

COMBATING GENDER STEREOTYPES

DECODING WHAT THE SUPREME COURT HAS TO SAY



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What is a stereotype?

A stereotype is a belief or idea about a group of people that is not always true. *Stereotypes can be about race, gender, nationality, religion, or any other group.* They are often negative and can lead to discrimination and prejudice.



How do stereotypes work?

Stereotypes can work in two ways. First, they can influence how we think about people from a particular group. For example, if we believe that all Indians are good at math, we might be more likely to assume that an Indian person we meet is good at math, even if we **don't know anything** else about them. Second, stereotypes can influence how we treat people from a particular group. For example, if we believe that all **women are weak**, we might be less likely to hire a woman for a job that requires physical strength.



The impact of stereotypes

Stereotypes can have a **negative impact** on people's lives. They can lead to discrimination, prejudice, and violence. They can also make it difficult for people to reach their full potential.

Oxford Dictionary Definition



Stereotype

noun

A fixed idea or image that many people have of a particular type of person or thing, but which is often not true in reality and may cause hurt and offence like cultural/ gender/ racial stereotypes.



Introduction

Stereotypes are oversimplified and generalized beliefs about certain groups of people, often based on **biases or misinformation**. When incorporated into language, these stereotypes can perpetuate **discrimination, reinforce prejudices, and promote inequality**.

They can lead to **miscommunication**, as individuals may feel misunderstood or marginalized due to being categorized into a stereotype that doesn't accurately represent them. Using stereotype language too can hinder open-mindedness and hinder our ability to truly understand and appreciate the diverse experiences and perspectives of others

Stereotypes are so **deeply ingrained in our society** and thought processes that now it is difficult to understand when we stereotype someone. It is very subtle and plays on a subconscious level. It affects our judgments and the way we see people.

To highlight an incident from my own life, when I was studying film curation for festivals with **Meenakshi Shedde**, one of the finest independent film curators, festival programmers, script mentors, critics and journalists in India; we watched and discussed a piece of cinema with our class, as a part of our assignment. I distinctly remember we saw **"Mira Nair's Salam Bombay"** on that particular day.



**MEENAKSHI
SHEDDE**



**MIRA NAIR'S
SALAM BOMBAY**

One of the characters in the film is a sex worker. When I shared my views on the film and referred to this particular character as a prostitute. My mentor immediately corrected me that very minute. **She told me that it's the wrong term to use as it's demeaning and I should use the term sex worker instead.**

The right language will go a long way in the way we view people. She was right. I apologised immediately. She said that it's okay to make a mistake but what's important is to correct it, and also correct others when we see someone else do it. I vowed to pass this knowledge on, now that I was aware. I was inspired by her quick action and the passion with which she stood for what was right.

Today, I am fortunate to be writing about this subject. I hope this piece which so closely spoke to me, speaks to you too.

When I reflect back on this life-changing learning from my mentor, **I realise I was a victim of the patriarchy**, which we all subconsciously are. Nobody told us or taught us this, but knowing this now and choosing to not do anything about it, makes us an enabler of discrimination.

However, it is never too late to check our thoughts, words and actions. The new era is here where equality thrives, and this new era comes with new **work-in-progress rules**, in this case, a handbook. **A handbook to guide all of us to do better so every individual in our society feels safe, respected and empowered.**

It's time to be more intentional with our speech.



About the Supreme Court's Handbook



**DR. DHANANJYA
CHANDRACHUD**

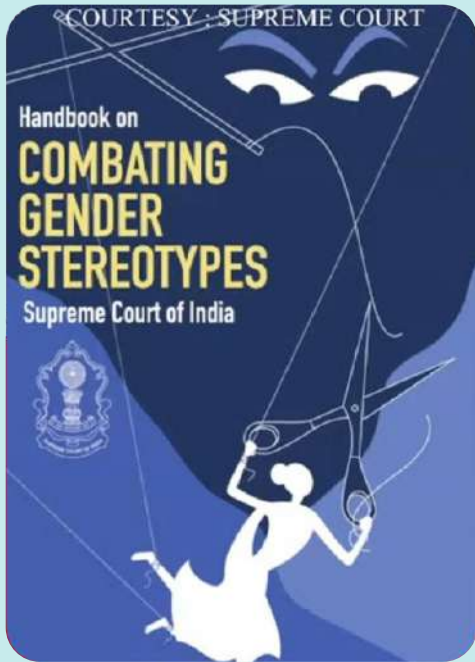
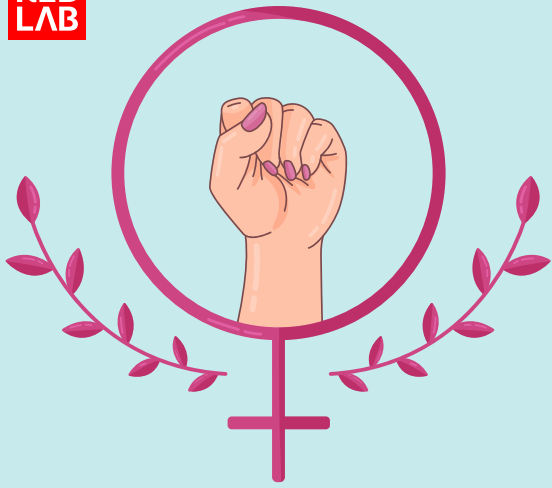
HON'BLE JUSTICE
OF INDIA

