



Judicial Stereotyping in Sexual Violence Cases and Secondary Victimization of Women in India

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Article History	Abstract
Received: 06 June 2023 Revised: 05 Sept 2023 Accepted: 16 Dec 2023	<p><i>The glorious heritage of India depicts an era where women were treated as equal to men howbeit, the present time depicts an entirely contradictory scenario wherein women encounter many onslaughts on their conduct and character in everyday existence. The ones who do not fall 'in line' with the patriarchal norms in any aspect of public or private life are often branded as 'pushy', 'stubborn', 'bossy' etc. The contemporary times have witnessed the harsh reality where women are facing a gender bias in almost every possible stage of their life. To eradicate this biasness towards women, our law-makers have developed several laws which are in the direction of positive discrimination. However, the question remains whether a change in laws can bring a change in society which is predominantly masculine as well. A fact that is more agonising and regressive is when the institution that is primarily driven by men, judge's female conducts from a masculine point of view. Several decisions of varied courts in India such as Sri Rakesh B. v. State of Karnataka, Swami Chinmayananda v. State of U.P., Raja & Ors. v. State of Karnataka, etc. reflects secondary victimization of a woman who was a victim of a sexual offence. These judgments highlight how the judiciary either through its reasoning or language has either attempted to define the 'ideal Indian woman' or what is an 'expected conduct' from her. Such an approach not only diminishes the offence but also trivialises the survivor, leading to her secondary victimization. Usage of terms such as 'character', 'chastity', 'submissive', a virtue exclusively for women to possess, highlight how these attributes are a woman's most prized possession and can be restored either by tying Rakhi or by marriage with her perpetrator. Such stereotypical attitude against women means that half of our population is living a disadvantageous life merely because of its gender. It is an ardent need of the hour to assess the rationale as well as the impact of such judgments. Justice is not a means, but it is an end, which everyone who is right on their part deserves. Thus, the current study is undertaken to critically analyse the cases decided by the Supreme Court as well as varied High Courts of India after The Criminal Law (Amendment) Act, 2013 which reflect the paternalistic and misogynistic attitudes. It calls for a need for gender sensitization amongst the office bearers of a powerful social institution such as the Indian Judiciary. The aim of the present study is to fulfil the demand for upliftment of the interests of women in the contemporary era without trying to mould them into an acceptable figure.</i></p>
CC License CC-BY-NC-SA 4.0	Keywords: Criminal Law, Sexual Offences, Gender Justice and Secondary Victimization

1. Introduction

The Constitution of India guarantees that every person will be treated equally as well as be given equal protection under law.¹ Further, the Constitution prohibits any form of discrimination based the following features of a citizen's ascribed identity namely religion, race, caste, sex, place of birth or any of them.² Furthermore, one of the key element of right to life under the Indian Constitution is the ability to access justice.³ Howbeit, the harsh reality of our society is that there exists several factors which act as an impediment in the access to free and fair justice. Some of these factors are common for every person such as high cost of pursuing a case, corruption, deficit in awareness. But there are some factors

which specifically affect the womenfolk and act as an impediment in their access to justice. Factors such as: fear of being stigmatized by the society for seeking legal help to redress a criminal offence or fear of facing a stereotypical attitude during a trial.

Through a series of legal rules, our system tries to give “reasons” for complicated realities. Rules try to understand human behaviour from the lens of a “reasonable man”, “reasonable woman” “reasonable accused” and “reasonable victim”. A “reasonable victim” of any sexual offence is generally a woman who is either dead or bears brutal marks of the crime over her body or wears appropriate clothes or does not drink or does not sleep after the crime or is not active sexually if she is unmarried.⁴ There have been several instances where political leaders have passed comments which reflect such stereotypes, such as: “Rape, sometimes right”, “Will ask my boys to go and rape people”, “boys and girls should marry early to curb rape incidents”, “Rape happens because men and women interact freely”, “boys will be boys, they make mistake” or “Rapes today are increasing because of women’s clothes as men get provoked”.⁵

