
GENDER SENSITIZATION IN THE ADMINISTRATION OF JUSTICE

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ABSTRACT

Gender sensitization is crucial for the development of an equitable and all-encompassing justice delivery system that advances gender equality and protects women's rights. This abstract explores the importance of overcoming gender-based preconceptions and discriminatory practices in the justice delivery system, with a focus on the concept of gender sensitization.

Maintaining the rule of law and providing equal access to justice for all members of society depends heavily on the effectiveness of the justice delivery system. Prejudices and stereotypes about women and other underprivileged groups might make it difficult to successfully administer justice. Gender sensitization initiatives are essential for solving these problems because they raise consciousness, challenge bias, and make the law more accommodating to women.

This summary highlights the importance of gender sensitization efforts in the legal system and the necessity to offer extensive training for judges, attorneys and other members of the judicial system. The goal of this training is to raise their consciousness of issues relating to gender, including as gender-based violence, discrimination, and social inequalities, so that they may better protect the rights of all people within the legal system.

By promoting gender sensitization, the court system may actively strive towards reducing structural barriers and establishing an environment that supports social fairness. It is essential to acknowledge the intersectionality of gender with other traits such as race, class, and ethnicity in order to satisfy the diverse needs and experiences of persons inside the legal system.

The importance of collaborative efforts among policymakers, legal professionals, civil society groups, and academics is emphasised in the last paragraph of this abstract in order to institutionalise gender sensitization within the justice delivery system. Laws, regulations, and practises that take into account the experiences and perspectives of women and men may help

move societies closer to their goals of achieving gender equality, advancing the status of women, and ensuring justice for all members of society.

Keywords: Women's Rights, Gender-Based Violence, Legal System, Justice Delivery System, Gender Sensitization, Judicial Training, Social Justice.

Gender Sensitization

The term “gender sensitization” refers to the practise of raising public consciousness on gender equality. It encourages people to question the status quo of both sexes and their own preconceived notions about them. When people are educated on the differences between sex and gender, the social production of gender, and the preconceptions around gender roles, they are better able to discriminate between stereotypes and actual gender-related ideas. Education of working professionals on the need of gender sensitivity in the workplace is the goal of gender sensitization programmes. It's possible for someone to miss the mark if they're not attuned to the needs of the other gender. Gender roles are learnt behaviours based on cultural norms about what is appropriate for men and women. Women and children are more at risk in this setting. And it's the overwhelming expectations put on young men and women to conform to stereotypical portrayals of masculinity and femininity. The social domination, discrimination, and control that girls face are not justifiable. Boys are taught they should not feel empathy, compassion, or fear. An accurate and unambiguous definition of gender is provided by gender sensitization, as is the insight that GENDER is not about “Women,” but about “People.”¹

Kudumbashree, a grassroots group, is Asia's largest network of women. Kudumbashree employees assist ladies and their issues all around the state. Kudumbashree prioritises women's rights with social and economic empowerment. Therefore, it is important to educate staff on the issue of gender parity. Gender sensitivity promotes acceptance of others in the workplace and in society, regardless of their sexual orientation. The mission recognised the need of gender awareness training, therefore they held a two-day seminar with eleven groups. This gender awareness training has been provided to over 500 Kudumbashree staff, including dpms, Block coordinators, Snehitha, and state mission specialists. As part of the bottom-up gender intervention, community leaders will also get training in gender sensitization.

¹ Role of judiciary in maintaining a gender-just world iPleaders, <https://blog.ipleaders.in/role-of-judiciary-in-maintaining-a-gender-just-world> (last visited Jun 25, 2023).

To tackle several forms of gender discrimination, the Indian government has enacted numerous laws, policies, and projects. Discrimination against women in India stems largely from the country's widespread patriarchal mindset. Although changes in attitude are occurring as a result of urbanisation and increased literacy, much work need to be done.

