JUDGMENTS AND GENDER

(Sensitivity and compassion in writing judgments)

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Context

Since the days written languages became part of our civilization, it has helped us in expressing our thoughts in writing to cover a wide section of population. But privileged groups within society have also found ways to make it a tool of empowerment and also an instrument of denigration to retain their high position in the society. Language gained super-prominence after the printing press was invented in 1492 and has been witnessing quantum jump in its reach and power with digitalization. Human thoughts travel far and wide with these developments. Directly or indirectly, the deep-seated prejudices within the societal hierarchy also travel to distant places through modern means of communication. Gender is one of the fundamental source of discrimination and denigration in all societies subsisting in the world. But where there is discrimination, it is natural human response to resist, and such resistance has given rise to reform movements which history will testify. The legal systems often play a vital role in the process of resistance. Judges have spoken in different ways, addressing the problem, and the use of certain words or expressions often helped us to gauge or assess the overall attitude of the society in gender-related controversies.

The 50s and 60s of the last century witnessed caste, color, and class-related controversies dominating the courtrooms across the world, along with gender. In fact, since the 19th century, the gender issue has been engaging political thinkers and social reformers, but that was mainly a binary controversy involving men and women. From the middle of the 20th century, however, sexual discourse has gone beyond binary and has become a point of discussion in open platforms. Greater presence of women in workplaces also gave rise to various forms of exploitations that the law courts were called upon to deal with. A new jurisprudence combining empathy and a rights-based approach has since emerged mainly through

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courts. Cases of *Vishakha, Nargesh Meerza, Githa Hariharan Naz Foundation*, are some of the decisions coming from our Hon'ble Supreme Court which reflect the integration of this new jurisprudence into our legal system.

One challenge that was initially not anticipated while the gender jurisprudence was developing was the role of the complainant as the victim. Gender related cases required a sensitive and empathetic judicial approach. Specifically in relation to allegations of sexual offences, graphical representation of the offending act in course of trial in an open courtroom often resulted in traumatizing the victim, making her relive the moment in an open forum. A sexual assault, unfortunately, is still treated as a crime of a different genre, and it still prevails as dormant prejudice in many cases that a victim is also complicit in some way. That is why, often, the defense lawyer, in the course of a trial, tries to highlight the dress, or general appearance of the victim as also the time and location at the time of the offence.

Facing cross-examination by a lady victim of a crime of this nature often act as deterrent for her to make a complaint. A graphic description of the offending act in a judgment multiplies the victim's trauma. This is where empathy of the criminal justice system is a vital necessity in gender related crime. Empathic ability, sociologists would advise, is an innate trait but can be advanced with awareness and practice. For inculcating sensitivity and empathy at all levels, in all cadres, along with imparting training of substantive laws, the judges would also require to be trained on soft-skills. Emotional Quotient would have to supplement Intelligent Quotient in discharge of judicial function.

In *Suo Moto Writ Petition Criminal No. 1/2025*, a bench presided over by the Hon'ble the Chief Justice of India, Surya Kant, with Justices Joymalya Bagchi and N. V. Anjaria, had initiated *Suo Moto* proceedings

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upon an order by a High Court involving allegations of the commission of offences under Section 376 of the Indian Penal Code 1860 and Section 18 of the Protection of Children from Sexual Offences Act 2012 (POCSO). In the order of the High Court, a certain graphic descriptions of the offending act was given. The High Court had modified the summons order, revising the offences to be under a lesser charge under Section 354B of the Indian Penal Code and Sections 9 & 10 of the Protection of Children from Sexual Offences Act 2012. The judgment of the Hon'ble Supreme Court was delivered on 10th February 2026.

After dealing with the order of the High Court on merit the Hon'ble Supreme Court was pleased to direct:

"17. Ms. Gupta and Mr. Phoolka, learned Senior Counsel, have, apart from pointing out the legal flaws in the impugned judgment, also urged this Court to take cognisance of the insensitivity reflected in the impugned judgment towards the plight of the minor girl, who is alleged to have been the victim of sexual offences. They submit that there have been various instances of impassive judicial decisions, across different levels of the judiciary, where judges and judicial officers have failed to imbibe compassion and empathy in the manner of handling matters involving sexual offences, especially when it comes to vulnerable and/or minor victims and witnesses. In this vein, the learned Senior Counsel/counsel for the parties have pleaded that certain guidelines may be laid down by this Court to prevent such issues from arising in the future.

18. We find some strength in the issues raised before us. The judicial system, as a cohesive framework, is designed to deliver justice and satisfaction to citizens who seek redressal of their grievances before it. To meet such an objective, our efforts must not only be grounded in the sound application of constitutional and legal principles but also foster an environment of compassion and empathy. The absence of either of these

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cornerstones would prevent judicial institutions from properly performing their critical duties.

19. No judge or judgment of any court can be expected to do complete justice when it is inconsiderate towards the factual realities of a litigant and the vulnerabilities which they may be facing in approaching a court of law. Our decisions as participants in the legal process, from laying down the procedure that shall have to be faced by common citizens to the final judgment passed in any given case, must reflect the ethos of compassion, humanity, and understanding, which are essential for creating a fair and effective justice system.

20. There is no doubt that some action is required to be taken to inculcate and nurture an inherent sensitivity and discernment into the approach of members of the judiciary, as well as into the accompanying court procedures. Various steps, in this direction, have also been taken by the Constitutional Courts of this country, from time to time, on the judicial as well as administrative side. It seems, however, that the efforts thus far have not borne the fruit that was expected.

21. That being so, we are hesitant to undertake, at this stage, a fresh and unguided attempt to lay down any guidelines, without the benefit of a comprehensive understanding of the past endeavours of such nature undertaken by the different Constitutional and statutory bodies, the on-ground results of such efforts, and the varying scope of problems faced by victims and complainants in similarly sensitive cases. An attempt of this kind also should not be undertaken without the valuable opinions and suggestions of different domain experts, which, in our judicial experience, does not intuitively emerge out of litigative proceedings.

22. For this purpose, we request the National Judicial Academy, Bhopal, through its Director, Justice Aniruddha Bose, and former Judge of this Court, to constitute a Committee of Experts. The Committee of Experts

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shall be presided over by Justice Bose as Chairperson and shall comprise four other domain experts as Members, which may include practitioners, academicians, and social workers.

23. We request the Committee of Experts to prepare a comprehensive report on the matter of 'Developing Guidelines to Inculcate Sensitivity and Compassion into Judges and Judicial Processes in the Context of Sexual Offences and other Vulnerable Cases'. The Committee shall consider the previous measures undertaken, whether on the judicial side or the administrative side, to achieve such goals, as well as the varying results seen on the ground through the implementation of such measures. Further, after taking into account such previous endeavours and the variety of on-ground experiences faced by different stakeholders across the judicial system, prepare comprehensive recommendations. These recommendations shall be in the form of 'Draft Guidelines for the Approach of Judges and the Judicial System When Dealing with Cases of Sexual Offences and other Similarly Sensitive Occurrences Involving Vulnerable Victims, Complainants, and/or Witnesses'.

24. The Committee shall, while preparing the report, bear in mind the linguistic diversity of our nation. There are various examples of offensive words and expressions, the use of which would ordinarily constitute an offence under our penal laws, but they are openly spoken by members of our society in local dialects, ostensibly because of the absence of a clear understanding of the offensive nature of such saying. It shall be highly appreciated if the Committee, as a part of its report, is able to identify and compile such words/expressions, from different languages, so that they do not go unnoticed, and the complainants/victims are empowered to give a better and fuller narrative of the trauma undergone by them.

25. While doing so, the Committee of Experts must remind itself that the primary beneficiaries of these Guidelines are the victims/complainants,

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majority of whom are children, women of tender age, and members of vulnerable sections of society. As such, the Committee shall ensure that the Draft Guidelines are devised in a manner so that they may be understood and utilized easily by such persons, irrespective of their background and means.

26. To this end, we recommend that the Committee of Experts prepare, preferably the entire report, and in any case at least the draft guidelines, in simple language comprehensible to laypersons, whose interests the guidelines seek to protect. The guidelines, we expect, will not be loaded with heavy, complicated expressions borne from foreign languages and jurisdictions. They must be contextualised in the real and lived experience of the stakeholders in Indian judicial process, with direct reference to the ethos, values, and social fabric of our country.

27. The Committee may even consider preparing translated versions of certain public-facing sections of the guidelines. The objective is to fully explain the various concepts to all readers, irrespective of linguistic and legal proficiency.

28. We may also clarify that we, in no way, seek to restrict the Committee of Experts on the aspect of the volume of the draft guidelines. When an attempt is being made to explain and clarify the different concepts, rights, procedures, and best practices to be followed, the Committee must ensure that the report is comprehensive and exhaustive, including appropriate and adequate explanations and illustrations wherever necessary.

29. The Committee of Experts shall be at liberty to seek the assistance of other experts on this matter, such as linguistics academicians, prosecutors, litigators, social scientists, and counsellors, as it deems necessary.

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30. The Registry of this Court is directed to forward a copy of this order to Justice Bose, and we request him to constitute the Committee of Experts, preferably within a period of two weeks. Counsel for the parties are permitted to file written submissions, charts, lists, and other documents, which may be of relevance to the Committee, with the Registry of this Court within two weeks. These documents, along with a complete set of the paperbooks of all these matters, shall be forwarded to the Committee, thereafter, for its consideration.

