

## GS PAPER 1

### ***Society – Sept'18***

#### **Decriminalization of Section 497 IPC**

*Syllabus: Salient Features Of Indian Society*

#### **In News**

- The Supreme Court (SC) decriminalized the offence of adultery by holding **Section 497** of the Indian Penal Code (IPC) and **Section 198(2)** of the Code of Criminal Procedure as unconstitutional.
  - Section 497 of IPC punishes a married man for having sex with wife of another man. It was only an offence if the husband (another man) had not consented to this relation, implicitly suggesting that the wife was the property of her husband. Hence, the husband was considered to be the victim of adultery and could file a case.
  - The same recourse was however, not available to the wife. The provision exempts the wife from punishment, and states that wife should not be even treated as an abettor.
  - Section 198(2) provides that in cases of adultery only the woman's husband can be the aggrieved party or in his absence, someone who had care of the woman. The Bench also held Section 198 (2) of the CrPC, which gave the aggrieved husband the exclusive right to prosecute his wife's lover, manifestly arbitrary.
- Earlier, India was one of the few countries in the world that still considered adultery an offence. The appalling attribute of the Indian definition of this crime was that it did not punish the erring spouses, but instead punished the adulterous man or rather the outsider, for having extra-marital relations with a woman who he knows to be married.

#### **Favouring Section 497**

- **Moral wrong against matrimonial home:** The main argument for retaining the criminal provision was that the outsider should be punished for breaching the matrimonial unit and that the law should mandate punishment for such a moral wrong.
- **Crime against marriage:** This violation was seen as a crime against the institution of marriage, thus justifying it to be a breach of security and well being of society.

#### **Court's Observations**

- **Equality of spouses:** Marriage in a constitutional regime is founded on the equality of and between spouses. Each of them is entitled to the same liberty, which Part III [of the Constitution] guarantees. Therefore, not affording both parties to a marriage equal rights and opportunities would be discriminatory and a violation of their right to equality.
- Section 497 of IPC led to **commodification of women** since it treated women as a property of her husband as it was not an offence of adultery if the latter consented for his wife's adulterous relationship with another man.
- The section was **violative of Article 14** as the purported sanctity of marriage was not hurt if a married man was involved in an adulterous relationship.
- **Civil remedy already available:** The court observed that the issue of adultery between spouses was a private matter and could be a ground for divorce under civil law. It did not warrant the use of criminal sanction against any party involved.

- It also stated that if an act of adultery leads the aggrieved spouse to commit suicide, the adulterous partner could be prosecuted for **abetment of suicide under Section 306 of the IPC**.
- **Personal choice:** Moreover, no justification can be given by the state for penalizing people with imprisonment for making intimate and personal choices. Adultery is a matter of personal morality and the state should stay out of it.
- **Violation of privacy:** The Court held that even then the matter was private and anything otherwise would be a grave intrusion into the privacy of individuals. The court even relied on **K.S. Puttaswamy v. Union of India Case** to explain this deprivation of autonomy as a violation of their right to privacy and to live with dignity, thus violating their fundamental rights under **Article 21** of the Constitution.
- **Patriarchy:** The court held that Section 497, as it existed, denied women ownership of their sexuality and agency over their own relationships.
- **Relevant when bigamy was prevalent:** Previous challenges to this provision claimed that exempting women under Section 497 from prosecution and being prosecuted was protecting them and was in consonance with **Article 15(3)** of the Constitution that allowed the state to make laws for the benefit of women and children. This provision was made when bigamy was prevalent and Lord Macaulay, the drafter of the IPC, did not find it fair to punish one inconsistency of the wife when the husband was allowed to marry many others.
- **Section 306 valid in some aspect:** Following the SC intervention, adultery is now a civil matter between individuals. But a criminal residue remains i.e. Section 306 of the IPC will be invoked if a suicide results from adultery.

