

CONDUCT AND CONTROL IN THE COURT GENDER SENSITISATION

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CONDUCT AND CONTROL IN THE COURT GENDER SENSITISATION

TRAINING MANUAL FOR FACILITATORS

FACILITATORS NOTE

This session has been prepared to be delivered as an interactive narrative by facilitators for participants and as a background for a PowerPoint presentation. The narration set out is a suggested example of what might be said by the facilitator when conducting this 75 minute session as the numbered PowerPoint slides are shown.

SLIDE 1

INTRODUCTION TO THE SESSION

NARRATIVE TO SET THE SCENE

Many of you may be thinking well what is gender sensitisation all about and why do we need this as judges?

Before dealing with “what” gender sensitization means” it may be helpful to provide some basic background information as to “how” and “why” gender sensitisation has become a topic of importance.

- International bodies and United Nations agencies have been concerned for decades about the fact that women in all societies continue to suffer from violations of their most basic human rights. Women make up more than half the population in the world, but they suffer inequalities at every level in every country, by comparison with men.
- United Nations bodies have drawn up a separate gender specific international instruments which identify and focus on particular needs of women. These have been discussed adopted and ratified by the majority of countries in the form of Conventions and other universal instruments.
- The United Nations body which has had the greatest influence on addressing these issues has been the Committee on the Elimination of Discrimination against Women.
- A prime focus is on the right of women to have equality of access to justice with men

- The legal system is a vital means of enabling women to obtain equality of access to justice with men and to seek redress for violations of the rights. Their matters come before the courts.
- However women in every country have expressed that the court processes and court experiences have not been sensitive to their legal issues and that there was a lack of sensitivity and awareness on gender issues throughout the judicial system.
- The judicial system has been largely male dominated, with fewer female judges and fewer female court staff and fewer barristers.
- Many countries, particularly common law countries, have recognized the need to address these issues through training and workshops such as this on gender sensitization for judges.
- Trainings have been done not many countries in Asia including the Philippines, Nepal and India.
- They are tailor-made for each country but the overall principles remain the same.
- A prime purpose of gender sensitization training is recognize the inequalities which beset women and adversely impede their equal access to justice and then address their constraints so that they obtain equality of access to justice in practice.

OBJECTIVES OF THE SESSION

SLIDE 2

TOPIC 1 Discuss what gender sensitization means

TOPIC 2 Understand the meaning of sex, gender, gender roles, gender stereotyping

TOPIC 3 Understand why is gender stereotyping is an issue

TOPIC 4 Discuss the why we have these gendered views

TOPIC 5 Understand unconscious or implicit bias and the effect on judicial decision-making

- TOPIC 6 Discuss ways to address and reduce unconscious bias
- 1 activity to assist understanding and discussion
- **The session will be interactive and encourage participation and discussion throughout**

TOPIC 1 GENDER SENSITISATION - STARTING FROM WHERE WE ARE

SLIDE 3

NARRATIVE

- The discussion about gender sensitization will start with an activity
- This will give each of us an opportunity to reflect on our current views and assumption about the characteristics and roles of men and women in society

ACTIVITY

- A card will be handed out to each of you
- You will be asked to tick the box to indicate whether you regard the word as being a characteristic, job or an object associated with being a woman or a man
- The cards will be collected without identifying who answered the question and we can discuss the content of the cards collectively

FACILITATOR NOTE: The words used on the cards are set out below. These words are to be categorised as being a characteristic, occupation or object commonly associated with a woman/ female or man/male.

Bus driver	Kite	Secretary
Toy car	Childbirth	Tea set
Court clerk	Bicycle	Vagina
Breastfeeding	Nurse	Computer games
Soccer ball	Penis	Domestic helper
Professor	Doll	Fashion designer
Menstruation	IT specialist	Manager
Childcare	Super hero	Strategic thinking
Flirtatious	Shopping	Gardening
Washing	Cooking	Brave

FACILITATOR NOTE: Potential Questions to ask participants

- What do you all think about labelling this word as being applicable to a woman or a male?
- What does the answer assume about women/men?
- Is that answer always true?
- Where do we get these notions from? Childhood upbringing, media, school, peer group etc
- What do you think the effect of having these assumptions and beliefs are on men and women, on society etc

WHAT IS GENDER SENSITISATION?