31. The Chairperson and the Members of the Committee of Experts shall, for their valuable time and efforts, be paid such honorarium as may be determined by Justice Bose, for which necessary funds shall be provided by the Supreme Court of India.

32. We request the Committee of Experts to complete its deliberations and submit a report to this Court, preferably within three months.

33. Having passed these directions, we are of the considered opinion that the suo motu writ petition regarding the order dated 17.03.2025, which we have already set aside, need not be kept open. As and when the Committee of Experts is able to furnish its report to this Court, the same would be taken up in a holistic manner, not specifically in the context of a single case. To that effect, the Registry is directed, upon receipt of the report from the Committee of Experts, to place the same before Hon'ble the Chief Justice of India on the administrative side for appropriate instructions.

34. Hence, in terms of the directions issued hereinabove, the instant suo motu case stands disposed of. Pending interlocutory applications, if any, also stand disposed of."

The present publication has been made in pursuance of the directions of the Hon'ble Supreme Court of India. A committee was

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constituted by the undersigned comprising of Hon'ble Ms. Justice Sonia G. Gokani, Former Chief Justice of the High Court of Gujarat, Ms. Anuradha Shankar, Former Director General of Police, Madhya Pradesh, Dr. Surat Singh, Advocate, Supreme Court of India, and Prof. Lucy T.V. Zehol, Professor, Department of Anthropology, North-Eastern Hill University, Shillong. The committee was assisted by Dr. Sonam Jain, faculty member at the National Judicial Academy in completing the work. Mr. Shrish Kailash Shukul, a District Judge of Madhya Pradesh Cadre presently Officer on Special Duty at the Academy also provided inputs and administrative support to the committee.

We had also sent a questionnaire to all the State Judicial Academies mainly to get response from various stakeholders of the criminal justice system for their understanding of court language. The stakeholders were judicial officers, witnesses and victims and they were approached through the District Legal Service Authorities. The composite response is Annexure I to this publication.

It was unique task before the committee to undertake a work of this nature. The committee tried its best to capture the writing style of judgements in relation to gender related issues and highlighted them, but a publication of this nature cannot permanently act as guideline as language evolve continuously. Words spoken on the streets cannot make its way into judgements directly. In gender related cases, judgments have to be founded on which should be built upon empathy and sensitivity and it would be also for the members of legal community as whole, to collectively create a language ecosystem which would weed away the offensive or undesirable words or manner of description of certain acts. It is also of critical importance that judges and lawyers employ, sanitized expression in legal proceedings, so that victims get comforted in a court of law rather than

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being harbouring apprehension of being traumatized. Use of appropriate expressions can help in eradicating deep-seated gender-based prejudices.

The committee is grateful to the Hon'ble Supreme Court for being given this opportunity. This exercise, the members of the committee feel, will inspire and encourage thinking persons in other walks of life to bring gender neutrality and sensitivity in their respective fields. The committee also would like to thank all the State Judicial Academies for their support for this publication.

Justice Aniruddha Bose

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Gender Jurisprudence in India

Through a continuous judicial process, the judiciary in India has consistently expanded the scope of gender justice while dealing with these issues. The jurisprudence evolved through court decisions highlight protection of dignity, bodily integrity, equality and privacy. The courts are playing a transformative role in dismantling patriarchal stereotypes, recognizing intersectional vulnerabilities, strengthening workplace and institutional safeguards from dominant gender harassment. This led to the recognition of reproductive and sexual autonomy, affirmation of the rights of women, children, transgender persons, and queer communities/non-binary in a gender neutral manner. Over the years several judgments collectively reflect the judiciary's ongoing commitment towards building a more inclusive society.

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S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
1	Yusuf Abdul Aziz v. State of Bombay (AIR 1954 SC 321)	Challenge to Section 497 IPC (adultery law) on grounds of gender discrimination. (section 497 of IPC has subsequently been struck down in the case of Joseph Shine as serial no. 13 in this table)	The Hon'ble Supreme Court upheld the constitutional validity of special provisions for women under Article 15(3), recognizing that substantive equality may require protective measures in favour of women.
2	C.B. Muthamma v. Union of India ((1979) 4 SCC 260)	First woman in Indian Foreign Service challenged discriminatory promotion/service rules.	Court condemned sex-based service rules and affirmed equality in public employment, stating married women cannot be put on a worse footing than married men.

S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
3	Tukaram v. State of Maharashtra ((1979) 2 SCC 143)	Rape of a minor girl in police custody; accused acquitted due to restrictive reasoning on consent.	Public outcry led to reforms in rape laws, shifting focus to survivor-centric interpretation and statutory changes regarding consent and evidence.
4	Air India v. Nergesh Meerza ((1981) 4 SCC 335)	Air hostesses challenged rules mandating retirement on marriage/pregnancy.	The Court held pregnancy-based termination rules arbitrary and unconstitutional, calling such provisions an insult to womanhood.
5	Bharwada Bhoginbhai Hirjibhai v. State of Gujarat ((1983) 3 SCC 217)	Rape survivor's testimony questioned for lack of corroboration.	The Court held survivor's testimony does not require corroboration, recognizing the social stigma of reporting sexual violence.

S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
6	State of Punjab v. Gurmit Singh ((1996) 2 SCC 384)	Rape survivor's privacy and dignity during trial at issue.	The Court emphasized (*in-camera)* proceedings, privacy protection, and survivor dignity, noting no woman would humiliate herself by making a false allegation.
7	Vishaka v. State of Rajasthan ((1997) 6 SCC 241)	Sexual harassment of social worker at workplace.	The Court framed the Vishaka guidelines for workplace sexual harassment at workplace, affirming gender equality includes protection from such harassment.
8	Sakshi v. Union of India ((2004) 5 SCC 518)	NGO sought child-sensitive courtroom procedures for sexual offence trials.	The Hon'ble Supreme Court directed adoption of child-sensitive adjudication to prevent trauma to child victims.
9	Anuj Garg v. Hotel Association of India ((2008) 3 SCC 1)	Challenge to law barring women from working in venues serving alcohol.	The Court held legislation should be assessed by its impact, not just aims, and struck down exclusionary provisions as unconstitutional.

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S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
10	Suchita Srivastava v. Chandigarh Administration ((2009) 9 SCC 1)	Pregnant woman with intellectual disability sought autonomy over abortion.	The Court affirmed reproductive autonomy as a facet of personal liberty, linking it to dignity, bodily integrity, and privacy.
11	National Legal Services Authority v. Union of India ((2014) 5 SCC 438)	Recognition of transgender persons' legal rights.	The Court constitutionally recognized transgender identity, affirming dignity and directing affirmative measures for inclusion.
12	Joseph Shine v. Union of India ((2019) 3 SCC 39)	Challenge to criminalization of adultery law.	The Hon'ble Supreme Court struck down adultery law as unconstitutional and rejected patriarchal notions of marriage.
13	Indian Young Lawyers Association v. State of Kerala ((2019) 11 SCC 1)	Women challenged exclusion from entering Sabarimala temple.	The Court held exclusion based on biology violates dignity and equality, and asserted constitutional morality prevails over patriarchal customs.

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S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
14	Secretary, Ministry of Defence v. Babita Puniya ((2020) 7 SCC 469)	Women officers sought permanent commission in the Indian Army.	The Court rejected stereotypes about women's roles and held women cannot be denied equal opportunity on the basis of physiological or social assumptions.
15	Lt. Col. Nitisha v. Union of India ((2021) 15 SCC 125)	Challenge to facially neutral standards in army selection.	The Hon'ble Supreme Court recognized indirect discrimination and advanced substantive equality jurisprudence.
16	Aparna Bhat v. State of Madhya Pradesh ((2021) 3 SCC 247)	High Court had made stereotypical remarks and suggested compromise in rape case.	The Court directed judges to avoid gender stereotypes and prohibited suggestions of marriage/compromise in rape cases.
17	Attorney General for India v. Satish ((2022) 5 SCC 545)	High Court acquitted accused under POCSO based on "skin-to-skin" contact.	The Hon'ble Supreme Court set aside the interpretation, holding child protection laws must be purposively interpreted.

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S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
18	Patan Jamal Vali v. State of Andhra Pradesh ((2021) 16 SCC 225)	Rape and murder of a Dalit woman.	The Court recognized intersectionality, acknowledging compounded discrimination based on caste, gender, and disability.
19	State of Jharkhand v. Shailendra Kumar Rai ((2022) 14 SCC 299)	Use of two-finger test in rape examination.	The Hon'ble Supreme Court condemned the test as regressive and irrelevant to consent, directing it must not be conducted.
20	X v. Principal Secretary, Health & Family Welfare Dept., Delhi ((2023) 9 SCC 433)	Unmarried woman challenged denial of abortion after 20 weeks.	The Court held unmarried women are equally entitled to reproductive autonomy and recognized marital rape for limited purposes.
21	Deepika Singh v. Central Administrative Tribunal ((2023) 13 SCC 681)	Denial of maternity leave for non-traditional family structure.	The Court recognized that families in contemporary society exist in diverse forms and rejected stereotypical assumptions regarding caregiving and family roles.