#### **Further Analysis**

- The Supreme Court judgment on adultery has put the focus back on **Section 63 of the Army Act** and its equivalent sections in Air Force Act and the Navy Act. These sections provides that charge of “violating good order and military discipline” can still be pressed against an officer for adultery. But while military courts can hear that charge, it is now likely to be overturned in higher courts after SC’s judgment in which it struck down Section 497.
- The challenge before the court is not to equalize the right to file a criminal complaint, by allowing a woman to act against her husband’s lover. It is, instead to give the IPC and the CrPC a good dusting to rid it of Victorian-era morality. It is only in a progressive legal landscape that individual rights flourish and with the decriminalization of adultery India has taken another step towards rights based social relations, instead of a state imposed moral order.
- However, it is a matter of concern that refreshing the statute books is being left to the judiciary, without any proactive role of Parliament in amending regressive laws. The shocking message here is not merely that provisions such as Section 497 or 377 remained so long in the IPC, it is also that Parliament failed in its legislative responsibility to address them.

#### **Human Development Report**

*Syllabus: Poverty and Developmental Issues*

#### **In News**

In the latest human development Index (HDI) released by the UNDP, India is ranked 130 out of 189 countries with the findings indicating a glaring inequality in the country though “millions have been lifted out of poverty”.

### Key Findings

- **Norway, Switzerland, Australia, Ireland and Germany lead the ranking.**
- **Niger, the Central African Republic, South Sudan, Chad and Burundi have the lowest scores.**
- **The overall trend globally is toward continued human development improvements:** out of the 189 countries for which the HDI is calculated, 59 countries are today in the very high human development group and only 38 countries fall in the low HDI group.
- **South Asia experienced the fastest HDI growth among developing regions** with a 45.3 % increase since 1990. South Asia has the widest gap between men and women in HDI at 16.3%.

### India's Ranking

- India climbed one spot to **130 out of 189 countries** in the latest rankings.
- **India's HDI value for 2017 is 0.640**, which put the country in the **medium human development category**.
- **Between 1990 and 2017**, India's HDI value increased from 0.427 to 0.640 (an increase of nearly 50%), life expectancy at birth increased by 11 years, children can expect to stay in school for 4.7 years longer and GNI/capita increased by a 266%.
- **Within South Asia, India's HDI value is above the average of 0.638 for the region**, with Bangladesh and Pakistan being ranked 136 and 150 respectively.
- **26.8 % of India's HDI value is lost on account of inequalities** -- a greater loss than for most of its South Asian neighbours.
- India performs better than its neighbours Bangladesh and Pakistan, ranking **127 out of 160 countries on the Gender Inequality Index**.

#### Human Development Index (HDI)

The HDI is the composite measure of every country's attainment in three basic dimensions:

- (1) standard of living measured by the gross national income (GNI) per capita,
- (2) health measured by the life expectancy at birth, and
- (3) education levels calculated by mean years of education among the adult population and the expected years of schooling for children.

### Human Capital Rankings

*Syllabus: Poverty and Developmental Issues*

### In News

- According to a study published in the Lancet journal, India was ranked 158 among 195 countries on the 'human capital' score.
- The study measures **Human Capital** of 195 countries during the 1990-2016 period.

- The study was released by **University of Washington's Institute for Health Metrics and Evaluation (IHME)** which was published in the international medical journal Lancet.

#### **Human Capital**

- Human Capital can be thought of as the educational attainment, learning and functional health status of the workforce, which contributes to economic productivity.
- **Parameters:** Human capital is computed using **four key parameters:** (1) Life Expectancy, (2) Functional Health, (3) Years of Schooling and (4) Learning.
- **Score:** The Highest possible score is 45 and the lowest is 0.
- **Significance:** It is very important like other types of **economic capital** (*which includes manufactured capital, financial capital and natural resources*) because countries experiencing higher Human Capital growth also experience **faster growth in their GDP per person.**

#### **Global Rankings**

- **Finland is ranked first with 28 years of expected human capital**, followed by Iceland, Denmark, Netherlands (each with 27 years).
- **Niger, South Sudan and Chad were ranked lowest with 2 years of expected human capital.**
- **Turkey showed the most dramatic increase** in human capital between 1990 and 2016. However, US which was ranked 6th in 1990, dropped to 27th in 2016.