The birth rate for males has decreased from 918 in 2014-15 to 931 in 2018-19, while the female literacy rate has increased from 55.1% in 2004-05 to 68.4% in 2015-16. Crimes against women increased from 2014 (329457) to 2015 (329243) to 2016 (338954), as shown by data from the NCRB, which is up to date through 2016. Over the course of history, several statutes have been enacted. As a result of the new climate, a rising number of women in India are going through the criminal justice system to report instances of sexual harassment they encountered while working or attending public institutions.²

The “National Council for Educational Research and Training (NCERT)” has developed curricula and textbooks for all subject areas to promote gender sensitization in the school curriculum. Activities and exercises in textbooks at all grade levels are developed with gender sensitivity in mind. Gender-inclusive language is included on the inside covers of textbooks and other course materials. The “Central Board of Secondary Education (CBSE)” has also established gender sensitivity guidelines for all forms of written content, including examination questions.³

The government of India has implemented many laws in the past to protect women from violence and eradicate discrimination based on gender. Among these are the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁴,” “Criminal Law (Amendment) Act⁵,” “Protection of Women from Domestic Violence Act⁶,” “Dowry Prohibition Act,” “Indecent Representation of Women (Prohibition) Act,” “Dowry Prohibition Act, 1961,” “Equal Remuneration Act⁷,” “The MDA,” and The Criminal Law

² Female literacy rate is a better predictor of birth rate and infant mortality rate in India Journal of family medicine and primary care, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4649870/> (last visited Jun 25, 2023).

³ Role of Indian judiciary in neutralizing gender equality Legal Service India - Law, Lawyers and Legal Resources, <https://www.legalserviceindia.com/legal/article-6663-role-of-indian-judiciary-in-neutralizing-gender-equality.html> (last visited Jun 25, 2023).

⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

⁵ Criminal Law (Amendment) Act, 2018.

⁶ Protection of Women from Domestic Violence Act, 2005.

⁷ The Equal Remuneration Act, 1976.

(Amendment) Act of 2013⁸ increased the penalty for sexually violent offences like as rape, sexual assault, etc.

In an effort to lower the gender gap amongst youth and increase educational opportunities for girls. The Indian government is implementing a wide variety of initiatives and activities to remove discrimination against women and ensure that all citizens have equal rights. Some of the initiatives run by the “Ministry of Women and Child Development” to improve women's lives are: -

1. Beti Bacho Beti Padhao (BBBP)
2. Swadhar Greh Scheme, which offers assistance and rehabilitation to poor women and women in need
3. The Ujjawala Comprehensive Scheme for the Rescue, Rehabilitation, and Reintegration of Trafficking Victims and Victims of Commercial Sexual Exploitation,
4. To help disadvantaged women's socioeconomic growth, Rashtriya Mahila Kosh (RMK) offers loans via intermediary microfinance organisations (imos) and non-governmental organisations (ngos).
5. Women working away from their primary house may find secure lodging at Working Women Hostels (WWH).

The “Ministry of Women and Child Development” is also implementing the “One Stop Centre” programme to provide women who have been victims of violence with comprehensive support and assistance, the “Universalization of Women Helpline” programme to provide a 24-hour emergency response to women who have been victims of violence, and the “Mahila Police Volunteers” programme, in which mpvs act as a liaison between the police and women who have been victims of violence.

Gender sensitization, in its simplest form, is any effort to alter one's conduct in response to gender inequality issues. Rajkiya Kanya Mahavidyalaya (RKMV) is the sole state-run school

⁸ The Criminal Law (Amendment) Act of 2013.

for women in the state, making it an important centre for promoting gender equality. Hundreds of students leave RKMV each year, taking with them the “mindset” they were taught there.

Rajkiya Kanya Mahavidyalaya's dedication to promoting gender equality is evident in the many events it has hosted over the last five years. Gender sensitization is crucial for understanding the nuanced needs of a certain gender. It encourages us to examine our own beliefs and values while also calling into question some of the assumptions we've made in the past. Higher education helps cultivate new ideas and, when appropriate, challenges outdated perspectives. A more democratic society, one in which gender equality is seen as a fundamental value, may be fostered via education.

The gender sensitization technique promotes understanding via educational forums such as talks, discussions, and debates. Students of both sexes are strongly encouraged to participate in the college's National Cadet Corps (NCC) and National Service Programme (NSP). In order to foster a more gender-sensitive work environment, the “Women Grievance Cell” also hears complaints when direct, in-person communication and counselling have already resolved the matter.

This unit was set up as part of the UGC's eleventh strategy to promote women's studies on college campuses. Gender-sensitive environments may help girls reach their full potential by encouraging attributes like confidence and independence. Committees of all sorts are formed for this purpose, and meetings between teachers and students are encouraged to facilitate communication and problem-solving. The goals of the institute's outreach programmes are to fill these voids.