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S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
22	Supriyo @ Supriya Chakraborty & Anr v. Union of India (2023 INSC 920)	Petition for legal recognition of same-sex marriages.	The Court declined recognition but reiterated queer rights to dignity, autonomy, and protection from discrimination.
23	In Re: Alleged Rape and Murder Incident of a Trainee Doctor (2024 INSC 613)	Institutional response to sexual violence against a doctor.	The Hon'ble Supreme Court emphasized institutional accountability, safe working environments, and survivor dignity.
24	Dr. Sohail Malik v. Union of India (2025 SCC OnLine SC 2751)	Jurisdictional challenge to ICC under POSH Act.	The Court clarified ICC's jurisdiction extends across departments and must uphold the remedial intent of the POSH Act.
25	Vaneeta Patnaik v. Nirmal Kanti Chakrabarti (2025 INSC 1106)	Complaint of continuing sexual harassment at work.	The Court recognized that a hostile work environment may be continuing harassssing, requiring survivor-sensitive interpretation under POSH Act.

S. No.	Name of the Case (with Year)	Factual Brief	Principle from the Judgment of the Hon'ble Supreme Court of India reflecting the transition of Gender Jurisprudence
26	Nipun Saxena v. Union of India ((2019) 2 SCC 703)	Protection of identity and privacy of victims of sexual offences.	The Court reinforced the statutory prohibition on disclosure of the identity of rape survivors and issued comprehensive directions to protect their privacy and dignity throughout the criminal justice process, including in judicial records and media reporting.
27	Manisha Ravindra Panpatil v. State of Maharashtra (2024 INSC 762	An elected woman Sarpanch was disqualified from office on allegations that she resided in a house encroaching on government land.	The Court recognized that legal and administrative actions against women elected representatives may sometimes be rooted in patriarchal resistance to women exercising authority, particularly in rural governance structures.

Note: *The above table is only illustrative and not exhaustive of the extensive jurisprudence developed by the Hon'ble Supreme Court of India in advancing gender justice and constitutional equality.*

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Legal Protections against Victim-Blaming

Indian law already contains rape-shield protections to safeguard surviors against victim-blaming. It reinforces the principle that consent must be judged on the circumstances of the alleged incident, not on the survivor's personal history. It helps prevent secondary victimization during trial, upholds the dignity and privacy of survivors, and encourages more victims to report crimes without fear of character assassination. Section 146 of the erstwhile Indian Evidence Act barred any insinuation about a complainant's sexual reputation or character. In State *of Jharkhand v. Shailendra Kumar Rai*[1], stressed this point that a woman's "sexual history is wholly immaterial" to rape allegations, and it is "patriarchal and sexist" to suggest she cannot be believed merely for being sexually active.[2] The court noted that Section 53A of the Indian evidence Act explicitly makes a victim's prior sexual experience "not relevant" to consent in a rape trial.[3] Likewise, the Allahabad High Court recently condemned a lawyer's attempt to call a rape survivor "a woman of easy virtue," holding such attack on character to be "wholly irrelevant" and expressly barred by law[4]. In short, Indian courts now reaffirm that a survivor's reputation or past has no place in determining the credibility of her testimony.[5]

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1 (2022) 14 SCC 299.

2 Patriarchal & sexist to assume that a sexually active woman cannot be raped; Anyone conducting 'two-finger' test will be guilty of misconduct: SC, *https://www.scconline.com/blog/post/2022/11/01/two-finger-test-banned-sexually-active-women-can-be-raped-guilty-misconduct-supreme-court-legal-updates-research-guidelines-news/#:~:text=,%E2%80%9D.*

3 *Ibid*. (The said provision is incorporated in Section 48 of the Bharatiya Sakshya Adhiniyam (BSA), 2023)

4 Bechan Prasad v. State of U.P. and Another, 2026:AHC:21013

5 Allahabad HC pulls up advocate for calling rape victim a woman of "easy virtue"; says it violates dignity & privacy under Article 21,

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This aligns with international rape-shield standards. For example, Federal Rules of Evidence in the U.S. forbid introducing a complainant's sexual behavior or predisposition in most sexual assault cases.[6] Such rules, and Article 5 of CEDAW (Convention on the Elimination of All Forms of Discrimination against Women.) 1979, recognize that asking about a woman's private life only perpetuates myths and deters reporting.

Cross-Examination and Sexual History

In practice, victims are often subjected to harassing cross-examination designed to plant doubt. Maximum trauma is faced by the victim after the offence reaches trial stage. Judges have begun to rein in such tactics. For instance one recent decision, ordered an immediate end to the notorious "two-finger test" and remarked that whether a woman is "habituated to sexual intercourse" is "irrelevant" to determining rape[7]. The Court emphasized: "*Nothing could be further from the truth, a woman's sexual history is wholly immaterial while adjudicating whether the accused raped her"*. It noted the probative value of her testimony "does not depend upon her sexual history," and that treating her as dis-believable for being sexually active is "patriarchal and sexist".

Indian trial courts are also bound by provisions that limit the line of questioning to be adopted by defence lawyers towards the victims. Under the Bharatiya Sakshya Adhiniyam, 2023 (BSA) Section 154 and 155 empowers the court to control over indecent/scandalous questions and insulting/annoying questions to be put forth during examination. In practice

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https://www.scconline.com/blog/post/2026/02/06/rape-survivor-character-assassination-allahabad-hc/#:~:text=The%20Court%20added%20that%20any,of%20the%20%20122.

6 Rule 412. Sex-Offence Cases: The Victim, *https://www.law.cornell.edu/rules/fre/rule_412#:~:text=%28a%29%20Prohibited%20Uses,proceeding%20involving%20alleged%20sexual%20misconduct.*

7 Lillu @ Rajesh v. State of Haryana, (2013) 14 SCC 643

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this means lawyers cannot use labels like "easy virtue" or allege promiscuity to discredit a victim. Indeed, courts routinely strike down such insinuations as irrelevant. For example, the Bombay High Court rejected the argument that a teenager's two boyfriends justified her rape. It was observed that "a woman may be having easy virtue but that does not mean all and sundry can take advantage of this fact. She has a right to say no". The Hon'ble Supreme Court held that Even if the prosecutrix, in a given case, has been promiscuous in her sexual behaviour earlier, she has a right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone.[8]

Contrasting Judicial Sensitivities: Progressive Approaches and Persistent Prejudices

For the purpose of the study the committee analyzed 125 Trial Court judgments from across the country and taken assistance from all the state judicial academies. These judgments gave a mixed picture about the perceptions and mind-set and also the approach of a judge while deciding a matter. There were cases where judges were highly sensitized towards the victim, witness, and vulnerable groups, like they were alert to the vulnerabilities of women and children. They prioritized the rights of the victim and balanced the social interest at the same time.

In *State of Punjab v. Gurmit Singh*[9], a landmark 1996 judgment of the Hon'ble Supreme Court of India, directed trial judges to actively protect victims during testimony and that courts should not sit as silent spectators while the victim is subjected to embarrassing, insulting or intimidating

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8 State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575

9 (1996) 2 SCC 384.

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questioning. Judges did understand that women are reluctant to report such incidents and were conscious enough to intervene in between when the cross-examination goes beyond the ethical standard. The judgments reflect a modern, gender-sensitive judicial approach which not only talks about sentence but also focus on compensation, rehabilitation and society as a whole.

The other side of the story is where the terms and phrases like why were you there at that time? Why were you wearing this kind of clothing? Why were you not accompanied by any men? Why did you report so late? are frequently used. In matrimonial cases, when women approach the police for registering a complaint, they are asked in disbelief, "Why now?" After so many years, you have children; this happens in a marriage. You are so well-off, dressed in a particular way. Is your story real? Women are bombarded with questions like this. Not just the police station, the same kind of trauma they face in some one stop centers, by support persons, in jails, hospitals, etc.[10]. The court is the only place where a judge listens to all such problems. Women speak up in court only in the hope that the judge would do something to save their honor and dignity. The judge has the power to control his court; directing the staff to offer basic courtesies by offering a chair and water. A judge must be a little more alert and vigilant while the victim is deposing. Make sure that unnecessary people should be moved out just to make her more comfortable. Not just her words but her body language should be observed by a judge.

Across all levels of the justice delivery system—be it the police station, hospital, one stop crisis center, or courtroom—women survivors of violence face a range of discriminatory, insensitive, and victim-blaming

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10 Inputs for Guidelines for a Gender-Just Justice System With Reference To Women Survivors of Violence, Abuse & Exploitation – (Note Prepared through a Consultative Process with Civil Society Groups) By State Women's Commission, Madhya Pradesh.

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statements. Survivors are routinely met with remarks such as, "*Ghar ki baat hai, itna kya ho gaya?* (It is a matter of home, what happened so much?)" or "*Samjhauta kar lo, ghar bach jayega*, (Make a compromise, your house will be saved.)" trivializing their experiences of violence and pressuring them to compromise. Police and other authorities often question their appearance with comments like, "*Lipstick laali lagakar complaint likhwane aayi ho*? (You have come to lodge a complaint wearing lipstick.)" or cast doubts on their intentions, saying "*Aaj kal ki auratein drama karti hain (Women these days are dramatic.)*." Survivors are also asked irrelevant and intrusive questions about their personal life and conduct, for example, "*Aap iss tarah kapde pehen kar rehti hain?* (Do you keep dressing like this?)" or "*Aap ka behaviour kaisa hai ghar mein?* (How is your behavior at home?)" These statements, instead of building the survivor's confidence, further traumatize and deter them from seeking justice.[11]

Testimonies within the guidelines highlight the reality of these experiences. One survivor shared how, after suffering visible injuries, she was made to wait at the hospital and questioned about her "behaviour at home" before being examined. Another testimony from a trans-person stated being forced to strip for "identity verification" and being pressured to sign false statements, while also being mocked and denied access to family or respectful treatment. Such narratives underscore the systemic barriers and the patriarchal attitudes survivors must confront at every stage, especially those from marginalized backgrounds who face additional caste, class, or gender-based discrimination.[12]

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11 Inputs for Guidelines for a Gender-Just Justice System With Reference To Women Survivors of Violence, Abuse & Exploitation – (Note Prepared through a Consultative Process with Civil Society Groups) By State Women's Commission, Madhya Pradesh.