SLIDE 4

NARRATIVE

- The earlier activity exercise has already started us thinking about gender and being sensitive to gender.
- Gender sensitisation is a process

- It is a process which requires each of us to think about how we categorize or generalize about people in our everyday lives, and assume characteristics about them, simply because they are male or female
- This categorization or generalization which we make about people based on their sex is referred to as “gender stereotyping” of people
- We ascribe behaviors or characteristics to persons based on our preconceived beliefs or myths which we apply to them, because they are male or female, rather than who they are in actual fact.
- Gender sensitization is:
 - not a war between the sexes
 - not anti–male
 - both women and men can be victims of gender stereotyping which leads to discrimination or inequality
 - both women and men can have difficulty gaining access to justice
 - both men and women can benefit by considering why there are these gender differences and why it is important to redress them.
- gender sensitisation requires each of us to personally reflect on
 - **why** we have these beliefs/myths/views about men and women,
 - **where** they come from and
 - **how** these views are be perpetuated and
 - **what** we can do to reduce and preferably eliminate gender stereotyping .

GENDER SENSITISATION AND EQUALITY

SLIDE 5

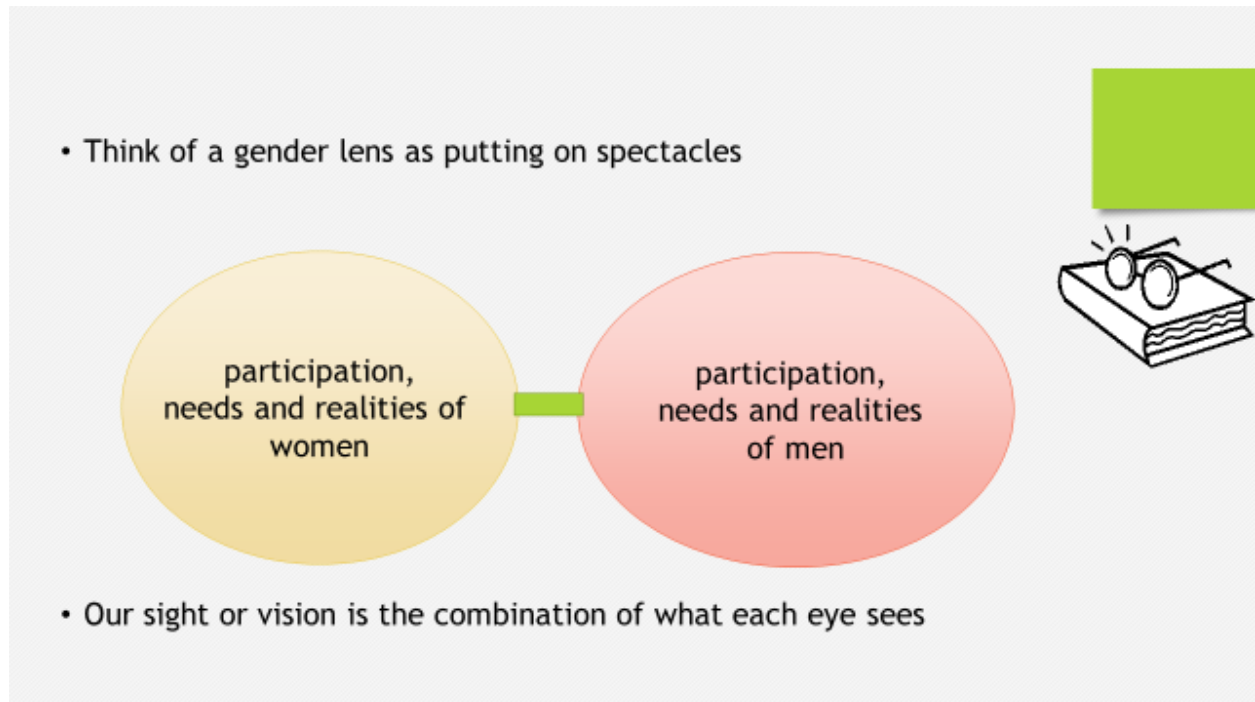
NARRATIVE

- Gender sensitisation is about the equal valuing of women and men in society.
- It is about respectful partnerships between men and women
- Gender equality requires us to recognize the similarities and differences between women and men.
- The clear similarities of men and women are our human features and our clear differences are biological differences
- However, research also shows that men are more valued in society than women and that women are not treated equally to men.
- Also research reveals that the **overwhelming majority** of women are victims of inequality and discrimination in comparison with men
- Therefore the prime focus of this gender sensitisation session is about being more gender aware and sensitized about the situation of women and girls in society and their access to the courts.

SLIDE 6

NARRATIVE

Gender sensitisation requires the application of a gender lens



FACILITATOR NOTE: before showing the Slide 7 content, ask participants what is the meaning of the sex of a person

SEX OF A PERSON

SLIDE 7

NARRATIVE

- sex identifies the biological difference between men and women
- it is about the functional differences between women and men and their reproductive potential
- it is determined by genes
- the terms men and women or male and female are biological terms
- sex is unchangeable (with rare exceptions)

FACILITATOR NOTE: before showing the Slide content, ask participants what is the meaning of the Gender of a person

GENDER OF A PERSON

SLIDE 8

NARRATIVE

- Gender refers to the culturally or socially constructed roles ascribed to men and women
- gender is determined by our awareness and reaction to biological sex combined with cultural or sociological factors in society
