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Book Review on Handbook on Combating Gender Stereotypes by Justice Dr Dhananjaya Y. Chandrachud published by Supreme Court of India, 2023, 30 pages

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**BOOK REVIEW ON HANDBOOK ON COMBATING GENDER
STEREOTYPES BY JUSTICE DR. DHANANJAYA Y. CHANDRACHUD
PUBLISHED BY SUPREME COURT OF INDIA, 2023**

Ankita Kumar Gupta¹

On August 16, 2023, the Supreme Court of India released a Handbook on Combating Gender Stereotyping authored by Justice Dr Dhananjaya Y. Chandrachud, Chief Justice of India. The Handbook provides guidelines for combating linguistic sexism, which is prevalent in the legal fraternity. It asserts that the language used in the legal field should be free from any 'Gender Stereotyping.' It starts with a meaningful foreword by the Chief Justice of India, stating the preliminary requirement of the oath that all Judicial Officers take that "*perform the duties of our office without fear or favor, affection or ill-will.*"²The oath mandates that all judiciary should reject preconceived notions that can influence their decision-making. Stereotypical language can promote beliefs that contradict the principles of our Constitution, which guarantees equal rights to all people regardless of gender. Illustratively explaining, people without money were previously called "*paupers*" in the Code of Civil Procedure 1908. But the word "*pauper*" was changed to the word "*indigent*"³because the term "*pauper*" was demeaning.

The Handbook further provides that due to social, cultural, and environmental conditioning instilled in us since we were little children, stereotypes are frequently internalized and established in our thinking. Judges who rely on damaging preconceptions risk distorting the objective and impartial implementation of the law. The purpose of this Handbook is to define stereotypes and to assist judges in recognizing and avoiding them.

- a. Identifying words and phrases that reinforce gender stereotypes and suggesting substitutes.

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²The Constitution of India, 1950, A.219.

³The Code of Civil Procedure (Amendment) Act, 2002, S.2.

- b. Recognizing frequent thought patterns that are based on gender stereotypes (especially those that pertain to women) and explaining why they are untrue.
- c. Emphasizing Supreme Court of India judgments that are legally binding and can be used by judges to refute gender stereotypes.

The Handbook provides a list of language that promotes gender stereotyping which Justice Chandrachud calls incorrect and in place of which a list of alternative preferred language should be used by the legal fraternity. It is necessary to mention here that the preferred language is not just a replacement of earlier words with fancier words rather; it is done with the purpose of removing the words which were demeaning. Also, these stereotypical words had a demeaning history to themselves, such as the word 'Concubine' is a combination of Latin words which means "*to lie with*" another man for sexual relations. The Handbook provides the preferred language elaborated in Table 1.1.

Table1.1

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
Effeminate (when used pejorative-ly)	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

While explaining the concept of gender stereotyping the Handbook provides for the definition of stereotype as *"a set idea that people have about what someone or something is like, especially an idea that is wrong."*⁴It is further elaborated that the use of stereotypes often goes unintentional. In other words, even when we don't mean to, we may rely on preconceptions when engaging with people. Even while we all prefer to think that we are fair and unbiased, the likelihood is that, like most individuals, both in our professional and personal lives, every one of us relies on stereotypes in some way. Justice Chandrachud recommends taking a test *called the "Implicit Association Test (IAT)"*⁵to see if you possess any subconscious biases. You may be surprised by the results!

According to the Handbook, the three most prevalent gender stereotypes that affect women are those that center on their so-called "inherent characteristics," their gender roles, and their relationship to sex, sexuality, and sexual assault.

While elaborating on the stereotypes relating to the 'inherent characteristics' of women, the Supreme Court reversed the Kerala High Court judgment in *Shafin Jahan v. Asokan K.M.*⁶*AIR 2018 SC 1933* and observed 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 recognized by the Constitution to lead her life exactly as she pleases."*⁶

While elaborating on the stereotypes relating to the 'gender roles' of women, the Madhya Pradesh 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*

⁴Erving Goffman, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* (1963).