These stereotypes are not limited to the general society but are reflected in the views which are expressed by the judges while passing orders, granting bail and delivering judgments. These stereotypes can cause a judicial officer to make an observation which is based on his/her pre-conceived notion rather than being based on the legal provisions, facts and evidences of that case. This can have a deleterious barrier for a woman to get justice and can lead to secondary victimization and thereby causing miscarriage of justice.⁶

There are numerous instances of Indian courts reflecting such stereotypes and thereby reaching their final judgments. To give an example the decision of Madhya Pradesh High Court⁷ wherein the rape accused was asked to get a *rakhi* tied by his victim and gift a sum of Rs. 11,000 along with sweets. Though this judgment was stayed by the Supreme Court of India⁸ yet, one cannot overlook the fact that it was delivered by one of the highest authorities of delivering justice in India.

One of the most common stereotypes that is majorly seen in our country is regarding the clothing of a woman whenever she has been subject to an offence. Judging a woman merely on the basis of her clothes is nothing new and is prevalent since time immemorial. Leaders have remarked “Rapes take place also because of a woman’s clothes, her behaviour and her presence at inappropriate places”.⁹ This attitude is again not limited to leaders but also visible in our judiciary’s approach towards such offences. In a recently decided case by a Kozhikode Sessions Court reflects this mind-set. In this case the accused was granted an anticipatory bail in a case of sexual harassment on the ground that the victim was wearing “sexually provocative dresses”.¹⁰

While addressing a gathering at G 7 Summit in Germany our Prime Minister spoke about achieving gender equality. ¹¹If this dream is to be achieved then we as an Indian citizen must devote a lot more efforts towards disintegrating prejudicial presumptions about women and men. This paper, “Judicial Stereotyping in Sexual Violence Cases and Secondary Victimization of Women in India” is an attempt by the authors to highlight the stereotypical attitude of judges while delivering a judgment in any sexual offence. The authors have chosen The Criminal Law (Amendment) Act, 2013 as a benchmark, and have assessed cases before and after the introduction of the same. The amendment in the Criminal Laws of India was introduced post the infamous Nirbhaya Gang Rape case and earmarks a new awareness among the society and the law makers particularly towards firmness in laws dealing with crime against women. Further, this paper scrutinizes if any significant impact was made by in addressing judicial stereotyping in gender-based violence cases. Furthermore, through this paper the authors will suggest changes that can be incorporated within our system to curb secondary victimization of a woman.

2. Scrutinizing the Judicial Attitude towards Sexual Violence Against Women

On December 16, 2012 the brutal gang-rape of a twenty-two-year-old woman in Delhi shook the conscience of entire nation to the extent that rallies were organised and a demand for amending the criminal laws was raised. Sensing the wrath of the society towards the incident a committee was set-up under the chairmanship of Justice J.S. Verma and ultimately leading to the introduction of the Criminal Law (Amendment) Act, 2013. This Act has been termed as a concrete step which was taken by then government to curb sexual offences against women. This amendment not only widened the scope of recognised sexual offences under the Indian Penal Code, 1860¹² but also recognised new offences such as acid attack¹³, rape of woman under twelve years of age¹⁴, punishment for gang rape of a woman under sixteen years of age¹⁵, punishment for repeat offenders¹⁶. However, question remains as to whether a change in law has actually bought a change in the mind-set of the society and more specifically in the mind-set of those who have powers to preside over such criminal matters. In the upcoming section the authors have tried to explore the attitude of judges towards offences against women before the Criminal Law (Amendment) Act, 2013. This discussion is followed by a scrutiny of

judgments which were delivered post the Criminal Law (Amendment) Act, 2013. The aim of scrutinizing these judgments is to highlight if a change in law can bring a change in the attitude of those upon whom there exists a duty to apply and uphold those laws.