12 Inputs for Guidelines for a Gender-Just Justice System With Reference To Women Survivors of Violence, Abuse & Exploitation – (Note Prepared through a Consultative Process with Civil Society Groups) By State Women's Commission, Madhya Pradesh.

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The Hon'ble Kerala High Court[13] in December 2024 Mat. Appeal No. 706 of 2024 delivered a judgment, stating that clothing is a form of self-expression, being part of an individual's identity or an expression of general aesthetics. It is unpardonable and impermissible in any civilized society to judge a woman solely based on her clothing or to draw conclusions about her virtue or modesty, as such judgments are rooted in rigid notions of patriarchy. The sartorial preferences that a woman makes are her own choice, which cannot be subjected to moral policing or assessment, particularly by courts."

[13] XXXXX v. XXXXX, 2024:KER:91898

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Rule against stereotyping: A transition to Gender Just Society

Judicial approaches in India have consistently rejected the use of gender-based stereotypes in adjudication, particularly in cases involving sexual offences and gender justice.

i. In ***Aparna Bhat v. State of M.P***[14]**,** the Hon'ble Supreme Court held that courts must avoid stereotypes relating to a victim's clothing, lifestyle, marital status, or sexual history, emphasizing that such factors are irrelevant to consent or credibility and underscoring the need for judicial sensitivity training. It was held that stereotypical judicial observations undermine fairness and victim confidence, requiring courts to maintain neutrality and avoid extraneous social assumptions.

ii. In ***Sanghmitra v. State***[15]**,** it was further clarified that professional identity or gender cannot form the basis of judicial presumptions.

The exclusion of sexual history and character-based reasoning has been reinforced through statutory and doctrinal developments. Judicial condemnation of stigmatizing language is also reflected in ***Bodhisattwa Gautam v. Subhra Chakraborty***[16]**,** which addressed the seriousness of sexual violence and the impact of societal biases on victims. The Hon'ble Supreme Court in ***Aparna Bhat*** further clarified that consent cannot be inferred from clothing or prior sexual conduct, rejecting the "good woman/bad woman" dichotomy.

Constitutional jurisprudence has also dismantled stereotypes embedded in laws governing marital and gender roles. In ***Joseph Shine v. Union of***

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14 *Supra*
15 2024 DHC 2524.
16 (1996) 1 SCC 490

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India[17]***,*** Section 497 IPC was struck down for treating women as passive and subordinate, thereby violating Articles 14 and 15. Similarly, ***Shayara Bano v. Union of India***[18]***,*** invalidated triple talaq for perpetuating gender inequality, while ***Navtej Singh Johar v. Union of India***[19]***,*** held that laws enforcing heteronormative gender roles are unconstitutional, grounding anti-stereotyping in equality and privacy rights. In ***Yash Pal v. State of Haryana***[20]***,*** the Punjab and Haryana Court acknowledged that criminal law cannot reinforce differential standards of sexual agency for men and women.

Procedural safeguards also reflect this anti-stereotyping approach. In, ***State of Punjab v. Gurmit Singh***[21]***,*** emphasized the relevance of *in camera* trials to prevent reputational harm and stigma. The Sexual Harassment of Women at Workplace Act, 2013 further institutionalizes protection against humiliating or stereotyped questioning, recognizing such violations as implicating fundamental rights under Articles 14, 15, and 21. International guidance, including CEDAW-based principles and the Bangkok General guidance for judges on Applying Gender Perspective in South and Southeast Asia (2022), cited in ***Aparna Bhat***, also directs judges to avoid rigid notions of a "real victim" and adopt context-sensitive evaluations.

The evolution of anti-stereotyping jurisprudence is marked by explicit overruling of earlier decisions. In ***Joseph Shine***[22], the Hon'ble Supreme Court overruled ***Sowmithri Vishnu v. Union of India***[23]***,*** rejecting notions of women as the property of husbands. Likewise, ***Navtej Singh***

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17 (2019) 3 SCC 39.
18 (2017) 9 SCC 1.
19 (2018) 10 SCC 1.
20 CRWP/4660/2021.(2024:PHHC:118245-DB
21 *Supra*
22 *Supra*
23 AIR 1985 SC 1618.

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Johar[24]overruled ***Suresh Kumar Koushal v. Naz Foundation***[25]**,** affirming that constitutional morality must prevail over outdated social norms that enforce gender and sexual stereotypes.

[24] (2017 1 SCC 791

[25] (2014) 1 SCC 1.

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Gendered/Stereotype Language in Judgments and Alternatives

It has been a longtime concern for judges in India to avoid masculinity in deciding cases, as the basis or reasoning in judgments. There is a mistaken notion that masculinity is a natural phenomenon – a notion which the judges are actively confronting now. Sensitive judicial language is therefore not merely a matter of politeness; it is essential to ensuring fairness, dignity, and impartiality in adjudication.

The need for sensitivity becomes even more urgent in cases involving women and children, especially in light of the increasing prevalence of crimes such as sexual assault, domestic violence, harassment, and abuse. Women in India continue to face systematic discrimination, sexual violence, domestic abuse, and harassment. In such circumstances, insensitive courtroom remarks or judgments that rely on stereotypes may discourage victims from reporting offences or participating in the justice process. Judicial attitudes in sexual assault cases involving unconscious women have often reproduced "rape myths" and questioned victims' credibility rather than focusing on the accused's conduct[26]. Such language can re-traumatize survivors and reinforce social prejudice instead of promoting justice.

Since courts are institutions entrusted with protecting constitutional values, it is incumbent upon judges to adopt language that is respectful, neutral, and free from stereotypes. Sensitive judicial expression strengthens

26 Elizabeth A Sheehy, "Judges and the Reasonable Steps Requirement: The Judicial Stance on Perpetration Against Unconscious Women" in SEXUAL ASSAULT IN CANADA: LAW, LEGAL PRACTICE AND WOMEN'S ACTIVISM (University of Ottawa Press, 2012) 483 at 483–485.7

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public trust, protects the dignity of vulnerable individuals, and ensures that the justice system reflects principles of equality and human rights.

In the case of Phul Singh v. State of Haryana[27], there are issues with both the words used by the Court and the way it decided on the sentence, if looked through gender justice lens raises concern. Accused of the crime was said to be motivated by "sex stress" and other phrases may be considered inappropriate today. Use of sensitive expressions has become a critical component in judgment writing on gender related cases in contemporary jurisprudence.

The following glossary is curated after analyzing the 125 Trial Court judgments and we have also added some common words which are stereotypical and may be avoided. It outlines problematic or outdated phrases found in these judgments and suggests neutral alternatives that can be used in legal contexts.

Traditional/Problematic Phrase	Neutral, and legally appropriate alternatives
The body of women as play ground	Violated bodily autonomy of complainant(s)/victim(s)
Helpless woman; helpless female	Survivor / Complainant
Where women are honoured, there the gods rejoice	Avoid religious/cultural references; focus on legal rights
It destroys the very soul of a helpless woman	Crime caused severe trauma to the survivor
Victimization, soul destroyed	Survivor experienced harm/trauma

[27] (1979) 4 SCC 413

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Traditional/Problematic Phrase	Neutral, and legally appropriate alternatives
Female members/persons (for victims)	Victim / Survivor / Complainant
Gold digger (economic motive)	Avoid speculation; focus on evidence
Suffering from psychological neurosis	Survivor may experiencing trauma/distress
Woman in non-permissive society	Person in a conservative society
Allow women to walk freely	All individuals have right tomove freely and safely
Self-respecting woman	Women may be used without any adjective
Poor helpless minor girl	Minor victim / Child survivor
Hormonal changes, desire, temptation	Avoid physiological explanations unless absolutely necessary
She was enticed away (good faith)	Accused lured/abducted victim by gaining trust
Honour, shame	Avoid “honour”/“shame”; focus on survivor’s rights
Victim of another person’s lust	Victim/survivor of sexual assault/violence
Stigma as inevitable consequence	Focus on justice/rehabilitation
Outraged the modesty	Sexual assault/violation of bodily autonomy
Serious health consequences as a female	Serious health consequences for the victim/survivor

Traditional/Problematic Phrase	Neutral, and legally appropriate alternatives
Permanent impact on girl's life	Survivor may need ongoing support; focus on recovery
Lost her chastity	Survivor's bodily autonomy was violated
No hue and cry, traveled Calmly (to describe post occurance behavior of the victim)	Avoid victim-blaming; focus on facts
Gullible or obedient daughter	Minor / Child victim
She was a consenting party	Consent is not legally valid for minors
Tutored child	Child witness; avoid assumptions about influence
Bid to defile chastity	Act of sexual assault/violation of autonomy
Fueled by lust	Sexual violence; avoid attributing crime to "lust"
Prosecutrix	Victim / Survivor / Complainant
Degrades the soul of the helpless female	Causes severe harm to survivor
Spoiled her childhood / ruined life	The crime had serious consequences; focus on support
Minor girl/child	Child victim / Survivor
Satisfy his illicit lust	Committed sexual assault / violated the law