In a world that's moving forward with feminism and women's empowerment, it's essential that our actions match our words. We talk about **equal rights, breaking stereotypes, and empowering women** to be whatever they want to be. But sometimes, in the rush of our lives, we forget that these principles should be a part of every aspect of our society, even our legal system.

Now, picture this: a courtroom where a judge is making decisions that can change lives. **Hon'ble Dr Justice Dhananjaya Y Chandrachud, The Chief Justice of India**, the highest authority in the legal world, has highlighted a critical point. He's reminding us that even in the legal world, biases and stereotypes can sneak in and affect the outcomes of cases involving women. These biases are like invisible walls that prevent us from truly achieving equality.

But here's where it gets interesting. **The Chief Justice has taken a powerful step to shatter those walls.** He's introduced a special tool called a handbook. It's not just any handbook; it's a guide that helps judges recognize and remove harmful stereotypes from their decisions. Imagine the impact this can have on court cases involving women. It can lead to **fairer judgments**, breaking the cycle of inequality.





What's truly inspiring is that the **Chief Justice** released this handbook during the **COVID-19 pandemic**. It sends a strong message that issues like gender equality and justice for women remain a priority even in the face of a global crisis. It's a reminder that we can't put these crucial matters on hold – they need our attention now more than ever.

The handbook identifies common stereotypes about women and suggests alternative words and phrases that can be used instead. It also discusses the current doctrine on key legal issues that may be relevant when adjudicating cases involving sexual violence.

The Handbook on **Combating Gender Stereotypes** is a resource for judges and lawyers to help them identify and **avoid using harmful stereotypes**. It is a valuable tool for anyone who wants to ensure that the law is applied fairly and justly to all people, regardless of their gender.

Also, this handbook is also for all of us. It's for the lawyers, the activists, the teachers, the students, and every citizen who believes in a fair and just society. The handbook isn't just about changing words; **it's about changing mindsets**.



The Chief Justice ends the foreword by thanking the people who helped to create the handbook. This is a nice gesture, and it shows that the Chief Justice is committed to working with others to combat gender stereotypes.

I am inspired by the **Chief Justice's commitment to gender justice**. I believe that we can create a more just and equitable society by working together to challenge stereotypes and ensure that the law is applied fairly to all.

Imagine a world where every person, regardless of gender, is **treated fairly** in the eyes of the law. That's the world the Chief Justice envisions, and he's inviting all of us to be a part of it.

So, let's take this powerful tool and use it to change the narrative. Let's spread the word about the handbook, inspire conversations, and make sure everyone knows that **stereotypes have no place in our legal system**.



The Handbook



The handbook includes:

- ◆ A glossary of gender-unjust terms and alternative words and phrases.
- ◆ A discussion of common reasoning patterns that are based on gender stereotypes.
- ◆ A list of Supreme Court decisions that have rejected gender stereotypes.

Stereotype Promoting Language (INCORRECT)	Alternative Language (PREFERRED)
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
Born a girl / boy	Assigned female / male at birth
Career woman	Woman
Carnal intercourse	Sexual intercourse
Chaste woman	Woman
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
Easy virtue (e.g., a woman of easy virtue)	Woman

Stereotype Promoting Language (INCORRECT)	Alternative Language (PREFERRED)
Effeminate (when used pejoratively)	Accurately describe the characteristic using a gender neutral term (e.g. confident or responsible)
Eve teasing	Street sexual harassment
Faggot	Accurately describe the individual's sexual orientation (e.g., homosexual or bisexual)
Fallen woman	Woman
Feminine hygiene products	Menstrual products
Forcible rape	Rape
Harlot	Woman
Hermaphrodite	Intersex
Hooker	Sex worker
Hormonal (to describe a woman's emotional state)	Use a gender neutral term to describe the emotion (e.g., compassionate or enthusiastic)
Housewife	Homemaker
Indian woman / western woman	Woman
Ladylike	Use a gender neutral description of behaviour or characteristics (e.g., amusing or assertive)
Layabout / Shirker	Unemployed
Marriageable age	A woman who has attained the legal age required to marry
Mistress	Woman with whom a man has had romantic or sexual relations outside of marriage