Among the many activities held regularly, 300 students attended a lecture by renowned attorney Sheetal Vyas on domestic abuse and sexual harassment on March 2nd and March 8th, 2016-17. On February 28th, 2017, the HP State Women's Commission hosted another lecture titled “Women's Empowerment Activities,” and this time 70 students showed up. Given the persistent rise in crimes against women, the SHO Shimla Circle hosted a talk on “Eve Teasing” on March 2 and 8, 2016–17.⁹

⁹ Himachal Pradesh's “veerangna on wheels” to fight crime against women: Shimla news - times of India The Times of India, <https://timesofindia.indiatimes.com/city/shimla/himachal-pradeshs-veerangna-on-wheels-to-fight-crime-against-women/articleshow/82085575.cms> (last visited Jun 25, 2023).

In 2018-2019, a performance was put on to raise awareness about “Save the Girl Child” and women's safety, and the “Gudiya Helpline No.” was displayed. A total of 555 students took part in the exercise.

On November 27, 2019, “Chotti Guru Maa” put on a self-defense display as part of a one-day training in line with this 2019-20 plan. There were 655 students here today. In addition, on October 3, 2020, Dr. Luxmi Sindhu hosted a conference titled “Challenges of Women Safety” for 550 students.

The significance of gender sensitization at work

Gender awareness is essential since the importance of representation cannot be overstated. In addition to fostering equity, including previously marginalised groups in representation may offer them a sense of community. In order to provide an environment where everyone may reach their full potential, businesses must employ a diverse team of employees without regard to gender. Organisations can not put off making necessary adjustments any longer; in today's globalised society, taking responsibility has never been more important than it is now.¹⁰

Everyone who works for a firm hopes to advance their skills and knowledge while they are there, but a hostile work environment makes that impossible. Educating employees on the importance of gender equality is critical for maintaining a positive work environment. Finally, companies have a moral obligation to form today's structures by breaking with established norms.

Cultures of discrimination and inequality are recognised as standards in workplaces that do not promote gender sensitization. When this kind of attitude becomes the norm, it drives up absenteeism, turnover, and other costs. A similar mindset promotes the notion that one gender is better than the other.

One way to combat bias and discrimination on the basis of gender is via the promotion of gender sensitivity. Setting the stage for mutual respect amongst people of different genders is essential.

¹⁰ Gender sensitization program Kudumbashree, <https://kudumbashree.org/pages/412#:~:text=It%20helps%20people%20in%20examining,the%20realities%20of%20both%20sexes.> (last visited Jun 25, 2023).

India needs gender-focused courts

In INDIA, sexism is embedded in culture. Every day, they must overcome obstacles in order to ensure their own development, freedom, and equality, to live a better and more respected life, and to make positive contributions to a just and safe society. Many of these biases may be mitigated, if not entirely eliminated, by increased gender sensitivity. The prevalent patriarchal mindset in Indian culture is the primary cause of the discrimination against women. However, as a result of urbanisation and improved educational opportunities, this is beginning to change. We still have a ways to go before we reach that point, however. The gender gap is maintained in part through social conditioning and the perseverance of old gender standards.

A judge in the Madhya Pradesh (MP) High Court was accused of ignoring the requirement to give bail to a molester, and the Supreme Court recently addressed the matter. Speaking before the bench of A.M. Khanwilkar, Dinesh Maheshwari, and Sanjiv Khanna, Attorney General KK Venugopal argued that judges need to be more gender conscious because else their rulings will “objectify women, which is a gross trivialization of the distress.”

In instances involving sexual offences, the Supreme Court has made it quite plain that it does not support plea bargains. The comments made by the MP High Court should be deemed inappropriate by the courts because of their potential impact on the victim and on society as a whole. The requirements of the courts must be met, and we must take preventative steps to avoid a repeat performance.

The Supreme Court is in charge of organising the gathering of statistics on the number of women working in the justice system at all levels. More women should serve as judges at all levels of government, not just the highest court. Given the Collegium's monopoly on judicial appointments, the initiative must originate from the Court itself.

In *State of the M.P. v. Madanlal*¹¹, the MP High Court committed yet another error by mandating that the accused maintain contact with the victim while out on bail. The court's insistence on this condition effectively tore apart the prosecution's case, which rested on the defendant's break-in.

¹¹ CRIMINAL APPEAL NO. 231 OF 2015 (@ SLP(CrI) No. 5273 of 2012).

The public's faith in the justice system will suffer if it is seen as stuck in elitism, exclusivism, and privilege, and insensitive to the changing demands of society and the most marginalised members of society. The public's trust in the judicial system as the protector of law and human rights is at risk if judges repeatedly engage in inappropriate activity. This is why having women's voices heard in the courtroom is crucial.

