into a ‘real private realm’, says SC

**KRISHNADAS RAJAGOPAL**  
NEW DELHI

Treating adultery as an offence is tantamount to the State entering into a “real private realm,” Chief Justice of India Dipak Misra wrote in his main opinion for the Constitution Bench on Thursday. If Parliament, as it had let adultery continue in the rule book, tries to bring it back, the move would affect Article 21 of the Constitution. It would violate the dignity of husband and wife and the privacy attached to a rela-

tionship between the two, the Chief Justice held. The government had argued that adultery should continue to be a crime to maintain the sanctity of marriage. “Adultery does not fit into the concept of a crime. We may repeat at the cost of repetition that if it is treated as a crime, there would be immense intrusion into the extreme privacy of the matrimonial sphere,” the Chief Justice wrote for himself and Justice Khanwilkar.

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DIPAK MISRA, Chief Justice of India

“It [adultery] is better to be left as a ground for divorce,” the judgment observed.

**Other offences**  
Justice Misra observed that Section 497 (adultery) is un-

like any other offences relating to matrimonial relationship. The Chief Justice cited several of these other offences like Section 498-A (dowry harassment), the Protection of Women from Domestic Violence Act, 2005, Section

125 of the Code of Criminal Procedure, Sections 306 (abetment of suicide) or 304B (dowry death) or 494 (bigamy) of the Indian Penal Code. “Let it be clearly stated, by no stretch of imagination, one can say, that Section 498-A or any other provision enters the private realm of matrimonial relationship... There has been correct imposition by law not to demand dowry or to treat women with cruelty so as to compel her to commit suicide. These activities deserve to be punished and the law has rightly provided so,” Justice Misra wrote.

## Justice Chandrachud overrules father again

This time in adultery law verdict

**PRESS TRUST OF INDIA**  
NEW DELHI

This is the second time Justice D.Y. Chandrachud has contradicted the verdict of his father, former Chief Justice of India Y.V. Chandrachud. Thirty-three years after his father upheld the validity of adultery law, Justice D.Y. Chandrachud ruled on Thursday that the earlier view cannot be regarded as “correct exposition” of the constitutional position. In his historic judgment of August last year declaring privacy as a fundamental right, he had termed the 1976 verdict in the famous ADM Jabalpur case in which his father was part of the

majority judgment by a five-judge constitution Bench “seriously flawed.” In the ADM Jabalpur case, the five-judge Bench by a majority verdict of 4:1, had said Article 21 is the sole repository of all rights to life and personal liberty and when suspended takes away those rights altogether.

**A different view**  
On Thursday, striking down Section 497 of the IPC dealing with adultery, Justice D.Y. Chandrachud said the 1985 judgment dealt with the “constitutional challenge by approaching the discourse on the denial of equality in formal and rather narrow terms.”

## Man is not owner of wife’s sexuality: Chandrachud

‘She can make her own sexual choices’

**LEGAL CORRESPONDENT**  
NEW DELHI

Justice D.Y. Chandrachud held that a married woman can make her own sexual choices. By marrying, she has not consented to refrain from sexual relations outside marriage without the permission of her husband. A husband is not the owner of his wife’s sexuality. To be human involves the ability to fulfil sexual desires in the pursuit of happiness, Justice Chandrachud said. Human sexuality is an essential aspect of identity.



Justice D.Y. Chandrachud

Choices in matters of sexuality are reflective of the human desire for expression. Sexuality cannot be construed purely as a physiological attribute. It links up with the human desire to be intimate with a person of one’s choice. Sharing of physical

intimacy is a reflection of choice. Autonomy in matters of sexuality is intrinsic to a dignified human existence. Human dignity both recognises and protects the autonomy of the individual in making sexual choices, Justice Chandrachud held. Section 497 denuded woman of the ability to make fundamental choices by postulating that it is only the man in a marital relationship who can consent to his spouse having sexual intercourse with another. Far from being an equal partner in an equal relationship, Section 497 subjugated a married woman entirely to the will of her spouse, he wrote.