Judgements relating to sexual violence against women before 2013 amendment

The journey of analysing judgments which showcase a biased or patriarchal mind-set of our judges begins from *Pratap Mishra v. State of Orissa*.¹⁷ In this case while the three accused were acquitted by the Hon'ble Supreme Court of India it was observed by the court that the reason behind the acquittal is the fact that there was not enough retaliation from the victim. The victim was not sufficiently injured to prove that she was raped. The court stated that:

*“In the first place, the admitted position is that the prosecutrix is a fully grown-up lady and habituated to sexual intercourse and was pregnant. She was experienced inasmuch as she had acted as a midwife. It is true that the learned Sessions Judge was impressed with the demeanour of this witness, but that by itself is not sufficient to prove the case if the allegation of the prosecution suffers from inherent improbabilities. The opinions of medical experts show that it is very difficult for any person to rape single-handed a grown up and an experienced woman without meeting stiffest possible resistance from her. We should have expected the stiffest possible resistance from her resulting in injury over the penis or scrotum of the accused or abrasions over other parts of the body caused by the nails of the prosecutrix. If the story of the prosecutrix was true, then we should have expected an injury or bruise-mark on the breasts or chest or on the thigh.”*¹⁸

In the infamous *Tukaram and Anr. v. State of Maharashtra*¹⁹ the Supreme Court of India acquitted two policemen of the charges of rape observing that the victim was a habitual to sex and there were no injury marks on her body. The court stated that:

*“Her natural impulse would be to shake of the hand that caught her and cry out for help even before she noticed who her molester was. Her failure to appeal to her companions who were no others than her brother, her aunt and her lover, and her conduct in meekly following Ganpat appellant and allowing him to have his way with her to the extent of satisfying his lust in full, makes us feel that the consent in question was not a consent which could be brushed aside as “passive submission”.*²⁰

This judgment resulted a massive protest from the women rights group in country which led four law professors namely, Prof. Upendra Baxi, Dr. Lotika Sarkar, Raghunath Kelkar and Vasudha Dhagamwar, to question the concept of consent in rape cases in India. This case also led to the passing of Criminal Law Amendment Act, 1983 which introduced a rebuttable presumption regarding the consent of the victim.²¹ This came as the first turning point in the laws regarding offences against women. It mobilised the women's rights groups to walk towards women's fundamental right to her body. Despite this Amendment, in the year 1988, in the case of *Mohd. Habib v. State*²² the Delhi High Court believed that rape was not committed upon a minor girl because there was no injury on the genitals of the accused.

In the year 1995 another incident of gang rape shook the nation. This was the infamous case of *Bhanwari Devi*²³ wherein the accused were acquitted by the trial court on the ground that they belonged to an upper caste and it would not have been possible for them to touch a woman of lower caste and therefore, they could not have committed rape upon her. The reasoning that was given by the trial court was:

“An upper-caste man could not have defiled himself by raping a lower-caste woman” and “a middle-aged man from an Indian village could not possibly have participated in a gang rape in the presence of his own nephew”.

While passing a bail order as well the court had observed:

“Highly unbelievable that he will touch the body of the victim fully knowing that she is a member of Scheduled Caste. In order to attract the offence under the Act, it has to be established that the act of the accused was with the knowledge that the victim belonged to a member of ST/ST.”

*A patriarchal bias is further reflected in judgments such as State of Punjab v. Gurmit Singh & Ors.*²⁴ In this case the court had observed that:

“[A] murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female”.

A similar was observation was seen in the case of *Md. Jakir Ali v. The State of Assam*²⁵ and *Bipul Medhi v. State of Assam*²⁶. In both these cases the courts had observed, “rape is worse than death as rape takes away from an Indian woman her most valued possession which is her chastity or virginity”.