Sensitization to gender in the legal system

Various legislative frameworks, strategies, and guidelines are used in India to address gender sensitization within the justice delivery system. These programmes seek to advance gender equality, do away with gender-based prejudice, and guarantee an inclusive and fair justice system. The legislative framework on gender sensitization in the Indian justice delivery system includes the following major elements:

- 1) India's Constitution: The Indian Constitution provides a solid framework for equality and gender sensitization. It protects against discrimination and upholds basic rights such the right to equality (Article 14¹²), the right to life and personal freedom (Article 21¹³), and the prohibition of slavery. These constitutional clauses serve as the foundation for legislation that are interpreted with gender equality and anti-discrimination in mind. According to Article 14, no one should be denied equality before the law or equal protection of the laws throughout the Indian subcontinent. The State is not allowed to discriminate against any person solely on the basis of their religion, race, caste, sex, place of birth, or any combination of these. The State may create unique measures for women and children under Article 15(3)¹⁴. According to Article 16¹⁵, all citizens must have equal access to opportunities and shall not be subject to discrimination based on their gender, ethnicity, caste, or religion. According to Article 39(a)¹⁶ of the Constitution, the state must focus on making sure that all citizens, men and women alike, have access to appropriate means of subsistence. The Constitution's Article 39(e)¹⁷ guarantees that no worker's health, strength, or tender age will be exploited, and that no citizen will be compelled by economic necessity to engage

¹² INDIAN CONST. art. 14.

¹³ INDIAN CONST. art. 21.

¹⁴ INDIAN CONST. art. 15, cl. 3.

¹⁵ INDIAN CONST. art. 16.

¹⁶ INDIAN CONST. art. 39, cl. a.

¹⁷ INDIAN CONST. art. 39, cl. e.

in a profession that is inappropriate for their age or level of fitness. According to Article 51(A)(e)¹⁸ of the Constitution, it is every citizen's responsibility to repudiate behaviours that are disrespectful to women's dignity.

The Central Government has also ratified many international human rights treaties and accords that aim to provide equal protection for women. However, relatively few individuals are aware of these regulations. Everyone must be aware of their rights and how to seek redress if those rights are violated, particularly those who are being exploited.

- Article 14¹⁹:

The State must guarantee everyone's equality before the law and impartial protection of Indian law, according to this need. The “equality before the law” process identifies a clause in all written documents that guarantees that everyone has the same rights under the law, regardless of their place of birth, ethnicity, gender, or race. “Equal protection of laws” refers to the impartial protection of the law for each and every person living in the country of India.

- Article 15(1)²⁰:

It requires the State to refrain from discriminating against anybody on the basis of their sex, ethnicity, race, nationality, caste, or any combination of these.

- Article 15(3)²¹:

It requires the State to put up certain particular plans to help women and children. Accordingly, it states that even while the state won't separate anybody, they may nonetheless implement special laws only for kids and women to protect their interests. The Children's Sexual Harassment Act, the “Domestic Violence Act”, the “Workplace Harassment Law”, the “Sexual Abuse Legislation (Nirbhaya Act)”, the Amendment to the “Hindu Succession Act, and other legislation are examples of those that encourage conversations aimed at boosting women and children. On the other hand, Article 15(3) favours debates. This addresses issues such as limitations on a wife's allowance, marital rape, limitations on the Food Protection Bill, etc.

¹⁸ INDIAN CONST. art. 51, cl. 1ae.

¹⁹ INDIAN CONST. art. 14.

²⁰ INDIAN CONST. art. 15, cl. 1.

²¹ INDIAN CONST. art. 15, cl. 3.

- Article 16²²:

It requires equal chance for everyone in matters involving education or distribution of any post within the State. Guidelines on equal chances for public sector employment are outlined in Articles 16(1)²³ and (2). However, it is stated in Article 16, Clause 3, that this clause shall not in any way prevent Parliament from passing legislation establishing a requirement that “people appointed to any office within that State reside within that State or a territory of the Union prior to recruitment or allotment to any office within that State. According to Article 16(4) of the Indian Constitution, state-owned facilities must be set aside for the benefit of the underprivileged.”

- Section 39(a)

It requires the State to direct its efforts on reserving the right to a good standard of life for both men and women on an equal footing.

- Article 39:

It requires the State to guarantee equal pay for equally hard labour for men and women. The 'fair pay for fair labour' notion is a constitutional ideal even if our Constitution does not officially recognise it as a civil right. According to it, the Directive's clause stating that “fair pay for equal work” means equal pay for equal work performed by both sexes.