- gender identifies the social relations between men and women
- the terms masculine and feminine refer to gender
- Unlike the sex of a person, since gender is cultural and social it can be changed, as both cultural and social relations are dynamic and change occurs over time

GENDER STEREOTYPING

SLIDE 9

NARRATIVE

- As previously mentioned we tend to ascribe behaviors or characteristics to persons based on our preconceived beliefs or myths which we apply to them, simply because they are male or female, rather than who they are in actual fact.
- This is referred to as gender stereotyping
- In the activity we also talked about some of those characteristics which we associate with a person being male or female eg brave and flirtacious
- Can you give examples of some of the characteristics which are commonly associated with being a woman and being a man?
- Eg which sex is commonly associated with being submissive? Which sex is commonly associated with being dominant? What are other examples?
- What do you think about this list of some suggested traditional gender stereotypes

TRADITIONAL GENDER STEREOTYPES

SLIDE 10

TRADITIONAL GENDER	STEREOTYPES
<u>FEMININE</u>	<u>MASCULINE</u>
Not aggressive	Aggressive
Dependent	Independent
Easily influenced	Not easily influenced
Submissive	Dominant
Passive	Active
Home- oriented	Worldly
Easily hurt emotionally	Not easily hurt emotionally
Indecisive	Decisive
Talkative	Not at all talkative
Gentle	Tough
Sensitive to other's feelings	Less sensitive to other's feelings
Very desirous of security	Not very desirous of security
Cries a lot	Rarely cries
Emotional	Logical
Verbal	Analytical
Kind	Cruel
Tactful	Blunt
Nurturing	Not Nurturing

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FACILITATOR NOTE Select some and see whether participants agree that these a commonly held in society?

GENDER IDENTITY

SLIDE 11

NARRATIVE

- Another example of gender stereotyping as well as gender inequality and discrimination, may arise in the context of a community or social and cultural response to person's gender identity
- gender identity refers to a person's private, subjective sense of their own sex
- Most persons identify themselves as being either male or female
- However gender identity includes persons who identify themselves as being lesbian, gay, transsexual, transgender, bi-sexual, or intersex (LGBTI)
- Intersex people refer to people whose five biological characteristics are not either all male or all female at birth

- Persons who identify as LGBTI are also ascribed gender roles and stereotyped based on perceptions as well as cultural and sociological factors.
- Eg If a Male person identifies as female and either behaves or dresses as a female, "she" may be discriminated against in a similar way to women, because "she" is not Masculine.
- Similarly a female person may identify themselves as male and other behaviour or dress as a male and "he" and may be more discriminated against than either women or men.
- This is an important group of people who often have the least access to justice than either men or women stop