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Traditional/Problematic Phrase	Neutral, and legally appropriate alternatives
Haunt throughout her life	Survivor may face ongoing challenges
Physical relationship (for rape/assault)	Sexual assault / rape (if the offending act is non- consensual and/or victim is a minor)
Disrobing (unless provided in the statute)	Forced removal of clothing (part of sexual assault)
Status and prestige of family is at stake	Focus on harm to victim/ survivor; avoid “honour” shaming
Scars left remain lifelong	Survivor may need ongoing support; focus on recovery
Helpless female	Survivor
Her private part/chest/ vagina, victim girl	Use neutral medical/legal terms; refer to child/survivor
Accused acted as with his granddaughter	Focus on age difference & power dynamics, not family
Destroyed life, betrayal, shameful conduct	Survivor experienced severe harm
Modesty	Bodily autonomy
Offends esteem/dignity	Violation of survivor’s bodily autonomy and rights
Girl child is vulnerable	All children are entitled to protection under the law

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Traditional/Problematic Phrase	Neutral, and legally appropriate alternatives
Sex slave	Survivor subjected to repeated sexual violence/exploitation – while being kept under control
Brothel keeper	Perpetrator of trafficking/sexual Exploitation (the term brothel may be used if statutorily necessary)
Sterling character (victim's character)	Character evidence is irrelevant in sexual offences
Lust satisfaction	Act of sexual violence/assault; Prudent attribute - avoid trivializing crime
Illiterate/rustic witness	Witness (mention education only if legally relevant)
Whore (derogatory term)	Survivor / Victim
Inability to control emotions, male-dominated society	Avoid rationalizing crime; focus on accountability/law

In several cases, courts are required to deal with situations where people having relationship with person other than spouses. Live-in relationship between persons who are not formally married has acquired some element of recognition.

In such situations particularly in relation to women terms like Concubine, Kept/Keep, and Mistress may be avoided. Partner would be the ideal substitute which would extend to same-sex relationship also. Otherwise, the expression girlfriend (in relation to women) may also be used.

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Words like prostitute, call girl, fallen women and escort are widely used in common parlance but may be substituted with the word sex worker as it more accepted and recognised term by International Labour Organisation (ILO) also. However, the word prostitute may be used only when statutorily needed.

For person with different sexual orientation LGBTQIA+ is an umbrella term which is used. The term homosexual is in common use but may be substituted by 'Gay'. For women 'Lesbian' is still an acceptable term. For third gender – in North India the word *Hijra* is used, in Tamil Nadu *Thirunangai* refers to a transgender woman, and *Thirunambi* refers to a transgender man. In Karnataka *Jogappa* is used in gender-diverse communities. These are implicitly pejorative and now the term which is acceptable and dignified is intersex. It might be advisable to uses these in court languages. Now, the term SOGIESC (An acronym for sexual orientation, gender identity, expression and sex characteristics) is gaining acceptance.

In this regard it may be worthwhile to refer to UNICEF publication on gender equality titled 'Glossary of terms and concepts' (https://www.unicef.org/rosa/media/1761/file/Genderglossarytermsandconcepts.pdf) which carries an exhaustive list of taking into account sensibility of various region of the world.

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Compassionate Court Practices

The Indian judiciary is moving from a traditional, accused-focused system to one that centers on victims—protecting their privacy, dignity, and mental well-being. The aim is to reduce secondary victimization and supporting them until they are fully rehabilitated. This marks a shift from just punishing offenders to help victims heal and recover simultaneously. Victim compensation scheme 2018 (Annexure II) is one such step and various welfare statues also provide directions in that regard

From the time the matter of this nature reaches the Court of Sessions Judge/ the Courts of Judicial Magistrates, the Presiding Officer needs to inquire from the Investigating Officer whether the directions issued in case of *Delhi Domestic Working Women's Forum v. Union of India*[28] are followed in providing services of Legal Assistance to the victim. Police is also under a duty to inform the victim of her right to representation before questioning her and also to state the same in its report.

Directions categorically obligates the Investigating Officer to ensure supporting a rape victim right from the time of filing of FIR till the end of the case. This can be extended to the victims of other nature of serious crimes

If Legal Assistance is not provided or no Advocate is engaged by the victim privately or the Presiding Officer is not satisfied with the answer of the IO, the Court either requires to direct such measure directly to the District Legal Service Authorities and it can also direct the superior officer of IO to ensure following of such directions with the insistence of written compliance by the IO within 48 hours.

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[28] (1995) 1 SCC 14

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Periodical monitoring on empanelment of Advocates at the level of police stations in aid of the victims of sexual assault in the District through monthly meeting of the Principal District Judge, the Superintendent of Police and Secretary DSLA can better administer the issue. Alternatively, a written monthly report be sent by the Superintendent of Police to the Principal District Judge, ensuring due compliance of this necessity.

Victim/ Witness Protection measures

Presiding officer ought not to wait for the application of the victim or of vulnerable witness as it is the legal obligation of the Presiding Officer to ensure victim/witness protection. In *Mahender Chawla v. Union of India*[29], the Hon'ble Supreme Court approved the Witness Protection Scheme, 2018 which was formulated by the Ministry of Home Affairs, Government of India. Under this scheme the witnesses were categorised in A, B and C category as per threat perception. In *Sakshi v. Union of India*[30], victim-centric and child-friendly approach to the recording of evidence in sexual offence cases was understood

Pre - trial Victim Counselling

This is a vital mechanism to alleviate anxiety and add to confidence building. Trial judges ought to ensure that victims undergo such counselling.

In camera trial

Trials in sexual offences and sensitive matters need to be held *in camera.* Section 366(1) of BNSS, 2023 prescribes that the courts must be open to the Public for the purpose of trying any offence. Exception to this is provided in Sub Section(2) the trial of Rape or any offence under Sections 64, 65, 66, 67, 68, 70 or Section 71 of Bharatiya Nyaya Sanhita (BNS) or

[29] (2019) 14 SCC 615.
[30] (2004) 5 SCC 518

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under Sections 4,6,8,10 of Protection of Children from Sexual Offences Act,2012 where the trials are to be conducted in camera. Printing or Publication of any material relating to the same is though prohibited, it is made permissible subject to maintaining confidentiality of names and identity. Identity of victim is impermissible to be disclosed in any proceedings and only initials or pseudonym is permitted as held in *Nipun Saxena v. Union of India*[31].

Witness as a Guest:

Witnesses are crucial for justice and should be treated as guests by the court. However, many witnesses suffer long waits and poor treatment in court, which can discourage them from testifying. Courts ought to treat witnesses with respect and ensure their needs are met. The travails of the witnesses in Indian courts has been described by the Hon'ble Supreme Court in the case of *State of U.P. v. Shambhunath Singh*[32] in the following passage.

"Witnesses tremble on getting summons from courts, in India, not because they fear examination or cross-examination in courts but because of the fear that they might not be examined at all for several days and on all such days they would be nailed to the precincts of the courts awaiting their chance of being examined. The witnesses, perforce, keep aside their avocation and go to the courts and wait and wait for hours to be told at the end of the day to come again and wait and wait like that. This is the infelicitous scenario in many of the courts in India so far as witnesses are concerned. It is high time that trial courts should regard witnesses as guests invited (through summons) for helping such courts with their testimony for reaching judicial findings. But the malady is that the predicament of the witnesses is worse than the litigants themselves. This case demonstrates the

[31] (2019) 2 SCC 703.
[32] 2001(4) SCC 667.

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agony and ordeal suffered by witnesses who attended a Sessions court on several days and yet they were not examined in full. The party who succeeded in dodging examination of such witnesses finally enjoyed the benefit when the Sessions Court acquitted them for want of evidence. The only casualty in the aforesaid process is criminal justice." [33]

This principle applies with more vigor and strength in criminal cases inasmuch as most of such cases are decided on the basis of testimonies of the witnesses, particularly, eye-witnesses, who may have seen actual occurrence/crime.

Preventing Secondary Victimization

Re-victimization, particularly in cases involving sexual offences, domestic violence, child abuse, workplace harassment, and gender-based violence, refers to the repeated trauma suffered by survivors due to insensitive institutional, legal, medical, social, or investigative processes after the original incident. Judges must avoid asking stereotypical or blaming questions and should not force victims to interact with accused persons. The judge's proactive role creates a safer environment for victims. It can further be prevented by following a trauma – informed judging, avoid repeated questioning, maintain confidentiality and clear communication. Court should have clear comprehensive polices and accessible support system. Also, promote awareness and education campaigns for public for reducing stigma and misconceptions about the victim. A strict prohibition on gendered and moral commentary.

In the case of *Aparna Bhatt v. State of Madhya Pradesh*[34] , the Hon'ble Supreme Court directed the judges to refrain from asking stereotypical questions. Neither victim blaming language in the orders nor

[33] 2001(4) SCC 667.
[34] *Supra*

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any conditions in bail that forces the victim to interact with the accused need to be reflected for the "proactive role" of the Judge alone can ensure the safe environment.

Proactive Judges and Cross-Examination

Maintaining a balance of Protecting Victim during deposition and particularly when under cross- examination while ensuring the rights of the accused is utmost essential. The Hon'ble Supreme Court has directed establishment of Video link or testimony behind the screen to avoid any traumatic confrontation with the accused in case of *Sakshi v. Union of India*[35] for child witnesses or vulnerable witnesses, prior to the enactment of POCSO Act, 2012. Judges must also control inappropriate questions, especially about the victim's sexual history, and ensure these are only asked if strictly necessary.