- Article 39A²⁴:

Promoting justice, on an equal footing, and providing free legal aid by effective legislation, programmes, or other means to ensure that no one is denied fair conditions for accessing justice because of their financial situation or other constraints.

- Article 42²⁵:

It requires the State to set up fair and appropriate working conditions as well as maternity

²² INDIAN CONST. art. 16.

²³ INDIAN CONST. art. 16, cl. 1.

²⁴ INDIAN CONST. art. 39, cl. a.

²⁵ INDIAN CONST. art. 42.

assistance.

- Article 46²⁶

It requires the State to make the scholastic and financial woes of the Scheduled Castes, Scheduled Tribes, and other underprivileged sections public. It also directs the State to make a considerable effort to raise awareness of the financial and academic issues of the underprivileged sections of society, particularly the Scheduled Tribes and Scheduled Castes, and to protect them from all forms of persecution.

- Article 47²⁷:

The level of the population's living and nutritional circumstances will be improved by the State. The most important part for the aim of social transformation is how it identifies the government's main duties. It pertains to health care, the elderly, raising work standards, protecting justice, and increasing the responsibilities of the government.

- Article 51(A)

Fostering a culture of friendliness and cooperation among all citizens of the nation, and rejecting behaviour that is demeaning to women's dignity.

- 2) A thorough framework for combating domestic abuse against women is provided by the Protection of Women from Domestic abuse Act, 2005²⁸. By requiring the installation of protection officers and service providers with experience addressing domestic abuse situations, it acknowledges the significance of gender sensitization. Additionally, it promotes educating the judges, police, and other parties engaged in the Act's execution.
- 3) Aiming to prevent and treat sexual harassment at work, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013²⁹, emphasises gender sensitization as a crucial element of such prevention. It requires the establishment of Internal Complaints Committees in businesses, which are in charge of

²⁶ INDIAN CONST. art. 46.

²⁷ INDIAN CONST. art. 47.

²⁸ Protection of Women from Domestic abuse Act, 2005.

²⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

accepting and handling sexual harassment claims. The Act also stresses the need of programmes for employee and employer knowledge and sensitization.

- 4) Recommendations and directions by the Supreme Court: To encourage gender sensitization in the justice delivery system, the Indian Supreme Court has issued a number of recommendations and directions. As an example, the Court has stressed the need of gender sensitization programmes for judges, attorneys, and court personnel. Additionally, it has emphasised the need of using language that is gender-neutral in court and the eradication of gender-based prejudices in rulings.
- 5) National and State Women Commissions: These organisations are crucial in advancing gender equality and gender sensitization. These commissions are tasked with investigating accusations of gender discrimination and advancing the interests of women. To educate those involved in the legal system, they often run awareness campaigns, training efforts, and advocacy projects.
- 6) Programmes for gender sensitization and legal awareness are run by a number of government and non-governmental organisations in India with the goal of educating judges, solicitors, police officers, and other justice system players about gender issues. These initiatives seek to combat prejudice and discrimination, promote gender-responsive practises, and increase awareness of and sensitivity to gender problems.
- 7) Even though India's legal system recognises the value of gender sensitization, more implementation, monitoring, and assessment of these programmes are still required. In order to establish a fair, inclusive, and gender-responsive legal environment in India, ongoing efforts are needed to guarantee that gender sensitization becomes a fundamental component of the justice delivery system.

Legal cases

Independently and effectively, India's court system has intervened on the issue of women's freedom. "C.B. Muthamma v. Union of India", for instance, overturned the Indian Foreign Service (Conduct and discipline) Rules of 1961, which stated that a woman must have written government permission before her marriage is solemnised and that a woman member of the service may be required to resign from service at any time after a marriage. Since this provision

discriminates against women, the Supreme Court has deemed it to be unconstitutional. The Supreme Court made it abundantly clear that it did not intend to universalize or dogmatize that men and women are equal in all occupations and circumstances, and it did not rule out the need for pragmatism in situations where particular employment requirements, sex sensitivities, societal quirks, or handicaps of either sex may necessitate selectivity. However, until otherwise shown, the concept of equality must be applied universally.