Stereotype Promoting Language (INCORRECT)	Alternative Language (PREFERRED)
Prostitute	Sex worker
Provider / Breadwinner	Employed or earning
Provocative clothing / dress	Clothing / dress
Ravished (e.g., she was "ravished" by him)	Sexually harassed / assaulted or raped
Seductress	Woman
Sex change	Sex reassignment or gender transition
Slut	Woman
Spinster	Unmarried woman
<p>Survivor or Victim? An individual who has been affected by sexual violence may identify themselves as either a "survivor" or "victim". Both terms are applicable unless the individual has expressed a preference, in which case the individual's preference should be respected.</p>	
Transsexual	Transgender
Transvestite	Cross-dresser
Unwed Mother	Mother
Violated (e.g., he violated her)	Sexually harassed / assaulted or raped
Whore	Woman
Woman of loose morals / easy virtue / promiscuous woman / wanton woman	Woman



Stereotypes are Tinted Lenses of Bias in Action



Imagine that **stereotypes are like colorful filters we put over our glasses**. These filters might make everything look a certain way, whether it's true or not. So, when we rely on these filters, they can **mess up** our understanding of situations and make us **treat people unfairly**.

Think about a workplace. If people assume that women are better at organizing events and **men are better at serious tasks**, it's like putting a filter over the employees. **Women might end up stuck with party planning** while men avoid it. This not only limits their roles but also affects how they feel about their jobs.

Stereotypes can even affect how well people perform. Imagine if you were told that people like you aren't good at something. It's like having a little voice in your head saying, "**You're not going to do well.**" That can make exams scarier and harder. It's like carrying an extra-heavy backpack of worries.

Now, even judges, who are like **superheroes of the legal world**, can have these filters. If a judge believes that people from certain backgrounds are more likely to do bad things, it's like using a wrong map to make decisions. They might give harsher punishments based on that wrong map, not the real situation.





But there's hope! **We can take off these stereotype glasses.** Research shows that if we admit we have these biases and work hard to ignore them, we can be fairer. It's like learning to see the world without those colourful filters. **So, instead of thinking all poor people are criminals, we can treat each case individually,** without letting stereotypes lead the way.

And when it comes to gender, it's not just about boys and girls. It's about how we think boys and girls should behave. **Like thinking only girls like pink or that boys shouldn't cry.** These are like stories we've been told, but they're not true for everyone. We need to see each person as unique, not just as a character in a story we made up.

Remember, stereotypes are like illusions that can lead us astray. Let's take off those colourful glasses and see people for who they really are, not who we think they should be.



What is 'gender'?

Well, **'sex'** is about our bodies, but **'gender'** is about how society thinks we should act and look as girls, boys, women, and men. **Some people don't fit just as girls or boys – it's like a range.** Gender is how we're supposed to behave based on what people think a certain gender should be like. This affects how we see ourselves, how we get along with others, and who has power and stuff in society. This list talks mostly about **unfair ideas about guys and girls**, but remember, any gender can face hurtful ideas.

The table below outlines some common stereotypes based on the so-called **'inherent characteristics'** of women.

STEREOTYPE	REALITY
Women are overly emotional, illogical, and cannot take decisions.	A person's gender does not determine or influence their capacity for rational thought.
All women are physically weaker than all men.	While men and women are physiologically different, it is not true that all women are physically weaker than all men. A person's strength does not depend solely on their gender but also on factors such as their profession, genetics, nutrition, and physical activity.

STEREOTYPE	REALITY
<p>Women are more passive.</p>	<p>People display a wide range of personality traits. Both men and women can be (or may not be) passive. Women are not more passive than men as a rule.</p>
<p>Women are warm, kind, and compassionate.</p>	<p>Compassion is an acquired characteristic that is unique to every individual. Individuals of all genders can possess (or not possess) compassion.</p>
<p>Unmarried women (or young women) are incapable of taking important decisions about their life.</p>	<p>Marriage has no bearing on an individual's ability to take decisions. The law defines specific ages for persons to consent to certain activities, e.g., marriage or consuming alcohol, and all individuals of or above this age are deemed to be capable of taking such decisions irrespective of marriage.</p>
<p>Women of oppressed or marginalised communities have diminished cognitive capabilities or a limited understanding of the world.</p>	<p>The community an individual belongs is not determinative of their cognitive capabilities or their understanding of the world.</p>
<p>All women want to have children.</p>	<p>All women do not want to have children. Deciding to become a parent is an individual choice that every person takes based on a variety of circumstances.</p>