## Centre appoints search committee for Lokpal

It will be headed by former SC judge Ranjana Prakash Desai

**SPECIAL CORRESPONDENT**  
NEW DELHI

After a long delay, the Centre on Thursday constituted an eight-member search committee, to be headed by former Supreme Court judge, Justice Ranjana Prakash Desai, to recommend the chairperson and members of the anti-corruption ombudsman Lokpal. The Lokpal and Lokayuktas Act, which envisages establishment of anti-graft body Lokpal at the Centre and Lokayuktas in States to look into cases of corruption against certain categories of public servants, was passed in 2013. Former State Bank of In-

dia chief Arundhati Bhattacharya, Prasara Bharati chairperson A. Surya Prakash and former Indian Space Research Organisation head A.S. Kiran Kumar are the members of the search committee, according to an order by the Personnel Ministry. Former judge of the Allahabad High Court, Justice Sakha Ram Singh Yadav; former Gujarat Police head, Shabbirhusein S Khandwala; retired IAS officer of Rajasthan cadre, Lalit K Panwar; and Ranjit Kumar are the other members of the panel. The step comes after the Supreme Court’s order to

appoint Lokpal at the earliest. The search committee was appointed by the selection committee, which comprises Prime Minister Narendra Modi, Chief Justice of India Dipak Misra, Lok Sabha Speaker Sumitra Mahajan, leader of the largest Opposition party, which in this case was Congress’s Mallikarjun Kharge, and eminent jurist Mukul Rohatgi. **Kharge absent** Mr. Kharge, however, is not a full-fledged member of the panel and he boycotted the selection committee meeting five times this year. He was not present at Thursday’s meeting too.

## Amit Shah to get more security

**SPECIAL CORRESPONDENT**  
NEW DELHI

The Union Home Ministry has written to all States to conduct advance security liaisons (ASL) at all venues and places visited by Bharatiya Janata Party (BJP) president Amit Shah across the country. Mr. Shah, a Z-plus protection, is provided round-the-clock proximity cover by commandos of the Central Reserve Police Force (CRPF). Since he has the highest grade of security cover, ASLs were being conducted, but the new missive means that State police will have to compulsorily coordinate with his security team and conduct detailed security checks at all places where

he visits. He was accorded the cover soon after National Democratic Alliance (NDA) government came to power. “There were some occasions when there was reluctance to carry out such checks. With the letter we have ensured that the entire process is formalised and there is no scope for negligence. So, even if he goes for a book launch or a party meeting, there will be elaborate security arrangements,” said a senior MHA official. Such checks are common for Home Minister Rajnath Singh and U.P. Chief Minister Yogi Adityanath, who have Z-plus security cover from National Security Guard (NSG) commandos.

## Centre steps up grant for disaster fund

**SPECIAL CORRESPONDENT**  
NEW DELHI

The Centre has enhanced its contribution in the State Disaster Response Fund (SDRF) from 75% to 90% with effect from April 1, the Union Home Ministry announced on Thursday. Kerala, which has recently faced the worst floods, will be a major beneficiary of the Centre’s decision. Henceforth all States will be required to contribute 10% to the SDRF. The additional contribution by the Central government in SDRF on this account will be ₹1,690.35 crore for 2018-19 and ₹1,774.67 crore for the financial year 2019-20, a Home Ministry statement said.

## Antigua offers to assist on Choksi

‘No time frame given for extradition’

**VARGHESE K GEORGE**  
NEW YORK

Antigua and Barbuda has offered India “full cooperation” on the extradition of Mehul Choksi, a key accused in the ₹14,000-crore Punjab National Bank scam, Ministry of External Affairs spokesperson Raveesh Kumar said, citing an assurance given by Antigua’s Foreign Minister EP Chet Greene to External Affairs Minister Sushma Swaraj when they met on Wednesday. Mr. Kumar said no time frame could, however, be given for the extradition of the fugitive who now has an Antiguan passport. Mr. Choksi and his nephew, diamond trader Nirav Modi, are accused of masterminding the PNB scam. Prime Minister Narendra Modi’s government is facing criticism for not arresting them before they fled India. Mr. Kumar said Mr. Green sought a meeting with Ms. Swaraj to explain the issue. “He personally wanted to tell the External Affairs Minister of the commitment of his PM and his government regarding the extradition of Mehul Choksi,” said Mr. Kumar. Ms. Swaraj is in New York for the 73rd session of the United Nations General Assembly (UNGA).