In “*Air India v. Nargesh Mirza*³⁰”, the Supreme Court ruled that a rule that specified an air hostess would lose her employment if she fell pregnant for the first time was arbitrary and abhorrent to the norms of a civilised society. In “*Pratibha Ranu v. Suraj Kumar*”, the Supreme Court declared that a married woman has an absolute right to own and manage whatever dowry she receives. She still has full ownership of the dowry goods regardless of whether or not she shares a household with her husband and utilises them jointly. Another seminal ruling by India's highest court came in the case of “*Gita Hariharan v. Reserve Bank of India*³¹”. If the father is not handling the minor's affairs, the mother may function as the natural guardian under section 6³² of the “Hindu Minority and Guardianship Act 1956”, as construed by the Court.

Sexual harassment of working women at their place of employment is a blatant violation of “Articles 14, 15, and 21 of the Indian Constitution”, as well as the rights to gender equality and life and liberty, as ruled by the Supreme Court in “*Vishaka and others vs. State of Rajasthan*³³”. The Court went on to say that all measures necessary to achieve gender equality, such as the eradication of sexual harassment and abuse, are within the ambit of the meaning and content of the fundamental rights secured by the Indian Constitution.

Since India does not have a legislation expressly forbidding sexual harassment, the Supreme Court determined in this instance that international treaties and standards must be considered. In addition, the court established guidelines that must be observed in all businesses and other institutions until such a legislation is enacted.

The Supreme Court upheld the Vishka decision in *Apparel Export Promotion Council v. A.K. Chopra*, ruling that sexual harassment of women is a violation of their constitutionally protected right to equality under Articles 14 and 21. Further, the Court said that the state has a

³⁰ “1982 1 SCR 438 : (AIR 1981 SC 1829).”

³¹ AIR 1999 2 SCC 228.

³² Hindu Minority and Guardianship Act 1956, s. 6.

³³ AIR 1997 SC 3011.

responsibility to abolish gender inequality and protect women's respect and dignity in light of international accords such as the Beijing Declaration and the convention on the elimination of all kinds of discrimination against women.

There are many such situations when the Supreme Court's judgements helped elevate women's standing. “Madhu Kishwar v. State of Bihar³⁴”, “Gaurav Jain v. Union of India”, “Delhi Domestic Working Women's Forum v. Union of India³⁵”, and “Bodhisathwa Gautam v. Subhra Chakraborty³⁶” are few examples.

Despite multiple Supreme Court rulings and legislation aimed at safeguarding women, women's status has not improved. She still has to deal with physical and sexual assault, and sometimes the law and the courts don't treat women with the dignity they deserve.

Discrimination against women while rendering justice

Long a source of concern, gender-based prejudices and discriminatory practises within the judicial delivery system obstruct social justice and gender equality. To create a just and inclusive legal system, it is essential to recognise and remove these prejudices. This section explores the ingrained prejudices and discriminatory behaviours that women and other marginalised genders often experience in the legal system.

- **Stereotypes and inherent biases**

Inherent gender norms and cultural expectations may have an impact on the justice delivery system, just as they do on any other institution in society. These biases may influence how the court processes cases, how judges interpret the law, and how they treat victims, defendants, and witnesses.

One such prevalent mindset mistakenly assigns guilt to victims of gender-based violence, raising doubts about their veracity and lending credence to alternative explanations. Gender role expectations may influence how judges, lawyers, and others in the legal system see the appropriate behaviour and presentation of clients based on their gender.

³⁴ 1996 AIR 1864, 1996 SCC (5) 125.

³⁵ 1995 SCC (1) 14, JT 1994 (7) 183.

³⁶ 1996 AIR 922, 1996 SCC (1) 490.

Stereotyping may occur at several points in the legal system, such as during police investigations, in court, and while determining sentences. Conclusions taken from societal standards of acceptable conduct for men and women, as well as judgements of the authenticity of women's testimony, may all be tainted by bias.

Inequalities in Legal Procedures by Gender

1. Gender inequalities in the judicial system remain, manifesting themselves in several facets of the law. These variations may have an effect on the handling of evidence, the administration of sentences, and the availability of legal representation.
2. Women and other disadvantaged groups may face barriers to justice due to a lack of resources, a lack of education about their rights and remedies, or societal or cultural norms that prevent them from seeking justice. It may be more challenging for individuals to seek justice due to institutional disparities and discriminatory practises, especially in cases of domestic violence, sexual assault, or prejudice.
3. Thirdly, the law has a gender gap; women and other disadvantaged groups have a harder time getting competent legal assistance than males do. This might be because of financial limitations, a lack of understanding among legal experts, or a combination of the two about the unique challenges faced by persons of different genders.
4. The sentencing process is one area where biases based on gender may manifest as unequal treatment of offenders. If women and other disadvantaged groups are punished differently than others because of their gender, the principle of equal protection under the law might be seriously compromised.
5. 5. processing of Evidence: Gender biases may influence the evaluation and processing of evidence in cases involving gender-based violence. The credibility of abuse victims' testimonies may be compromised if others have preconceived views about how they should behave or present their case.