⁵PROJECT IMPLICIT - TAKE A TEST *available at*

<https://implicit.harvard.edu/implicit/takeatest.html> (last visited Dec. 01, 2023).

⁶*Shafin Jahan v. Asokan K.M.*, A.I.R. 2018 S.C. 1933 (India).

did not, again, the husband had no right to beat her."⁷This case illustrates how, even while reaching a legally sound conclusion, judicial reasoning can feed into negative gender stereotypes. Additionally, using terms like "dutiful wife" serves to emphasize these harms.

While elaborating on the stereotypes relating to the 'sexuality' of women, the Supreme Court in *State of Punjab v. Gurmit Singh*, 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 behavior 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."*⁸

The Handbook further provides that important precedents laid down by the Supreme Court of India unequivocally reject a number of the stereotypes, which by virtue of Article 141 of the Indian Constitution, these precedents are binding on all courts sitting on Indian soil. The Constitution Bench of the Supreme Court of India decriminalized the offense of "adultery"⁹ under Section 497 of the Indian Penal Code, 1860, in *Joseph Shine v. Union of India*.¹⁰The clause penalized a man who had sex with a lady who was "*the wife of another man*".¹¹The Court observed that sexual intercourse with "*the wife of another man*" only was punishable under the lawnot "*with an unmarried woman*". The Court held that this provision was founded on the legally questionable premise that the man owned the woman as his property. That adultery could only be shown when the second man's "*rights over his wife*" were violated.

⁷*Tulsa W/O Pannalal Koli v. Pannalal Natha Koli*, A.I.R 1963 M.P. 5 (India).

⁸*State of Punjab v. Gurmit Singh*, (1996) 2 S.C.C. 384 (India).

⁹ The Indian Penal Code, 1860, S. 497

¹⁰*Joseph Shine v. Union of India*, A.I.R. 2018 S.C. 4898 (India).

¹¹*Supra*, note 9

The Supreme Court of India continued its trend of combating unnecessary stereotypical hardship over the survivors while reaffirming its categorical ban on the "two-finger test" in *State of Jharkhand v. Shailendra Kumar Rai*¹² pointing out not only how irrelevant it is to make a finding of rape but also how it offends the dignity of rape survivors or victims. Also, the absence of physical injuries needs to be considered in the context of the case's facts. There could be several explanations for why there isn't any proof of physical harm. It is essential to consider all of the relevant facts and circumstances in each case when determining whether there was sexual violence or not. The Supreme Court noted that the victim had been restrained and threatened with a gun in the *State of Uttar Pradesh v. Chhotey Lal*.¹³

At the end it can be very well said that through this Handbook Justice Chandrachud has done worthy effort for combating gender stereotypes prevalent in the legal fraternity. Acknowledging the fact that members of the judiciary have a special responsibility to not only avoid reinforcing these stereotypes but also to confront and refute such antiquated notions. This Handbook aims to dispel misconceptions about women's "*inherent characteristics*," "*gendered roles*," and "*sexuality*." It also equips judges with the reasoning and language to challenge these stereotypes. In the past, women have had to bear a variety of prejudices and stereotypes that prevented them from receiving fair and equal treatment in society and the legal system. Gender stereotypes have a pervasive influence in Indian society, and the Court must actively try to eliminate them. The judiciary can promote an environment where gender equality is protected and appreciated by deliberately avoiding stereotypes in decision-making and language that promotes stereotypes. The Handbook ends with an open understanding of gender. While the gender stereotypes that affect women have received the majority of attention in this Handbook, it is crucial to understand that stereotypes affect people of all genders.

¹²*State of Jharkhand v. Shailendra Kumar* (2022) 14 S.C.C. 299 (India).

¹³*State of Uttar Pradesh v. Chhotey Lal* (2011) 2 S.C.C. 550 (India).