POCSO Act and Child Protection laws in India

Pre-recording of child's statement shall have to be by a woman officer at the child's residence or at a place of child's choice as per section 24 of the Act and without the child seeing the accused. Direction of granting "Support Persons" to the Child from the point of lodgement of FIR for interacting with the Police machinery, medical officers and hospitals, to avert re-victimisation, was provided by the Hon'ble Supreme Court in *Bachpan Bachao Andolan v. Union of India*[36]. It also mandates trial to be completed within one year from the date of taking cognizance. Establishment of Vulnerable Witness Deposition Center has streamlined various issues and many of laudable provisions can be employed in the trial of serious offences under BNS Act.

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[35] (2004) 5 SCC 518

[36] 2023 SCC Online SC 1031.

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Points for Considerations

1. Fact-based references

Judicial reasoning should be based on evidence and not stereotypes, assumptions, or moral perceptions about the victim's conduct or character. Courts should rely on testimony, medical evidence, forensic material, and surrounding circumstances.

In *State of Punjab v. Gurmit Singh*[37], the Hon'ble Supreme Court cautioned courts against being influenced by myths and stereotypes in sexual offence cases.

2. Caution with terms like "outraging modesty"

Though the expression forms part of the statutory framework, it should be used cautiously as it may reflect morality-based or patriarchal notions. The focus should remain on dignity, bodily autonomy, and violation of personal integrity.

In *Rupan Deol Bajaj v. K.P.S. Gill*[38], the Hon'ble Supreme Court interpreted "modesty" in the context of a woman's dignity.

3. Trauma-informed language may be used; no resistance is not equal to consent

Absence of injuries, delayed reporting, or lack of resistance does not imply consent. Victims may respond differently to trauma. Courts should avoid adverse inferences based on stereotypical expectations of victim behavior.

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37 (1996) 2 SCC 384,
38 (1995) 6 SCC 194

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In *Kaini Rajan v. State of Kerala*[39], the Hon'ble Supreme Court held that consent must be voluntary and unequivocal.

4. Gender-neutral, survivor-centric terms

Language should dignified and inclusive and avoid reinforcing gender stereotypes. Survivor-centric terminology recognizes the experiences of all affected persons.

In *National Legal Services Authority v. Union of India*[40], the Hon'ble Supreme Court emphasized dignity and equality for all gender identities.

5. "Child" or "minor" for victims under 18

Under the POCSO Act, every person below 18 years is legally recognized as a child. Child-sensitive terminology reinforces the protective framework of the law.

In *Eera v. State (NCT of Delhi)*[41], the Hon'ble Supreme Court reiterated the child-centric object of the POCSO Act.

6. "Victim" or "survivor," not "prosecutrix"

The term "prosecutrix" is procedural and impersonal. Expressions such as "victim" or "survivor" are more sensitive and dignity-oriented.

In *Aparna Bhat v. State of Madhya Pradesh*[42], the Hon'ble Supreme Court stressed the importance of gender-sensitive judicial language.

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39 (2013) 9 SCC 113
40 (2014) 5 SCC 438
41 (2017) 15 SCC 133
42 *Supra*

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7. Language ought to be child-sensitive

Judicial language must refrain from sensationalism, moralistic observations, or stigmatizing expressions, particularly in matters involving children.

In *Sakshi v. Union of India*[43], the Hon'ble Supreme Court emphasized child-sensitive procedures to prevent secondary victimization.

8. Focus should be on autonomy, consent, and child rights

Judicial reasoning ought to prioritize bodily autonomy, informed consent, dignity, and the best interests of the child rather than notions of morality or honor. In *Suchita Srivastava v. Chandigarh Administration*[44], the Hon'ble Supreme Court recognized personal autonomy as part of Article 21.

9. Recognize psychological and physical trauma

Sexual offences may result in enduring emotional and psychological trauma apart from physical harm. Courts must adopt a trauma-informed approach while assessing evidence and evaluating the conduct of the victim.

In *State of Karnataka v. Krishnappa*[45], the Hon'ble Supreme Court recognized rape as a violation of dignity and human rights.

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43 (2004) 5 SCC 518
44 (2009) 9 SCC 1
45 (2000) 4 SCC 75

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Terms to be avoided

1. All forms of victim-blaming

Victim-blaming is a part of rape culture where the responsibility is totally shifted to victim by questioning her conduct, lifestyle, clothing and delay in reporting and past relationships.

In *State of Punjab v. Gurmit Singh*[46], the Hon'ble Supreme Court cautioned against doubting victims on the basis of social stereotypes.

2. Terms like "bashfulness," "honour," or "sanctity"

Words like these are deeply ingrained in patriarchal thoughts that link woman's worth with their sexual purity or family reputation. Courts should instead focus on dignity, autonomy, and constitutional rights.

In *Aparna Bhat v. State of Madhya Pradesh*[47], the Hon'ble Supreme Court directed courts to avoid gender stereotypes and inappropriate observations in judicial orders.

3. Terms like "helpless female"

Women are not weak, dependent or lack agency, expression like these reflects gendered mind set. Court should look women as rights bearing individual with equality and dignity.

In *Joseph Shine v. Union of India*[48], the Hon'ble Supreme Court emphasized dignity, autonomy, and equal status of women under the Constitution.

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46 *Supra*
47 *Supra*
48 *Supra*

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4. Generalizations about complainants

Courts should not assume that women or victims behave in a uniform manner after trauma. Reactions to sexual violence differ from person to person. Judicial findings must be individualized and evidence-based.

In *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat*[49], the Hon'ble Supreme Court rejected stereotypical assumptions regarding the conduct of victims of sexual assault and clarified that victims testimony does not require corroboration, recognizing the social stigma of reporting sexual violence.

5. Honour/shame and chastity stereotypes

Such words showcase discriminatory attitudes and take violence as an offence against reputation to the family. Courts should focus on consent and rights.

In *State of Maharashtra v. Madhukar Narayan Mardikar*[50], the Hon'ble Supreme Court held that even a woman of "easy virtue" is entitled to privacy and dignity.

6. Assumptions of exaggeration by women or families

Courts should not presume that allegations are fabricated or exaggerated merely because they concern sexual offences. Such assumptions perpetuate distrust toward victims and families.

In *State of Himachal Pradesh v. Raghubir Singh*,[51] the Hon'ble Supreme Court held that minor inconsistencies should not overshadow the substance of the victim's testimony.

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49 (1983) 3 SCC 217
50 (1991) 1 SCC 57
51 (1993) 2 SCC 622

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7. Judgmental or sexualized descriptions

Judicial language should remain neutral and professional and must not contain unnecessary comments about appearance, lifestyle, or sexual history.

In *Vishaka v. State of Rajasthan*[52], the Hon'ble Supreme Court emphasized protection of dignity and gender equality at the workplace and in public life.

8. Terms like "lust"

Such words not only showcase but implicitly accepts the uncontrollable desire of men as a natural phenomenon but also it weakens the acts. Courts should instead use legally precise terms such as "sexual assault," "sexual violence," or "offence."

In *State of Karnataka v. Krishnappa*[53], the Hon'ble Supreme Court recognized rape as a violation of dignity and fundamental rights rather than merely a crime of passion.

9. **Biased, stereotypical, or blaming language**

Language of any judgment should be free from bias and prejudice. Care should be taken to preserve the dignity of the survivor. The language used should never be blaming; instead, it should be empowering, as language is the most important tool for empowerment.

In *Aparna Bhat v. State of Madhya Pradesh*[54], the Hon'ble Supreme Court specifically directed judges to refrain from using patriarchal stereotypes and insensitive observations in cases involving women.

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52 *Supra*
53 (2000) 4 SCC 75
54 *Supra*

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Training and Sensitivity

Sensitivity is an ongoing process that should be learned regularly. Training brings sensitivity towards victims, witnesses, and all vulnerable groups. In 1st Judges' case, *S.P. Gupta v. Union of India*[55] , the Hon'ble Supreme Court contemplated training for making the Presiding Judge independent of himself,

> *"But if the judiciary should be really independent something more is necessary and that we have to seek in the Judge himself and not outside. A Judge should be independent of himself. A Judge is a human being who is a bundle of passions and prejudices, likes and dislikes, affection and ill will, hatred and contempt and fear and recklessness. In order to be a successful Judge these elements should be curbed and kept under restraint and that is possible only by education, training, continued practice and cultivation of a sense of humility and dedication to duty. These curbs can neither be bought in the market nor injected into the human system by the written or unwritten laws. If these things are there even if any of the protective measures provided by the Constitution and the laws go, the independence of the judiciary will not suffer. But with all these measures being there still a Judge may not be independent. It is the inner strength of Judges alone that can save the judiciary."*

[55] 1981 supp SCC 87

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Annexure I

Report on Feedback Questions Regarding Court Proceedings

1. Do you understand the legal proceedings and the language used by the lawyers and Judges in Courts in your case/matter?

Responses:

- Yes: 86.4%
- No: 7.1%
- A little: (not specified in chart)
- Most of the times: (not specified in chart)

A large majority (86.4%) of respondents reported that they understand the legal proceedings and the language used by the lawyers and judges in court.

2. Whether judges explain to you the court proceedings in an easy and understandable language during the proceedings of your case?

Responses:

- Always: 69.3%
- Sometimes: 25.7%
- Never: (not specified in chart)

Most respondents (69.3%) indicated that judges always explain the court proceedings in an easy and understandable language, while 25.7% said this happens sometimes.

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3. Do you find the Judge and lawyers sensitive and empathetic towards you during the Court proceedings?