In the case of *Arif Iqbal @Imran v. State* it was pointed out by the Delhi High Court that: *“It is the prime responsibility of the woman in the relationship or even otherwise to protect her honour, dignity and modesty. A woman should not throw herself to a man and indulge in promiscuity, becoming source of hilarity (sic). It is for her to maintain her purity, chastity and virtues.”*²⁷

A reading of these judgments highlights the fact that for an “Indian woman” the most virtuous characteristic is her purity or her virginity and if that is “stolen” away from her then it places her in a situation which can be considered as far worse than death itself. Therefore, it can be said that for an “Indian” woman it is more important to protect her virtue rather than her life. As has already been pointed another major event wherein a change in laws regarding offences against woman came in the year 2013 with the passing of the Criminal Law (Amendment) Act, 2013. The following section scrutinises the views of the judges while handling cases of crimes against woman post this amendment.

Judgements relating to sexual violence against women after 2013 amendment

In 2016, the Apex Court in *Raja v. State of Karnataka*²⁸ observed that as the victim was ‘not running back to her home in a distressed state after rape’ therefore her testimony cannot be relied. Her confident walk after the incident was a fact which ‘helped’ the court in concluding that the decision of conviction of the accused by the High Court needs to be over-ruled. The fact that the victim was looking for evidences at the scene of crime was an act of a vengeful characteristic. The court opined that no woman would let rape happen to her and would not be submissive due to fear. The court had further observed,

“Her conduct during the alleged ordeal is also unlike a victim of forcible rape and betrays somewhat submissive and consensual disposition. From the nature of the exchanges between her and the accused persons as narrated by her, the same are not at all consistent with those of an unwilling, terrified and anguished victim of forcible intercourse...”

Similarly, in the case of *Mahmood Farooqui v. State (GNCTD)*,²⁹ the court acquitted the accused on the ground that the victim has texted the accused that “I do love you and wish you well”. The court did not believe the testimony of the victim as she had hugged and kissed him at previous instances. Furthermore, this case once again questioned the significance of consent in a rape case. The court in this case had stated that “a feeble no may mean yes”.

A similar approach of the court was seen in the case of *Vikas Garg v. State of Haryana*³⁰ wherein the court shamed and blamed the victim for having a promiscuous attitude as well as a voyeuristic mind-set. During the moral policing of the victim the court was much concerned about the fact that the character of the victim was much alike the accused. She smoked, consumed drugs and condoms were found from her hostel room. A similar observation regarding the characteristic of the victim was again seen in the case of *Raju @ Raj Kumar v. State of Haryana*.³¹ In this case the court remarked that:

“Medical evidence speaks volumes of the fact that she was habitual to sexual intercourse. So much so, she had cut her pubic hairs. A girl below the age of 16 years can be hardly expected to be conscious about these things.”

From 2020 to 2022 there have been three judgments which have highlighted the bias approach of judges towards sexual offences against women. In *Sri Rakesh B v. State of Karnataka*,³² the court was perplexed about the fact as to why a woman would go to her office at 11:00 PM. The court even asked the victim as to why she did not object to drinking with her perpetrator. The court noted that it was unbecoming of an Indian women to “fall asleep” after an act of illegal sexual intercourse. The court categorically observed that this way is not the Indian women’s way as they cannot fall asleep after an act of rape being committed upon them.

Another shocking decision was in *Vikram v. The State of Madhya Pradesh*, where the Madhya Pradesh high court allowed anticipatory bail of an accused of sexual assault. In its order the Court mentioned the conditions for bail to be, that the accused visits the house of the complainant and requests her to tie him rakhi, thereby promising to protect her. Through this judicial mandate the alleged molester transformed into victim’s brother, even if symbolically.

A recent decision of the Sessions Court of Kerala³³ has once again stirred up the question that whether clothes of a woman are responsible for her rape. The court observed,

“The photographs produced along with the bail application by the accused would reveal that the de facto complainant herself is exposing to dresses which are having some sexual provocative one. So, Section 354A will not prima facie stand against the accused.”

