Supreme Court Handbook

Why in news?

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

What is the SC handbook about?

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

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

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

- **Caste-sexual assault dynamic**- Dominant caste men have historically used sexual violence as a tool to reinforce and maintain caste hierarchies.
- It is against the preconceived notion that the dominant caste men do not want to engage in sexual relations with women from oppressed castes, hence allegation of sexual assault is considered false.
- **Ensure justice**- It marks a significant milestone in the journey towards a *more just and equitable society.*

What is the current doctrine on stereotypes?

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

Similar Efforts in Other Countries
• **Canada**- The Women's Court of Canada, a collective of female lawyers, academics and activists write "shadow judgements" on equality law. • **India**- Indian Feminist Judgement Project also 'rewrites' judgements with a feminist critique.

References

1. Indian Express- Explained SC handbook
2. Supreme Court- Handbook on gender stereotypes

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