Age of Majority and Autonomy



A 24 year old woman's parents initiated habeas corpus proceedings seeking the production of their daughter who had married and moved away from them. In allowing the petition, the Kerala High Court observed, *"A girl aged 24 years is weak and vulnerable, capable of being exploited in many ways. The Court, exercising parens patriae jurisdiction is concerned with the welfare of a girl of her age. [...] Her marriage being the most important decision in her life, can also be taken only with the involvement of her parents."*

(W.P. Cri 297 of 2016 (24 May 2017, Kerala High Court))

The Supreme Court reversed this decision in *Shafin Jahan v. Asokan K.M.* (2018:INSC:222), noting that: *"The High Court was of the view that at twenty-four, [she] "is weak and vulnerable capable of being exploited in many ways". The High Court has lost sight of the fact that she is a major, capable of her own decisions and is entitled to the right recognised by the Constitution to lead her life exactly as she pleases."*

The Supreme Court further ruled that, *"The superior courts, when they exercise their jurisdiction parens patriae do so in the case of persons who are incapable of asserting a free will such as minors or persons of unsound mind. The exercise of that jurisdiction should not transgress into the area of determining the suitability of partners to a marital tie."*



Think of stereotypes as like roles people are told to play just because they're boys or girls. **Like in a play, society gives boys and girls specific parts to act out.** For example, society often says that boys should be tough and strong, while girls should be gentle and take care of the home.

But here's the thing: these roles are made up by society, not by who people really are. **People are more than just the roles they're given.** Even if a girl wants to be a scientist or a boy wants to be a cook, they might get funny looks or comments.

Think of it as a script that society gives them. If they don't follow the script exactly, they might be treated differently or even looked down upon. So, it's like being forced to wear a costume that doesn't fit who they are.



Let's imagine a girl loves playing with trucks instead of dolls. People might say, "**Girls don't play with trucks, that's a boy thing.**" It's like telling her she's reading the wrong lines in the play.

Stereotypes limit people and keep them from being themselves. But people are more than just roles. They should be free to choose what they want to do, whether they're a boy or a girl. It's time to let everyone be the star of their own show!



Judicial Reasoning and Language based on Gender Roles



In an appeal against a decree for restitution of conjugal rights, it was admitted that the husband regularly beat the wife. The husband's justification for this conduct was that:

- (i) the husband wanted his breakfast at 6 AM but the wife only woke up at 7 AM; and
- (ii) the wife did not dress according to the husband's wishes.

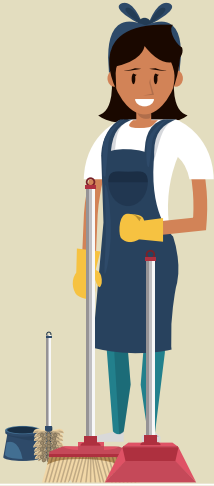
While the High Court set aside the decree for restitution of conjugal rights, it observed, *“As a devoted wife, it was no doubt [the wife’s] duty to get up before her husband was to leave for his work, but if she did not, the husband was not entitled to beat her. Likewise, as the dutiful wife, she should have respected the wishes of her husband as to the particular clothes to be put on a particular occasion. But if she did not, again, the husband had no right to beat her.”* (AIR 1963 MP 5)

This example demonstrates how even when arriving at a legally correct outcome, judicial reasoning can reinforce harmful stereotypes about the roles of women. The judicial reasoning reinforces the stereotype that it is a woman's exclusive responsibility to perform household chores and dress according to her husband's expectations.

Further the use of language such as *“dutiful wife”* only accentuates these harms.

The table below outlines some common stereotypes about the gender roles ascribed to men and women, and why they are incorrect.

STEREOTYPE	REALITY
<p>Women are more nurturing and better suited to care for others.</p>	<p>People of all genders are equally suited to the task of caring for others. Women are often socially conditioned to care for others from a young age. Many women are also forced to abandon their careers to care for children and the elderly.</p>
<p>Women should do all the household chores.</p>	<p>People of all genders are equally capable of doing house chores. Men are often conditioned to believe that only women do household chores.</p>
<p>Wives should take care of their husband's parents.</p>	<p>The responsibility of taking care of elderly individuals in the family falls equally on individuals of all genders. This is not the sole remit of women.</p>
<p>Women who work outside of the home do not care about their children.</p>	<p>Working outside of the home has no correlation with a woman's love or concern for her children. Parents of all genders may work outside of the home while also caring for their children.</p>
<p>Women who are also mothers are less competent in the office because they are distracted by childcare.</p>	<p>Women who have "double duty", i.e., work outside the home and raise children are not less competent in the workplace.</p>