An analysis of the above judgments, whether before or after the Criminal Law (Amendment) Act, 2013 was operationalised, highlight that even though laws have become much more stringent yet there is a

very little impact in the mind-set of judges when handling a matter on sexual offences. The primary question still remains regarding the character of woman, her past acts, her behaviour during the criminal act and her attitude afterwards. Moreover, the notion that rape takes away from the victim 'everything' puts the victim in a pitiable situation. In many cases, it was the victim who has been made responsible for the heinous acts of men.

Women in India and Judicial Stereotyping

Women in India, even in the contemporary times often face gender-specific challenges both in the public and private sphere. They encounter obstacles in making choices regarding their education, livelihood, spouse, reproduction etc. Legally, women face issue in seeking redressal due to complexities of legal procedures. They often face re-victimization when their injury is subjected to negotiations and informal trials by the family and community members. They often face secondary victimization, when the trial in courts subjects them to humility and character assassination. Criminal Law has infact been shaped by male perceptions.³⁴ Womenfolk until very recently have always found themselves on the fringes of considerations in the criminal justice system, which has been run by the men, against them and for the benefit of men.³⁵

Gender based Violence in India

Violence against women is systematic in Indian society. It proliferates from the ideology that women are the weaker sex, resulting in their subjugation. Violence by popular opinion is a phenomenon only existent in lower-strata of the society. However, women of rich and affluent segment are also victims of violence. Women not only face gender related discrimination but they are also subjected to other inequalities prevalent in society based on caste, class, ability, their sexual orientation etc. This only furthers the agony of a woman, for whom surviving under these patriarchal norms is tough. When every day is a struggle for survival, women do look upto certain public institutions where 'equality' as a constitutional ideal should be practiced. One such institution being judiciary. However, their faith in the institution and their self-esteem is strangulated when they are subjected to 'violence through words' during court procedures. What becomes unacceptable is when the notions of an 'ideal woman', 'Indian woman', 'chastity' are propagated by judicial officers.

Gender based violence propagates in the culture of silence. The unequal power and labour division in society, the acceptability and resultant normalisation of violence, poverty, alcohol/drug consumption has established an unequal status between men and women. The over glorification of household work and child rearing are some of the practices of patriarchal society which by keeping women occupied in domestic responsibilities maintains the power balance in its favour. The notions of 'purity', 'chastity' attached specifically to a woman highlight that the protection of her sexuality and guarding the same is prime duty not just of hers but of the society aswell. Therefore, if there is any violation to this 'collective asset', women are blamed for their failure and society makes more stringent norms to protect the same.

In India, the culprits of sexual violence are often known to the survivor.³⁶ However, due to the stigmatization attached and the high cost of pursuing a legal battle, such cases often go unreported. Survivor and her family are subjected to social ostracization. Since most of the survivors are economically dependent on their families, it is the family that decides the form of redressal in such cases. Negotiation with the perpetrator, in form of money or marriage, in lieu of giving up the right to seek legal redressal are often resorted to. Such ill measures disincentivises women to move legal machinery. Due to such fear prevalent in society, the number of sexual offences that take place in India are much higher than what are reported.

In cases of sexual offences, the survivors are susceptible for being blamed for the attack unlike other interpersonal crimes such as theft, robbery etc. Therefore, victim-blaming has sadly been observed in such cases and has been a growing concern in academia. Such reinforcement of stereotypes aggravates violence against women.

Sexual violence differs in degree. The most heinous and aggravated form of the same being, rape. However, there are other large number of acts that come under the rubric of sexual violence such as stalking, eve-teasing, verbal and physical assault and harassment. The latter category of offences which were recognised in the Indian Penal Code through Criminal Law Amendment Act, 2013, are regrettably considered to be normal behaviour by the society. 'Boys will be boys' ideology and romanticization of such offensive acts by popular mediums such as cinema, lead to trivialization of the mental and physical trauma that such acts may inflict on women. Therefore, when women resist such acts, they are branded as being 'too sensitive'.

