

Supreme Court Handbook

Why in news?

The Supreme Court (SC) recently released a handbook meant to be used by the judges as a guide to gender-just language.

What is the SC handbook about?

- **About-** It is a 30 page booklet launched to assist judges and the legal community in identifying, understanding and combating stereotypes about women.
- It contains a glossary of gender-unjust terms and suggests alternative words or phrases which may be used while drafting pleadings as well as orders and judgments.
- **Aim-** To identify the language that promotes gender stereotypes and offering *alternative words and phrases*
- To identify *common reasoning patterns* that are based on gender stereotypes particularly about women and discussing why they are incorrect.
- To *highlight binding decisions of the Supreme Court* that have rejected these stereotypes and can be utilised by judges to dispel gender stereotypes.
- **Delhi gang rape case-** In the 2017 Supreme Court ruling awarding the death penalty for the convicts in the Delhi gang-rape case, the verdict repeatedly uses the word *“ravished” to say raped.*

ALTERNATIVE TO STEREOTYPE-PROMOTING LANGUAGE

'ADULTERESS'

Woman who has engaged in sexual relations outside of marriage

'AFFAIR'

Relationship outside of marriage

'BASTARD' Non-marital child or, a child whose parents were not married

'BIOLOGICAL SEX' / 'BIOLOGICAL MALE' / 'BIOLOGICAL FEMALE'

Sex assigned at birth

'CARNAL INTERCOURSE'

Sexual intercourse

'CHILD PROSTITUTE'

Child who has been trafficked

'CONCUBINE' / 'KEEP'

Woman with whom a man has had romantic or sexual relations outside of marriage

'DUTIFUL WIFE' / 'FAITHFUL WIFE' / 'GOOD WIFE' / 'OBEDIENT WIFE'

Wife

'EVE TEASING'

Street sexual harassment

'HOUSEWIFE' Homemaker

'FEMININE HYGIENE PRODUCTS'

Menstrual products

'UNWED MOTHER' Mother

'VIOLATED'

(e.g. 'he violated her')

Sexually harassed / assaulted or raped

'MISTRESS' Woman with whom a man has had romantic or sexual relations outside of marriage

'PROSTITUTE' Sex worker

'PROVIDER' / 'BREADWINNER'

Employed or earning

'PROVOCATIVE CLOTHING / DRESS' Clothing / dress

'SEX CHANGE'

Sex reassignment or gender transition

'SPINSTER' Unmarried woman

Why it is important for the judges to use the right word?

- **Mirror of society-** The handbook argues that the language a judge uses reflects not only their interpretation of the law, but their perception of society as well.
- **Impetus to constitution-** Stereotypical language may reinforce ideas contrary to our constitutional ethos like '*equal protection of laws*'
- **Values of law-** Words are the vehicle through which the values of the law are communicated.
- Words transmit the ultimate intention of the lawmaker or the judge to the nation.
- **Patriarchal stereotypes-** Use of words like chaste women, seductress, wanton woman used by judges reflects the patriarchal stereotypes that are unacceptable by the judicial authority.
- **Impetus to Sustainable Development Goals (SDGs)-** It will foster Gender equality (SDG 5) by actively challenging and ousting harmful stereotypes.
- It further gives impetus to reducing inequalities (SDG 10) and reduce discrimination in the society.
- **Gender- just legal order** - Gender identity is not limited to a binary (girl/woman and boy/man) but rather exists on a spectrum and can evolve over time.
- It is a significant step towards a gender- just legal order.
- **Caste-sexual assault dynamic-** Dominant caste men have historically used sexual violence as a tool to reinforce and maintain caste hierarchies.
- It is against the preconceived notion that the dominant caste men do not want to engage in sexual relations with women from oppressed castes, hence allegation of

sexual assault is considered false.

- **Ensure justice**- It marks a significant milestone in the journey towards a *more just and equitable society*.

What is the current doctrine on stereotypes?

- **Joseph Shine v. Union of India**- Supreme Court struck down the offence of “*adultery*” under Indian Penal Code, 1860.
- The court observed that the provision is arbitrary and discriminatory.
- **State of Jharkhand v. Shailendra Kumar Rai**- Supreme Court reiterated its categorical ban on the “two finger test” as it is
 - Irrelevant for determining rape
 - Violates the dignity of rape survivors or victims
- **State of Punjab v. Gurmit Singh**- The court observed that the testimony of a survivor or victim of sexual violence is inherently credible.
- It should not be doubted merely due to incorrect assumptions that women seek to foist false cases against men.
- **State of Uttar Pradesh v. Chhotey Lal**- The court observed that the absence of injuries is not determinative of the absence of sexual violence.
- It must be examined within the facts and circumstances of each case.

Similar Efforts in Other Countries

- **Canada**- The Women’s Court of Canada, a collective of female lawyers, academics and activists write “shadow judgements” on equality law.
- **India**- Indian Feminist Judgement Project also ‘rewrites’ judgements with a feminist critique.

References

1. [Indian Express- Explained SC handbook](#)
2. [Supreme Court- Handbook on gender stereotypes](#)