STEREOTYPE	REALITY
<p>Women who do not work outside the home do not contribute to the household or contribute very little in comparison to their husbands.</p> 	<p>Women who are homemakers perform unpaid domestic labour (such as cooking, cleaning, washing, household management, and accounts) and care work (such as caring for the elderly and for children, helping children with their homework and extracurriculars). The unpaid labour performed by women not only contributes to the household's quality of life but also results in monetary savings. Women who are homemakers contribute to the household to an equal (or greater) extent. Their contributions are often overlooked because men are conditioned to believe that such work is of limited value.</p>
<p>Women should be submissive or subordinate to men.</p>	<p>The Constitution of India guarantees equal rights to individuals of all genders. Women are neither subordinate to men nor do they need to be submissive to anybody.</p>



Can't we trust stereotypes since they seem true sometimes?

Even if some women seem to fit certain stereotypes in specific situations, we can't automatically apply these stereotypes to all women. **Making impartial decisions means evaluating each case on its own merits.** Plus, stereotypes can pressure women to act in expected ways, even if it's not really them.

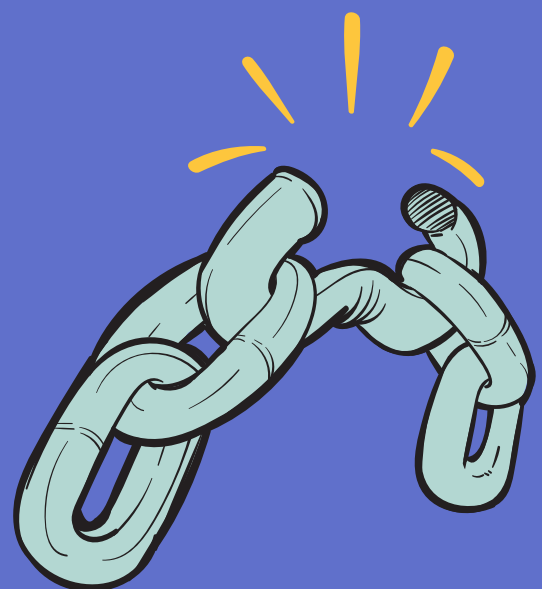
For example, **there's a stereotype that women should handle household chores like cooking and cleaning.** Even if a woman happens to be good at cooking, it doesn't mean all women should cook. The bigger picture matters. But this stereotype can actually force women into these roles due to **societal expectations, limited career options, media portrayal, and social pressure against choosing professional careers.** Therefore, even if a case appears to align with a stereotype, a careful examination is necessary to ensure fairness.





Remember, everyone is unique. Women have fought hard against stereotypes for fairness. We need to break free from these assumptions and create a world where everyone, no matter their gender, is equally respected.

Stereotypes about sex and violence are harmful too. Judging a woman by her clothes or past is wrong. This ignores consent and her rights. These assumptions hurt women's freedom and dignity.



The Supreme Court's ruling on the “Loose Character” of a Woman



In *State of Punjab v. Gurmit Singh*, the Supreme Court observed
“Even in cases, unlike the present case, where there is some acceptable material on the record to show that the victim was habituated to sexual intercourse, no such inference like the victim being a girl of “loose moral character” is permissible to be drawn from that circumstance alone. Even if the prosecutrix [...] has been promiscuous in her sexual behaviour earlier, she has a right to refuse to submit herself to sexual intercourse with anyone and everyone [...] No stigma, like the one as cast in the present case should be cast against such a witness by the courts, for after all it is the accused and not the victim of sex crime who is on trial...”

(1996 (2) SCC 384).



The table below provides an illustrative list of stereotypes that are often applied to men and women in the context of sex and sexual violence and explains why such assumptions are wrong.

STEREOTYPE	REALITY
<p>Women who dress in clothes that are not considered to be traditional want to engage in sexual relations with men. If a man touches such a woman without her consent, it is her fault.</p>	<p>The clothing or attire of a woman neither indicates that she wishes to engage in sexual relations nor is it an invitation to touch her. Women are capable of verbally communicating with others and their choice of clothing represents a form of self-expression that is independent of questions of sexual relations. A man who touches a woman without her consent must not be permitted to take the defence that the woman invited his touch by dressing in a particular way.</p>
<p>Women who consume alcohol or smoke cigarettes want to engage in sexual relations with men. If a man touches such a woman without her consent, it is her fault.</p>	<p>Women, like all other people, may consume alcohol or smoke cigarettes for a variety of reasons including for recreation. The consumption of alcohol or use of tobacco is not an indication of their desire for sexual relations with a man. A man who touches a woman without her consent must not be permitted to take the defence that the woman invited his touch by drinking or smoking.</p>