What is Judicial Stereotyping?

The act of furthering harmful stereotypes of society while presiding over case by judges is called judicial stereotyping. It is not restricted to gender. It can even include race, ethnicity, religion of a person.³⁷ Stereotypes are the attributes that are assigned to groups or categories by society and are not based on any evidence.³⁸ Stereotyping is a practice of branding a person with specific characteristics solely based upon his or her membership into a particular social group which is mostly ascribed. Stereotypes are harmful, as they diminish the individual or collective merits. They are difficult to shun off due to their propagation over generations.

Circulation of stereotypes on part of judges has also been seen as a retaliatory response to failure to challenge them. For instance, finding the fault in victim. Such a practice eliminates taking into consideration, an individual's circumstances and experiences by categorising them under existing beliefs. This degrades the justice delivery mechanism by undervaluing an individual case merit. Judicial stereotyping infact revictimizes or leads to secondary revictimization of the of the survivor. Stereotyping affects women's right to a fair trial. Such observations on the part of judges, undermine the dignity, self-worth and respect of women and have the impact of silencing or subduing the survivor and sets a precedent and a source of discouragement for women in general to seek legal recourse to fix the societal agonies.

Judges receive admiration and are held in high regard in society. By the virtue of their superior qualification and training it is expected that they will free the society from its evil and take it forward to an era of modernisation and encourage citizens to develop scientific attitude and shun away derogatory practices. However, when judicial officers themselves indulge in stereotyping, they further strengthen the hostile practices of patriarchal society. Such sentiments expressed by judges highlight that they are ultimately members of the society and are shaped by its norms and practices. Like, any other ordinary member of the society a judge too carries such bad social beliefs with them.

The Role of Courts as Neutral Authorities

Judges have an essential role to play in maintaining and upholding the honour attached with the judicial system of the country. Such prestigious institution must be free from supporting or propagating harmful stereotypes. Courts of India are agents of social change. Hence, they cannot profess anything which is likely to hamper the societal progress. Many a times in their public life, citizens of India look at its judiciary for guidance. Judges have an important role to play in bringing out the society from the evils of stereotyping and therefore not indulge in the act themselves. The judiciary can infact highlight how stereotypes are built, enforced and propagated against women systematically, thereby denying women access to justice. Stereotyping diminishes the ability of a judge to give an impartial decision and affects his views regarding credibility of victim or the fault of the accused.³⁹ According to Justice Claire L'Heureux-Dube of the Canadian Supreme Court,

“Myths and stereotypes are a form of bias because they impair the individual judge's ability to assess the facts in a particular case in an open-minded fashion. In fact, judging based on myths and stereotypes is entirely incompatible with keeping an open mind, because myths and stereotypes are based on irrational predisposition and generalization rather than fact. The stereotypes of the ideal sexual assault victim disqualify several accounts of lived experiences of sexual assault. Rape myths undermines the credibility of those women who are seen to deviate too far from stereotyped notions of chastity, resistance to rape, having physical injuries, behaving a certain way, reporting the offence immediately.”⁴⁰

In *Aprna Bhat v State of Madhya Pradesh*, it was pointed out, “the following stereotypes are often encountered in judicial decision making and should be avoided-

- a. Women are physically weak;
- b. Women cannot make decisions on their own;
- c. Men are the head of the household and must make all the decisions related to family;
- d. Women should be submissive and obedient;
- e. Good women are sexually chaste;
- f. Every woman wants to be a mother;
- g. Women should be the ones in charge of their children;
- h. Being alone at night or wearing certain clothes make women responsible for being attacked;

- i. Women are emotional and often overreact or dramatize hence it is necessary to corroborate their testimony;
- j. Testimonial evidence provided by women who are sexually active may be suspected when assessing “consent” in sexual offence cases; and
- k. Lack of evidence of physical harm in sexual offense case means consent was given.”⁴¹

The use of reasoning and language that trivialises the offence and tends to diminish the suffering of the survivor should be avoided. In a decision making it is irrelevant to comment upon survivor’s past consent to sexual acts, her clothing, unbecoming of an ‘Indian woman’ and that through her conduct she had called upon the situation on herself. Such irrelevant considerations should never enter the judicial approach of decision making.