Women and marginalised genders face challenges.

Social structures and gender-based discrimination frequently contribute to the special challenges women and other disadvantaged groups confront when interacting with the court

system.

Violence against women: Women and other disadvantaged groups are disproportionately affected by numerous forms of gender-based violence, including but not limited to domestic abuse, sexual assault, harassment, and human trafficking. It is difficult for survivors to seek justice because of inadequate legal protections, callous judicial treatment, and cultural shame.³⁷

Contrary to popular belief, discrimination against women and other historically oppressed groups does not only stop at the interview stage. One must deal with complex legal procedures and biases that may put doubt on their accusations if they want to contest such discrimination in the judicial system.³⁸

Women may find it difficult to assert their property rights, particularly in traditional societies. When discriminatory inheritance laws or societal practises that favour male heirs limit women's access to and control over property, women may require legal action to safeguard their rights.

Gender stereotypes about mothers and fathers may cloud rational decision-making when it comes to family law and child custody cases. By affecting decisions on child custody, visitation rights, and the allocation of parental responsibilities, these prejudices might perpetuate gender inequality within families.

The implementation of gender sensitization initiatives, changes in legislation, and the promotion of gender-responsive practises are all necessary to combat discriminatory and harmful gender norms in the judicial system as a whole. It is possible that legal systems may acknowledge and oppose these biases in an effort to give equitable access to justice and promote the goals of gender equality and social justice.

Covenants made by nations

- **The UDHR is the Universal Declaration of Human Rights.**

No one, regardless of race, religion, gender, or sexual orientation, is denied the freedoms

³⁷ Four: Challenges for women and marginalized groups Bristol University Press, <https://bristoluniversitypressdigital.com/display/book/9781447362395/ch004.xml> (last visited Jun 25, 2023).

³⁸ Women's human rights and gender-related concerns in situations of conflict and instability OHCHR, <https://www.ohchr.org/en/women/womens-human-rights-and-gender-related-concerns-situations-conflict-and-instability> (last visited Jun 25, 2023).

guaranteed by the Universal Declaration of Human Rights. There was much discussion over whether to use the terms all men or something more gender neutral while writing the Declaration. Ultimately, the Declaration on Human Rights was accepted with the terms all human beings and everyone to make it obvious that the Declaration was intended for both men and women equally.

- **ICCPR, or the International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights³⁹ (ICCPR) protects a wide variety of human rights, including the right to life, freedom from torture and slavery, right to liberty and security of the person, equality before the law, freedom of movement, freedom of thought, conscience, and religion, freedom of association, rights relating to family life and children, citizenship and political participation, and rights pertaining to minority group rights. Additionally, it safeguards the right to a trial that is conducted fairly in both criminal and civil proceedings. The ICCPR establishes the equal right of men and women to enjoy all the terms of the treaty and explicitly forbids discrimination on the basis of sex.

- **Ethical, Social, and Cultural Rights International Covenant: -**

The International Covenant on Economic, Social, and Cultural Rights⁴⁰ (ICESCR) safeguards a wide range of human entitlements, including the right to work, the right to organise a union, the right to marry, the right to paid family leave, the right to ensure the safety of children, the right to adequate housing, food, and medical care, and the right to participate in cultural and scientific pursuits. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) also prohibits discrimination on the basis of sex and stipulates that men and women are equally entitled to enjoy all of the rights specified in the treaty.

The CEDAW, or Convention on the Elimination of All Forms of Discrimination Against Women, was created to do just that.

The CEDAW defines sex-based discrimination and gender equality and establishes State obligations to cease discrimination and achieve substantive equality. The Convention covers not only direct action by states, but also the responsibility of states to address discrimination

³⁹ International Covenant on Civil and Political Rights, 1996.

⁴⁰ International Covenant on Economic, Social, and Cultural Rights 1996.

against women perpetrated by non-state actors. It accomplishes so by challenging racist norms in both law and custom.