STEREOTYPE	REALITY
<p>Men who sexually assault or rape women are typically strangers and are not known to the woman.</p>	<p>Very often men sexually assault or rape a woman known to them in some capacity. The woman may be a colleague, employer, employee, neighbour, family member, friend, former or present partner, teacher, or acquaintance.</p>
<p>Women who are sexually assaulted or raped by men cry incessantly and are depressed or suicidal. If a woman's behaviour does not conform to this mould, she is lying about having been raped.</p>	<p>Different people react differently to traumatic events. For example, the death of a parent may cause one person to cry publicly whereas another person in a similar situation may not exhibit any emotion in public. Similarly, a woman's reaction to being sexually assaulted or raped by a man may vary based on her individual characteristics. There is no "correct" or "appropriate" way in which a survivor or victim behaves.</p>
<p>Women do not speak to the man who has sexually assaulted or raped them after the incident of sexual assault or rape. If a woman speaks or interacts 'normally' with the accused, her complaint of sexual assault or rape is false.</p>	<p>Women are often forced to interact with the men who have sexually assaulted or raped them. This may be because the perpetrator is a family member, an employer, or some other person in a position of authority over the woman. Social circumstances may therefore force the survivor/victim to interact with the perpetrator.</p>





STEREOTYPE	REALITY
<p>Women who are sexually assaulted or raped by men complain about the injustice immediately. If they complain after a time, they are lying.</p>	<p>Further, survivors/victims of sexual abuse often find it difficult to report the said abuse immediately due to a variety of factors, including a lack of familial support and a fear of repercussions. Thus, interaction with the accused should not lead to a presumption that the complaint is false.</p>
<p>Dominant caste men do not want to engage in sexual relations with women from oppressed castes.</p>	<p>It takes courage and strength to report a sexual offence because of the stigma attached to them. The stigma attached to sexual violence makes it difficult for women to disclose the incident to others. Women may therefore register a complaint after a lapse of some time, when she thinks she is able to. Further, as noted above, several other factors such as lack of familial support or fear of repercussions may cause a survivor/victim to delay their reporting.</p>
<p>Therefore, any allegation of sexual assault or rape by an oppressed caste woman against a dominant caste man is false.</p>	<p>Rape and sexual violence have long been used as a tool of social control. Dominant caste men have historically used sexual violence as a tool to reinforce and maintain caste hierarchies.</p>



Bhanwari Devi's Case and the Vishaka Guidelines

BHANWARI DEVI

GOVERNMENT
SOCIAL WORKER



Bhanwari Devi was a government social worker from an oppressed caste **who intervened to prevent child marriage**. In 1992, she filed an FIR and testified that multiple dominant caste men violently assaulted and raped her as a retaliatory measure. In 1995, the trial court acquitted the accused, observing inter alia: **(i) members of a dominant caste would not rape a woman from an oppressed caste; (ii) men of different castes would not participate in a gang rape; (iii) older men aged 60-70 cannot participate in a gang rape, and (iv) it was improbable that a woman could be raped in the presence of her husband**. The acquittal caused national outrage, particularly because of the nexus with Bhanwari Devi's work as a government social worker. Members of civil society filed a public interest petition in the **Supreme Court of India** seeking that **"workplaces must be made safe for women and that it should be the responsibility of the employer to protect women employees at every step."** In 1997, the Supreme Court in *Vishaka v. State of Rajasthan* laid down guidelines to protect women in the workplace.



STEREOTYPE

REALITY

It is not possible for a man to rape a sex worker.



It is possible for a man to rape a sex worker. Sex workers do not consent to engage in sexual relations with any or all men by virtue of their profession. The offence of rape may be made out if the sex worker does not consent for any reason, including for the reason that the man was unwilling to pay her. Sex workers are one of the groups which are most vulnerable to sexual violence.

Able-bodied men do not want to engage in sexual relations with women with disabilities. Therefore, any allegation of sexual assault or rape by a woman with a disability against an able-bodied man is false.

Able-bodied men may sexually assault or rape women with disabilities. The presence of a disability does not mean that there is a lower likelihood of sexual violence. Some women with disabilities which impact their ability to communicate effectively are particularly vulnerable to sexual violence by men.

Rape is a crime which taints the honour of the survivor / victim or her family. If the rapist marries the survivor / victim, her honour is restored.

Rape does not taint the honour of the survivor / victim or her family. The marriage of the rapist to the survivor / victim does not restore honour. Rather, it intensifies the trauma faced by the survivor / victim and encourages the rapist to engage in further violence. Marriage is not a remedy to the violence of rape. Rape is a criminal offence, which cannot be undone by marriage.