Responses:

- Always: 59.3%
- Never: 9.3%
- Mostly: 23.6%
- A few times: 7.9%

A majority (59.3%) feel that judges and lawyers are always sensitive and empathetic, with 23.6% reporting such behavior 'mostly'.

4. Do you feel that you are being heard by the Judge?

Responses:

- Always: 66.4%
- Never: (not specified)
- Mostly: 25.7%
- A few times: (not specified)

66.4% of the respondents feel that they are always heard by the judge, and 25.7% feel that they are mostly heard.

5. As per your own case experience, what do you think can improve Presiding Officer's (Judge's) interaction and communication with you?

- Use of clear, simple language and less legal jargon.
- More time for parties to express concerns.
- Greater transparency, regular updates on case progress, and clear explanations for adjournments.
- Avoiding routine or mechanical handling of cases, especially sensitive ones (e.g., under Section 498A IPC, Domestic Violence Act).

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- Strict accountability for any misconduct.
- Improved coordination and patient listening.
- Separate waiting areas for victims and witnesses.
- Conduct proceedings in local language where possible.
- Politeness, respectful behavior, and supportive environment.

6. (a) Do you feel intimidated/scared at any point in the Court as a victim or witness?

Responses:

- Yes: 17.1%
- No: 82.9%

Most respondents (82.9%) do not feel intimidated or scared in court.

(b) When and where and why?

- Intimidation was cited during cross-examination, aggressive questioning, or due to unfamiliar environment.
- Some felt intimidated by senior advocates or because of pressure from the opposite party.
- Delays, repeated adjournments, and lack of seriousness also contributed to negative feelings.
- Some respondents found the environment supportive and did not feel intimidated.

7. Who do you think can protect/help you in that critical time?

Responses:

- Prosecutor: 12.9%
- Judge: 14.3%
- Defence Lawyer: 7.9%
- Police: 12.1%

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- Others (Government/Organization/Institution): 52.9%

More than half believe that other persons or institutions (besides prosecutor, judge, defence, or police) are most helpful in critical times.

8. Are you aware of Witness Protection Scheme under new law? Has the Judge made you aware of that which includes right to be protected, rehabilitation, compensation, etc.?

Responses:

- Yes: 19.3%
- No: 80.7%

A significant majority (80.7%) are not aware of the Witness Protection Scheme or have not been made aware of it by the Judge.

9. What are the challenges that you are facing in the Court as a victim or witness?

- Many respondents reported no major challenges.
- Common challenges include:
  - ✓ Repeated and unnecessary adjournments
  - ✓ Lack of seriousness and accountability by lawyers
  - ✓ Lack of communication and updates
  - ✓ Emotional, mental, and financial hardships due to delays
  - ✓ Lack of separate waiting rooms for victims and witnesses
  - ✓ Pressure from police and opposite counsel
  - ✓ Public shame and stress in recalling traumatic incidents

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- ✓ Lengthy trials and prolonged justice process
- ✓ Some reported supportive and cooperative proceedings.

10. Any other suggestion/feedback to make the Criminal Justice System robust and victim/litigant friendly?

- ✓ Speedy and timely trial and disposal of cases.
- ✓ Simplified legal processes and better guidance/support for victims.
- ✓ Greater accountability for delays and professional misconduct.
- ✓ Separate waiting rooms and proper victim protection.
- ✓ More awareness about legal rights and welfare schemes.
- ✓ Improved coordination between police, prosecution, and courts.
- ✓ Friendly, respectful behavior by all stakeholders.
- ✓ Periodic legal education and awareness programs.
- ✓ Ensuring that every case is concluded within a reasonable timeframe.
- ✓ Some respondents are satisfied with the current system and reported no suggestions.

Feedback on court proceedings indicates that most people view the justice system positively. A large majority (86.4%) understand legal processes, 66.4% feel heard by judges, and 69.3% find judges'communication clear. Over half believe judges and lawyers are empathetic, and many do not feel intimidated in court. However, there are notable issues, especially regarding awareness and support for victims—80.7% are unaware of the Witness Protection Scheme, and many report delays, adjournments, poor communication, and emotional stress.

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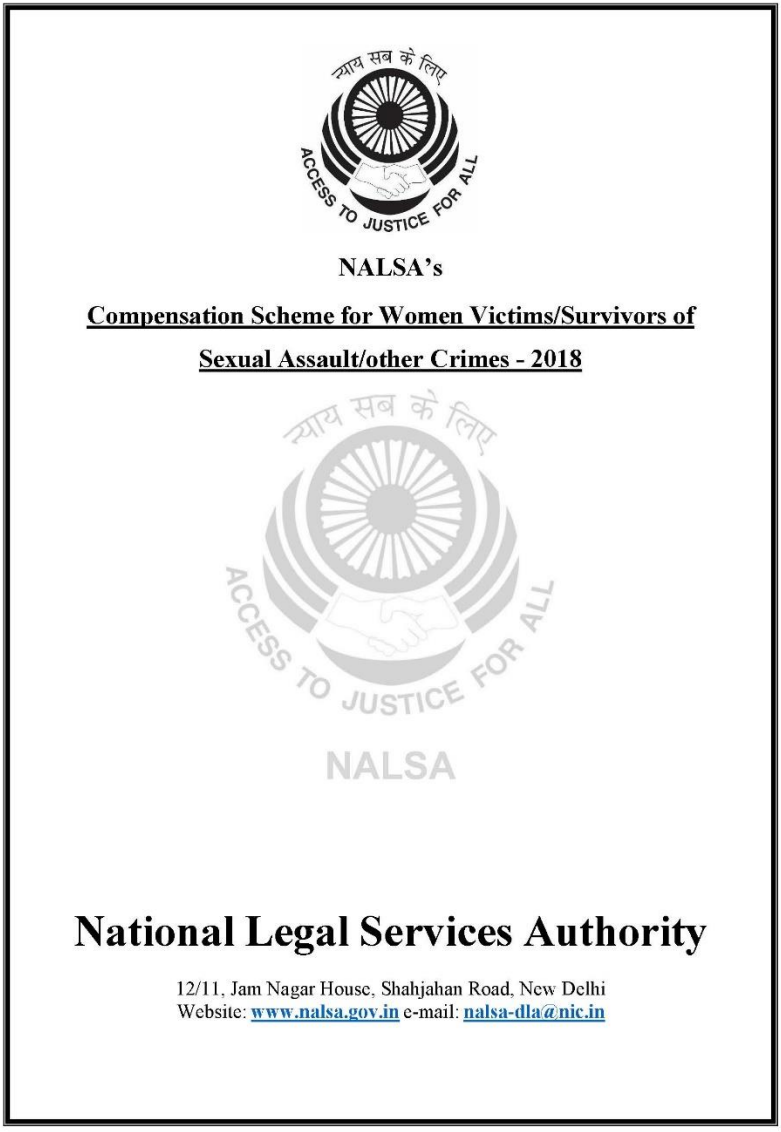
Respondents suggest simplifying legal language, speeding up cases, increasing judicial transparency, and ensuring institutional accountability. Overall, while the system is accessible and respectful, it requires reforms to improve efficiency, victim protection, and procedural sensitivity, making it more effective and user-friendly.

Annexure II

Victim Compensation Scheme, 2018



NALSA's

Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes - 2018

National Legal Services Authority

12/11, Jam Nagar House, Shahjahan Road, New Delhi
Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in

Background

Hon'ble Supreme Court of India in W.P. (C) No. 565/2012 titled Nipun Saxena Vs. Union of India opined that "*it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus. The learned Amicus as well as the learned Solicitor General have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee.*"

In view of the above, NALSA set up a committee consisting of the following members for preparation of Model Scheme:

Ms. Pinky Anand
Additional Solicitor General

Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development,
Government of India

Shri T.V.S. N. Prasad
Additional Secretary, Ministry of Home Affairs,
Government of India

Ms. Indira Jaising,
Senior Advocate, Supreme Court of India

Shri Alok Agarwal
Member Secretary, NALSA

Shri Surinder S. Rathi,
Director, NALSA

Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India

Shri K.L. Sharma,
Joint Secretary
National Commission for Women

Ms. Bharti Ali
Co-Director,
HAQ: Centre for Child Rights

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ACCESS TO JUSTICE FOR ALL

The Committee held rounds of meetings and it was decided to prepare a separate "Chapter" or a "Sub-Scheme" within the existing Victim Compensation Scheme for victims of sexual assault.

The Committee drafted Part – II of the Victims Compensation Scheme and invited suggestions/comments from various stakeholders on the draft. Taking into consideration the suggestions/comments, the Committee has finalized the **Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** and submitted the same before the Hon'ble Supreme Court of India on 24.04.2018.

Submissions were made before the Hon'ble Bench and other stakeholders were also heard on 10.05.2018. Additional suggestions received during the hearing were also incorporated and final Scheme was filed before the Hon'ble Supreme Court of India on 11.05.2018. On this day, after hearing NALSA and Ld. Amicus Curiae, Hon'ble Bench was pleased to accept this Scheme and directed all the State Governments/UT Administrations to implement the same in their respective States/UTs.

Hon'ble Supreme Court of India further observed that while nothing should be taken away from this Scheme, but it does not preclude the State Governments/UT Administrations from adding to the Scheme.

(Surinder S. Rathi)
Director, NALSA

ACCESS TO JUSTICE FOR ALL

PART-II

The Chapter contained in this part shall be called **"Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes"**

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1. SHORT TITLE AND COMMENCEMENT

(1) This Chapter may be called the **Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018**.

(2) It shall come into force on the date as and when ordered by Hon'ble Supreme Court of India.