#### **Indian Scenario**

- India is ranked at 158 out of 195 countries in 2016, **an improvement of 4 points** from 162 in 1990.
- **At 158, India is placed behind Sudan (ranked 157th)** and ahead of Namibia (ranked 159th).
- **South Asian countries** ranked below India are Pakistan (164), Bangladesh (161) and Afghanistan (188). Sri Lanka (102), Nepal (156), Bhutan (133) and Maldives (116) fared better than India.
- Global average for the **number of years a worker can be expected to work at peak productivity** is 13.6 years. For India this value is just 6.5 years, around one-third the value of China (20 years).
- **Comment:** India is falling behind in terms of health and education of its workforce, which could potentially have long-term negative effects on the Indian economy.

#### **MOVE: India's First Global Mobility Summit 2018**

*Syllabus: Urbanization, Their Problems, and Their Remedies*

#### **In News**

- Niti Aayog recently organised **MOVE: India's first ever Global Mobility Summit** in New Delhi
- The Summit brought together stakeholders from across the sectors to deliberate on creating a public interest framework to revolutionize transport.

- **Need for the summit:** Affordability of public transit is crucial for low-income users and of freight for the industry. Safe, energy-efficient and low-emission systems are necessary for India to meet its international commitments on climate change.

#### **'Transforming India's Mobility: A Perspective'**

- During the Summit 'MOVE', NITI Aayog released a report titled 'Transforming India's Mobility: A Perspective' which suggests a holistic framework for a public transport to answer the twin problems of pollution and congestion.
- **The overall objectives of the framework are 3C's:**
  - (i) **Clean:** Pollution-free, leading to clean air and hence better health and living standards
  - (ii) **Convenient:** Seamless, safe, affordable, accessible for all sections including the elderly & disabled.
  - (iii) **Congestion-free:** Minimum congestion levels, and hence enhanced economic efficiency
- **Pillars** to achieve the objectives –
  - (i) Connect Bharat: it calls for **building Safe, Adequate and Holistic Infrastructure (SAHI) for all our citizens.**
  - (ii) Optimize travel footprint,
  - (iii) Promote seamless, co-operative transport, and
  - (iv) Adopt green modes and technologies.
- **Enablers:** These pillars have to be well supported by a common set of enablers – Skills and employment, Intelligent Transport Systems, Public Awareness, Governance and Financing.

#### **Mobilise Your City Programme**

*Syllabus: Urbanization, Their Problems, and Their Remedies*

#### **In News**

- **India and France have signed an implementation agreement on "Mobilise Your City" (MYC).**
- Mobilise Your City (MYC) is an international initiative in the field of **Sustainable urban transport.**
- **Objective:** To contribute to the –
  - International climate process and
  - UN's Agenda 2030, esp. **Sustainable Development Goal (SDG) 11: Make cities inclusive, safe, resilient and sustainable.**
- **Strategy:** Beneficiary partners – national and local govts. – will be assisted in their preparation of National Urban Mobility Policies and Investment Programs (NUMPs) and Sustainable Urban Mobility Plans (SUMP).
- **Background:** It was launched at 21<sup>st</sup> Conference of Parties (COP21) meeting in December, 2015.
- **Agencies involved:** It is a multi-donor action, jointly co-financed by the –

- European Commission's Directorate-General for International Cooperation and Development (DG DEVCO),
- French government and
- German government.

**Recent Agreement: MYC programme in India**

- Urban mobility plans at local level will be implemented in three pilot cities viz. **Nagpur, Kochi and Ahmedabad** for reduction of Green House Gas (GHG) emissions related to urban transport.
- The three cities will receive grant of Euro 3.5 million through the **French funding agency Agence Francaise de Development (AFD)** for investments and technical assistance.