STEREOTYPE

REALITY

Women are very likely to make false allegations of sexual assault or rape.

Women find it difficult to report instances of sexual assault or rape due to the stigma associated with such crimes. Women often do not receive familial support in reporting sexual crimes. It can also be traumatizing for a survivor / victim to participate in the criminal justice process, which requires her to repeatedly recount the violence she was subjected to in detail, in the presence of strangers who are often male (police officers, lawyers, judges, etc.). Women are also frequently disbelieved when they report sexual violence. A combination of these factors results in women being very reluctant to report sexual violence. It is therefore untrue that women are very likely to make false allegations. Each case must be judged on its merits and assumptions regarding the (dis)honesty of women as a class must not be made.



Women who say "no" to sexual advances are shy and they actually mean to say "yes" and welcome the sexual advances.

Women who say "no" mean "no" and there exists no further ambiguity. Women who wish to welcome sexual advances will communicate their consent using clear language such as the word "yes." There cannot be a presumption of consent based on a woman's broader behavioural characteristics.

Men are unable to control their sexual desires.

Men, like all other humans, are in control of all their actions including their sexual desires. Such reasoning discounts the agency of men and then excuses this purported lack of agency.

STEREOTYPE

A woman who has previously had sexual relations cannot be raped because she has "loose morals" or a "loose character."



Young people follow "western" culture and engage in "casual" sexual relations which increases the likelihood of sexual violence and other harms.

REALITY

A woman who consents to sexual activity with one man does not consent to sexual activity with all men. Similarly, a woman who consents to sexual activity with a man at a particular instance does not ipso facto consent to sexual activity with that same man at all other instances. A woman's character or morals are unrelated to the number of sexual partners she has had. Her sexual history does not define her and must not influence criminal proceedings. Section 53A of the Indian Evidence Act 1872 attempts to combat this very stereotype by prohibiting lawyers from adducing "evidence of the character of the survivor / victim or of such person's previous sexual experience" where the question of consent is in issue.

A survivor or victim's reporting of sexual violence cannot be disregarded, nor does the legal significance of the offending conduct change based on the survivor / victim's reasons for choosing to engage in sexual relations. What matters is that they chose, and that sexual relations were consensual. Focussing on the survivor or victim's lifestyle or previous motivations for having sex perpetuates the harmful idea that the survivor / victim is somehow to blame for the violence and reinforces the stigma associated with sexual violence.

Irrelevant considerations about promiscuity or chastity



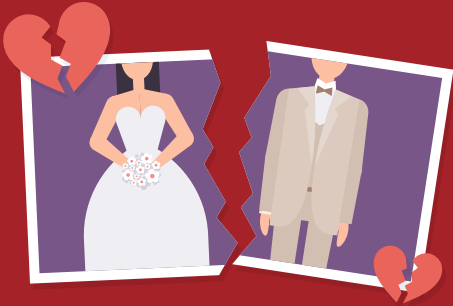
When overruling the grant of bail to an accused under Sections 323, 354A, 452, and 506 of the Indian Penal Code, 1860, the Supreme Court of India in *Aparna Bhat v. State of Madhya Pradesh* observed, “...to say that the survivor had in the past consented to such or similar acts or that she behaved promiscuously, or by her acts or clothing, provoked the alleged action of the Accused, that she behaved in a manner unbecoming of a chaste or “Indian” women, or that she had called upon the situation by her behaviour, etc. These instances are only illustrations of an attitude which should never enter judicial verdicts or orders or be considered relevant while making a judicial decision;...”

(2021:INSC:192)

STEREOTYPE	REALITY
<p>“Good” women prefer death rather than being raped by a man.</p>	<p>It is a patriarchal and harmful belief that women should prefer death rather than being raped by a man. Such beliefs may cause survivors / victims to consider suicide because they have been raped by a man.</p>
<p>Indian women behave differently from Western women or women of other countries after a man has sexually assaulted or raped them.</p>	<p>Each woman reacts to sexual violence based on her personality, social circumstances, upbringing, and other factors. It is not possible to categorise the reactions of women to sexual violence based on the country or region from which they hail. There is no “correct” or “appropriate” reaction to being raped and all reactions are equally valid.</p>
<p>Transgender individuals cannot be raped.</p>	<p>Transgender individuals can be raped. In fact, transgender individuals are one of the groups which are most vulnerable to sexual violence because they are stigmatised and face structural discrimination. It is incorrect to assume that all transgender individuals are sex workers who always consent to sexual relations.</p>
<p>If a woman does not scream for help, attack the rapist or if she does not have any injuries on her body such as cuts and scrapes, she has not been raped.</p>	<p>A woman who is facing sexual violence by a man may not be in the position to attack him. Rapists frequently threaten survivors / victims with death and even threaten to kill their family members if they attempt to resist. Moreover, injuries such as cuts and scrapes may not always result even if the woman attempts to resist as the rapist may overpower her.</p>