In addition to economic, social, cultural, and linguistic rights, the Convention protects civil and political rights. These rights include the right to vote, the right to participate in public life, the right to acquire, alter, or keep one's nationality, the right to equality before the law, and the right to freedom of movement. Other rights protected by the Convention include the right to freedom of movement. In addition to this, CEDAW devotes particular attention to human trafficking, certain categories of women, such as women living in rural areas, and circumstances in which women are more susceptible to having their human rights violated, such as when they are married or when they are part of a family.

- **The DEVAW is a declaration on the abolition of violence against women.**

The DEVAW is the first instrument of its kind in the world to focus on ending violence against women. It recognises that violence against women is a violation of women's rights and fundamental freedoms and is a sign of historically unequal power relations between men and women. States are urged to condemn and work to stop violence against women in the Declaration.⁴¹

Article 2 of the Convention on the Rights of the Child⁴² and Article 7 of the International Convention on the Protection of the Rights of All Migrant Workers⁴³ and Members of Their Families prohibit discrimination based on sexual orientation. Article 6⁴⁴ of the Convention on the Rights of Persons with Disabilities requires States Parties to take all necessary measures to end the multiple forms of discrimination against women with disabilities and help them realise their full potential.

The Committee on the Elimination of All Forms of Racial Discrimination, which is in charge of monitoring the implementation of the Convention on the Elimination of All Forms of Racial Discrimination, is aware of the gendered nature of racism and makes an effort to incorporate

⁴¹ Declaration on the Elimination of Violence Against Women OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women#:~:text=For%20the%20purposes%20of%20this,of%20liberty%2C%20whether%20occurring%20in> (last visited Jun 25, 2023).

⁴² Convention on the Rights of the Child 1990, art. 2.

⁴³ International Convention on the Protection of the Rights of All Migrant Workers 2003, art. 7.

⁴⁴ Convention on the Rights of the Child 1990, art. 6.

any gender-related issues or factors into the work that it does. This is because the Committee is responsible for overseeing the implementation of the Convention on the Elimination of All Forms of Racial Discrimination. The Committee against Torture, which is responsible for monitoring the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, often discusses concerns that are associated with violence against women and girls.

- **Worldwide commitments: -**

A number of international conferences have placed women's rights at its centre and have resulted in substantial political promises to uphold women's equality and human rights, including: -

Several other international policy declarations, such as the "Durban Declaration and Programme of Action for the Empowerment of Women in the 21st Century," have also addressed the rights of women who belong to certain categories, such as elderly women, women from minority ethnic groups, or women with disabilities (2001)", the World Programme of Action concerning Disabled Persons⁴⁵ (1982), and the International Plans of Action on Ageing (Vienna 1982 and Madrid 2002).

- **Vienna Declaration: -**

The "World Conference on Human Rights", which was held in Vienna in 1993, aimed to assess the current state of the systems in place to protect human rights. With the rallying cry "Women's Rights are Human Rights," advocates for women's rights mobilised to guarantee that women's human rights were fully on the agenda of the international community. The Vienna Declaration and Programme for Action, which placed a strong emphasis on eradicating all forms of gender-based violence, was successfully adopted by the Conference. It stated that women's and girls' rights are an inalienable, integral, and indivisible part of universal human rights.⁴⁶

⁴⁵ World Programme of Action Concerning Disabled Persons Enable United Nations, <https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html> (last visited Jun 25, 2023).

⁴⁶ World Conference on Human Rights, Vienna, 1993 OHCHR, <https://www.ohchr.org/en/about-us/history/vienna-declaration#:~:text=The%20World%20Conference%20on%20Human,rights%20work%20around%20the%20world.> (last visited Jun 25, 2023).

Conclusion

Adjudication fairness is enhanced by considering gender, which is beneficial for both men and women. Laws and decisions that may be impacted by or have differing consequences on men and women should be made clearer. It is important for judges to consider gender while making decisions. This is an excellent opportunity for a thorough review, the adoption and implementation of modernised norms of judicial conduct, and the training of judges in accordance with clearly defined criteria. The most compelling reason to embrace creative ideas and execute long overdue changes is the introduction of new faces.

Judicial independence is highly prized since it allows for fair and impartial proceedings, even if it is not guaranteed. After taking the oath of office, a judge does not magically become immune to prejudice and misunderstandings. Neuroscientists and psychologists have revealed that we all have biases that we are unaware of.

There is no easy solution to this issue in the court system, but having more people with different backgrounds deciding cases may help reduce the likelihood of mistakes being made. It may be a good time to conduct a complete evaluation, implement the new judicial behaviour norms, adhere to them, and train judges in accordance with the standards that have been established.