Mehul Choksi

Mr. Kumar said the Antiguan Minister offered “full cooperation” within the country’s legal framework. “The EAM has requested him that quicker the matter is resolved, the better it is. Her counterpart replied that they’re trying their best and

there are some legal angles and court procedures, which they would examine,” he said. “These things cannot be given a time frame,” Mr. Kumar said in response to a question. **Walks tightrope on Iran** Ms. Swaraj met Iranian Foreign Minister Mohammad Javad Zarif on the sidelines of the UNGA and discussed the U.S. sanctions against Tehran, the MEA said. Nuclear-related secondary sanctions against Iran were removed by the Obama administration as part of the Iran nuclear deal but President Donald Trump has withdrawn the U.S. from the Iran nuclear deal and asked all countries to reimpose sanctions. Mr. Kumar declined comment on media reports that India would stop oil imports from Iran and replace it with oil from the U.S. Ms. Swaraj’s meeting with her Iranian counterpart was part of conversations with all stakeholders in the Iran deal, including the U.S., he said, adding “Iran and India have civilizational ties.”

## Uzbek President to invite India to join Afghan rail project

The rail route to Herat, if extended to Kabul, will also link India’s air corridor

**SUHASINI HAIDAR**  
NEW DELHI

India will be invited to help with a key rail link in Afghanistan, during the visit of Uzbekistan’s President Shavkat Mirziyoyev early next week, a presidential aide told *The Hindu*. The rail link of approximately 650 km, connecting the Afghan cities of Mazar-e-Sharif and Herat, which may later be extended to Kabul, is a major project agreed to by President Ashraf Ghani and President Mirziyoyev last year, and many of the preliminary surveys for the

project have already been completed. “We support a greater presence of India in Central Asia, and hope for some benefits of that for Afghanistan. I hope that negotiations with PM Modi will open a new page in our bilateral relations,” Special Assistant for Foreign Affairs Ilhom Nematov told *The Hindu* during a visit to Delhi ahead of the President’s visit beginning on Sunday. “If India would be involved in [the railway line] construction, we would welcome them because of In-



Ilhom Nematov

dia’s proven record and experience, and because of its contribution to bringing peace to Afghanistan,” he added, saying that Uzbekistan has an interest in open trade and connectivity routes “all the way to the Indian Ocean.”

The project, for which Uzbekistan has already committed \$500 million, could become another major regional connectivity project for India, after its construction of the Zaranj-Delaram Highway in Afghanistan and the Shahid Beheshti port in Chabahar, Iran. India is also committed to building another rail route, from Chabahar to Zahedan on the Iran-Afghan border, and President Mirziyoyev is keen to join the transit trade agreement signed by India, Afghanistan and Iran. The rail route to Herat, if extended to Kabul, would also link India’s “air corridor”, allowing trade, especially dry fruits and agricultural

produce to travel along the routes from India to Central Asia and back in much shorter time. Uzbekistan has held talks with Iran, the Asian Infrastructure Investment Bank (AIIB) and China, which is already running a rail route into Uzbekistan under the Belt and Road Initiative, for the same project in the past few months. **Indo-Pak. talks** Making a pitch for talks between India and Pakistan, Mr. Nematov said Uzbekistan’s role in regional security is likely to grow as it will take over the Secretary Generalship of the Shanghai Cooperation Organisation (SCO) in

January 2019. “I think that SCO is a good platform for India and Pakistan to talk at and to maybe work with other countries on how to bring peace,” he told *The Hindu*. President Mirziyoyev may also discuss peace efforts in Afghanistan and his offer of mediating talks between the Ghani government and the Taliban, during his visit to India. In August, a Taliban delegation had also visited Tashkent and held talks with the President’s representative. President Mirziyoyev is scheduled to arrive in Delhi on Sunday, and will meet Prime Minister Narendra Modi for bilateral talks on Monday.