The Current doctrine on key legal issues

Joseph Shine vs. Union of India



1. Challenging Stereotypes and Patriarchy:

In a case known as **Joseph Shine v. Union of India**, the Supreme Court addressed a law about "adultery." This law punished men who had sexual relations with married women, but it didn't apply to unmarried women. The Court found this law unjust because it treated women as the property of their husbands. The Court criticized the fact that society held different standards for men and women, and it emphasized that these outdated ideas hurt women's dignity and rights. The Court wanted to break free from these stereotypes and called for more equality between genders.

2. Rejecting Harmful Tests:

In the case of **State of Jharkhand v. Shailendra Kumar Rai**, the Supreme Court discussed the "two finger test," a practice that was used to examine women who claimed to be victims of sexual assault. This test wrongly assumed that if a woman was sexually active, she couldn't be raped. The Court strongly disagreed with this assumption, stating that a woman's past experiences don't matter when it comes to rape cases. The Court emphasized that it's unfair and disrespectful to doubt a woman's claim of rape simply because she's had consensual sexual relations in the past.

State of Jharkhand vs. Shailendra Kumar Rai



State of Punjab VS. Gurmit Singh



3. Believing Survivors:

In the case, **State of Punjab v. Gurmit Singh**, the Supreme Court highlighted the importance of believing **survivors** or **victims of sexual violence**. The Court discussed a situation where the testimony of a survivor was being questioned due to perceived inconsistencies. The Court stated that the testimony of a survivor is significant and should be trusted, just like any other witness. It stressed that there should be no inherent suspicion towards women reporting sexual violence and that their accounts should be treated with respect and seriousness.

State of Himachal Pradesh VS. Gian Chand



4. No Assumptions from Delays:

In the **State of Himachal Pradesh v. Gian Chand**, the Supreme Court addressed the **issue of delays in reporting incidents of sexual violence**. The Court cautioned against automatically assuming that delayed reporting indicates false accusations. The Court recognized that there could be various reasons for delays, including fear, societal pressures, or trauma. The Court advised that instead of immediately doubting survivors who don't report immediately, the circumstances leading to the delay should be carefully considered.

These **real stories from the Supreme Court** show that it's serious about fighting wrong ideas and being fair in cases about gender and sexual violence. The Court wants to **change unfair beliefs and treat everyone the same**, no matter their gender.

CONCLUSION

For far too long, **women have battled the weight of biased beliefs and cultural norms.** The pages of history are imprinted with their tireless struggle for equality. Now, a shared responsibility lies with each one of us, including the judiciary, to dismantle these deep-rooted stereotypes

You hold in your hands more than a Handbook. It's a blueprint for change, a chance to reshape attitudes, alongside judges.

You, too, have a role in this transformation. Your voice, actions, and choices can shape a future where **equality** and **fairness** are not mere ideals, but a lived reality.

Words are potent. They can redefine norms and reshape perceptions. **By choosing language that empowers rather than belittles, you can contribute to an environment where gender equality thrives.** By championing unbiased thinking and questioning stereotypes, you can create ripples of change that reach far beyond the courtroom.

The journey toward a just society begins with us. Together, we can write a new narrative and build a world where stereotypes hold no power.

Let's reshape the landscape of justice. Are you ready to be a catalyst?



Red Labs presents the Implicit Test

Can stereotypes be overcome?

Yes, stereotypes can be overcome.



Research has shown that we can avoid much of the negative impact of stereotyping by:
(i) recognising that we hold certain implicit biases or rely on certain stereotypes; and (ii) making a conscious and deliberate effort to overcome or resist the implicit bias or stereotype.

Here are some specific tips from the handbook:

- ◆ Be aware of your own biases and stereotypes.
- ◆ Challenge stereotypes when you see them.
- ◆ Use gender-neutral language in your everyday life.
- ◆ Consider the impact of your decisions on people from different groups.

Find out if you are unbiased and fair.

Let's dive into the fascinating realm of unconscious biases. Even if you're firmly against stereotypes, research suggests they can still seep into our thoughts and actions in sneaky ways. It's like a hidden code that affects how we perceive the world.



Now, here's an intriguing challenge for you:
Take the test! Unearth any hidden biases you
might have. It's not about pointing fingers; it's
about unveiling our blind spots. Brace yourself
– the results could be a real eye-opener.

*Ready to decode your biases and uncover
a new level of understanding of yourself?*

Click to take the plunge!



SOURCE

Combating Gender Stereotypes Handbook by Supreme Court of India.

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