(3) It shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. DEFINITIONS

1) In this Chapter, unless the context otherwise requires: —

(a) "**Code**" means the Code of Criminal Procedure, 1973 (2 of 1974); or "**Sanhita" means The Bhartiya Nagarik Suraksha Sanhita, 2023**.

(b) '**Dependent**' includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub- Divisional Magistrate of the concerned area/Station House Officer/Investigating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.

(c) "**District Legal Services Authority**" means the District Legal Services Authority (DLSA)constituted under section 9 of the Legal Services Authorities Act, 1987(Act 39 of 1987) for a District of the National Capital Territory of Delhi;

(d) '**Form'** means form appended to the Scheme as applicable to this Chapter.

(e) '**Fund**' means State fund i.e. victim compensation fund constituted under the State Victim Compensation Scheme.

(f) '**Central Fund'** means funds received from CVCF Scheme, 2015.

(g) '**Women Victim Compensation Fund'** – means a fund segregated for disbursement for women victim, out of State Victim Compensation Fund and Central Fund.
[Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilised only for victims covered under this Chapter]

(h) '**Government'** means 'State Government' wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and 'Central Government' wherever Central Government Victim Compensation Fund Scheme is in context and includes UTs.

NALSA's "**Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** *-2018"*

(i) 'Injury' means any harm caused to body or mind of a female.

(j) 'Minor' means a girl child who has not completed the age of 18 years.

(k) '**Offence'** means offence committed against women punishable under IPC or **BNS** or any other law.

(l) '**Penal Code**' means Indian Penal Code, 1860 (45 of 1860); or **Nyaya Sanhita means Bhartiya Nyaya Sanhita, 2023.**

(m) '**Schedule**' means schedule applicable to this Chapter/Part of the scheme.

(n) "**State Legal Services Authority**" means the State Legal Services Authority (SLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987)

(o) '**Sexual Assault Victims**" means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E) or **Section 64 (A to m)** of the **Bhartiya Nyaya Sanhita** Section 354 (A) to (D), or **Sections 65, 66, 67, 68, 69, 70, 71,72,74, 75, 76,77, 78** of the **Bhartiya Nyaya Sanhita** Section 509 IPC **or Section 79 of the Bhartiya Nyaya Sanhita.**

(p) '**Woman Victim/ survivor of other crime'** means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304 B or **Section 80 BNS** Section 326A or **Section 124 BNS** Section 498A IPC or **Section 85 BNS** (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.

(2) Words and expressions used in this Chapter and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860 or **Bhartiya Nagarik Suraksha Sanhita 2023 or/and the Bhartiya Nyaya Sanhita 2023**

3. **WOMEN VICTIMS COMPENSATION FUND—**

(1) There shall be a Fund, namely, the Women Victims Compensation Fund from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.

(2) The 'Women Victims Compensation Fund' shall comprise the following: -

(a) Contribution received from CVCF Scheme, 2015.

(b) Budgetary allocation in the shape of Grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government;

(c) Any cost amount ordered by Civil/Criminal Tribunal to be deposited in this Fund.

(d) Amount of compensation recovered from the wrong doer/accused under clause 14 of the Scheme;

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(e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.

(f) Contributions from companies under CSR (Corporate Social Responsibility)

(3) The said Fund shall be operated by the State Legal Services Authority (SLSA).

4. **ELIGIBILITY FOR COMPENSATION** –

A woman victim or her dependent (s) as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B Cr.P.C or **396 BNSS** shall be taken into account while deciding the quantum in the such subsequent application

5. **PROCEDURE FOR MAKING APPLICATION BEFORE THE SLSA OR DLSA**—

Mandatory Reporting of FIRs: - SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A or **Sections 124, 74, 75, 76, 78, Sections 63 to Section 72**, **Section 80, 85 of the Bhartiya Nyaya Sanhita** (in case of physical injury covered in this Schedule), so that the SLSA/DLSA can, in deserving cases, may suo-moto initiate preliminary verification of facts for the purpose of grant of interim compensation.

An application for the award of interim/ final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before concerned SLSA or DLSA. It shall be submitted in Form 'I' along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

6. **PLACE OF FILING OF APPLICATION**—

The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him/her as per the Scheme.

Explanation: In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs. Union of India W.P.CRML 129/2006 order dated 10.04.2015 which includes Ld. District & Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

7. **RELIEFS THAT MAY BE AWARDED BY THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY.** –

The SLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the scheduled attached hereto.

NALSA's **"Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** *-2018"*

8. **FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION –**

While deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

(1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;

(2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);

(3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(5) The relationship of the victim to the offender, if any;

(6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;

(7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ give birth to a child, including rehabilitation needs of such child;

(8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;

(9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;

(10) Any disability suffered by the victim as a result of the offence;

(11) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim.

(12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.

(13) Or any other factor which the SLSA/DLSA may consider just and sufficient.

NALSA's **"Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** *-2018"*

9. **PROCEDURE FOR GRANT OF COMPENSATION—**

(1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357A of the Code, or **(subsections (2) and/or (3) of Section 396 of the BNSS** or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357A of the Code, or **under subsection (4) of Section 396 of the Suraksha Sanhita** to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima- facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may *suo moto* or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A of the Code, or **Section 396 of the Suraksha Sanhita** shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rs. 2 lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

(3) After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.

** Victims of Acid attack are also entitled to additional compensation of Rs. 1 lac under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated 09.11.2016(copy attached)*

Victims of Acid Attack are also entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI

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(4) The SLSA/DLSA may call for any record or take assistance from any Authority/Establishment/Individual/ Police/Court concerned or expert for smooth implementation of the Scheme.

(5) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. **THE ORDER TO BE PLACED ON RECORD**—

Copy of the order of interim or final compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under Section 357 of the Code or **Section 396 of the Suraksha Sanhita**. A true copy of the order shall be provided to the IO in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. **METHOD OF DISBURSEMENT OF COMPENSATION**—

(1) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concern would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.

Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s), as the case may be.

(2) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/ DLSA.

(3) The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary

12. **INTERIM RELIEF TO THE VICTIM—**

The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependents or suo moto.

Provided that as soon as the application for compensation is received by the SLSA/DLSA, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/- shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, SLSA.

Provided that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality.

Provided further that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs.2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. RECOVERY OF COMPENSATION AWARDED TO THE VICTIM OR HER DEPENDENT(S)—

Subject to the provisions of sub-section (3) of Section 357A of the Code, or **sub-section (3) of Section 396 of the Suraksha Sanhita** the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

14. DEPENDENCY CERTIFICATE—

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended:

Provided that the SLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

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15. MINOR VICTIMS -

That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO/SDM, as the case may be.

16. LIMITATION-

Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357A of the Code, or **sub-section (4) of Section 396 of the Suraksha Sanhita**, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSAs/DLSAs.

17. APPEAL:

In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA.

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

18. REPEAL & SAVINGS–

(1) In case this Chapter is silent on any issue pertaining to Victim Compensation to Women, the provisions of Victim Compensation Scheme of the State would be applicable.

(2) Nothing in this Scheme shall prevent Victims or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation: It is clarified that this Chapter does not apply to minor victims under POCSO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33 (8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

SCHEDULE APPLICABLE TO WOMEN VICTIM OF CRIMES

S. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of compensation
1	Loss of Life	Rs. 5 Lakh	Rs. 10 Lakh
2	Gang Rape	Rs. 5 Lakh	Rs. 10 Lakh
3	Rape	Rs. 4 Lakh	Rs. 7 Lakh
4	Unnatural Sexual Assault	Rs. 4 Lakh	Rs. 7 Lakh
5	Loss of any Limb or part of body resulting in 80% permanent disability or above	Rs. 2 Lakh	Rs. 5 Lakh
6	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 Lakh	Rs. 4 Lakh
7	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 Lakh	Rs. 3 Lakh
8	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 Lakh	Rs. 2 Lakh
9	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 Lakh	Rs. 2 Lakh
10	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs. 2 Lakh	Rs. 3 Lakh
11	In case of pregnancy on account of rape.	Rs.3 Lakh	Rs.4 Lakh
12	Victims of Burning:		
a.	In case of disfigurement of case	Rs. 7 Lakh	Rs. 8 Lakh
b.	In case of more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%	Rs. 3 Lakh	Rs. 7 Lakh
d.	In case of less than 20%	Rs. 2 Lakh	Rs. 3 Lakh
13	Victims of Acid Attack-		
a.	In case of disfigurement of face.	Rs. 7 Lakh	Rs. 8 Lakh

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b.	In case of injury more than 50%.	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%.	Rs. 3 Lakh	Rs. 5 Lakh
d.	In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.

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FORM –I

APPLICATION FOR THE AWARD OF COMPENSATION UNDER COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL ASSAULT/OTHER CRIMES, 2018 FOR INTERIM/FINAL RELIEF FOR WOMEN

1.	Name of the Applicant Victim(s) or her Dependent(s)	
2.	Age of the Victim(s) or her Dependent(s)	
3.	(a) Father's Name (b) Mother's Name (c) Spouse's Name	
4.	Address of the Victim(s) or her/their Dependent(s)	
5.	Date and time of the Incident	
6.	Whether FIR has been lodged?	
7.	Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report.	
8.	Status of trial, if pending. If over, enclose copy of judgment and order on sentence.	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.	
10	Give details of financial expenditure/ loss incurred	
11.	Have you instituted any civil suit/ claim against the perpetrator of offence. If yes give details. Signature of the Victim/Dependent.	

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