The Bangalore Principles of Judicial Conduct, 2002 which emanated from a meeting of Chief Justices of Asian and African countries, provided that:

“2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

5.1 A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes (“irrelevant grounds”).

5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.”⁴²

Therefore, as the guardians of the institution that the citizens look up to, judges should shun away from expressing stereotypes against women in their decision making. Rather they should reflect in their decisions the different and hard social realities that women are subjected to. Judges should display sensitivity, and also ensure that the prosecutrix is not subjected to further trauma during legal process. They should be careful from using insensitive words or making derogatory comments that further adds into the agony of the survivor and shakes her confidence in the fairness and impartiality of the judicial system.

4. Conclusion

Stereotyping affects a woman’s right to fair trial and equal access to justice. Judiciary needs to be careful in not setting inflexible standards based on society’s stereotypical considerations of ‘an ideal Indian woman’ and ‘an ideal victim’. The judges should also not impose conditions like tendering apology once or repeated, tying rakhi, mandating community service, etc., while presiding over matters of sexual violence. Such measures lead to trivialization of offence and further aggravates the trauma suffered by victim. Infact no contact between the accused and victim should be judicially mandated and in no manner negotiation or compromise in such cases should be promoted.

Training and sensitization of judges, lawyers including public prosecutors can go a long way in tackling the problem of stereotyping in a revered institution like judiciary. Gender sensitization should be a part of initial training of every judge and should be imparted even at alter stages of career. Judges need to be aware of the sensitivity of cases relating to sexual assault. They must be informed and re-informed about the important role they play in society and how instrumental they are in brining social change. If stereotypes are deeply engrained in respected institution of judiciary, then it is a tough task to eradicate such ill practices and thoughts from society.

To conclude, greatest extent of sensitivity should be displayed in judicial approach, language and reasoning by the judge. Even a single remark publicizing a stereotypical viewpoint, reflects badly on the entire judicial system and can affect the society negatively. Judges always play the role of a social changemaker. They should consciously allow for the citizens to question the existing stereotypes and shun away such attitudes and practices toward women. It is for them to ensure that survivors of sexual offences donot undergo re-victimisation in their quest for justice, which is anyway a hard journey to tread upon in a patriarchal society.

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33. TNN, "Sexual harassment charge won't stand as woman was wearing provocative dress: Kerala court" available at <https://timesofindia.indiatimes.com/city/kozhikode/sexual-harassment-charge-wont-stand-as-woman-was-wearing-provocative-dress-court/articleshow/93625284.cms> (last visited on September 25, 2022).
34. Stephen J. Schulhofer, "Feminist Challenge in Criminal Law", 143 *University of Pennsylvania Law Review* 2151 (1995).
35. *Ibid*.
36. *Aparna Bhat v. State of Madhya Pradesh*, Criminal Appeal No. 329 of 2021 (Arising out of Special Leave Petition (CrI.) No. 2531 of 2021).
37. Simone Cusack, 'Eliminating Judicial Stereotyping', June 9, 2014, available at <https://rm.coe.int/1680597b20> (last visited on 20 September 2022.)
38. *Ibid*.
39. *Id* at 22.
40. Justice Claire L'Heureux-Dubé, "Beyond the Myths: Equality, Impartiality, and Justice" 10(1) *Journal of Social Distress and the Homeless* 87 (2001).
41. Criminal Appeal No. 329 of 2021 (Arising out of Special Leave Petition (CrI.) No. 2531 of 2021).