SEX ROLE AND GENDER ROLE

SLIDE 12

NARRATIVE

SEX ROLE

- We have discussed the difference between sex and gender. In this slide we consider what are the actions, activities or responsibilities which are associated with persons by reason of their sex or their gender. In other words we are looking at the sex role and the gender role of persons
- A Sex Role is one which results from a person having a certain biological functions depending on whether a person is male or female.
- For example, pregnancy is a female sex role because only members of the female sex may bear children.
- Similarly breast feeding is a female sex role as being female is an essential qualification.
- Sex Roles are therefore limited to innate biology

GENDER ROLE

- The gender role results from learned behaviors that condition us to regard certain activities and responsibilities as being appropriate for male or female
- Simple examples: (as emerged in the Activity 1)
 - Women are regarded as nurturing and as a result they are expected to perform the role of staying at home and looking after the home even if they have no children
 - Men are regarded as assertive and responsible and should go out and work
- We therefore apply generalized characteristics to women and men and that results in women and men undertaking on (thinking that they have to take on) certain roles in society.
- But, not all women are nurturing. But even if a particular woman has a nurturing characteristic, it does not mean that she should stay at home, or that should she should

look after the children. In a family context, she may be the one who can best go out to work and her husband or another family member or paid employee, could look after the house and children

- Similarly not all men are assertive. But even if a particular man was assertive, that does not mean he should be one who is the bread winner and have to go out to work. His wife may be better suited to go out to work and instead he stays home to look after the home and children.
- In short Gender Roles are very limiting for both men and women. It locks men and women in to pre-determined life and work roles without full regard for their real aptitudes and qualities.

GENDER ROLES AND GENDER STEREOTYPES

SLIDE 13

NARRATIVE

Gender Roles and Gender Stereotypes are linked

- Gender stereotypes lead us to regard a person as suitable to perform certain activities, tasks and responsibilities, based solely on whether they are male or female



A simple practical example would be

Sex	Gender Stereotype	Gender Role
Woman	Women are home-orientated, caring, passive and obedient in taking orders	She would make a good nurse or secretary (female gender role)
Woman	Women are indecisive emotional, easily influenced and not be able to provide leadership	She would not be suitable to take up training for a managerial role
Married Woman	Assumption that she would not be able to work after hours (as she would have to care and cook for her husband and children).	Not promoted to managers role based on that assumption, which may not apply in fact to her situation. If she was a man this would not even be considered as a

		relevant matter to promotion as this assumption would not applied to a man who was married with children
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Therefore Gender stereotypes and gender roles give rise to limitations in occupation, which particularly adversely affects women .

GENDER ROLES - PRODUCTION AND REPRODUCTION

SLIDE 14

NARRATIVE

This Slide highlights another aspect of Gender Roles which leads to a division of labour and gender inequality

- it describes the division between a “production role” of men on the one hand and a “reproduction role” of women on the other
- this sexual division of labour starts in the home and then it is replicated in the work that men and women engage in outside the home
- it is this sexual division of labour which leads to inequality and the fact that there is not an equal valuing of the role and work of women and men society.
- Men are valued more highly as they are seen as contributing to the economy because they have a production role which has economic value
- whereas women have a reproduction role which is not given an economic value.

PRODUCTION ROLE

- Refers to the role of producing goods or services which are ascribed an economic value
- The production role is considered a male role associated with receiving money or wages for doing or providing those tasks in the public sphere: eg; bus drivers, construction workers or professors
- Even when men do work in the private sphere around the home, it may be fixing a tap, changing light bulbs or fixing an electrical issue, which is regarded as the tasks for which men are meant to be better suited

REPRODUCTION ROLE

- Refers to the biological reproduction functions which extends into roles such as child-rearing and housekeeping which are essential but are given no economic value
- This is considered a female role and takes place in the private sphere

- Even when women work outside the home, in the public sphere their jobs frequently replicate their reproductive activities in the private sphere, such as domestic work, nursing, secretarial and caregiving jobs
- These jobs usually attract less money than men's jobs
- Also even when men and women do the same job or an equivalent job they are not equally remunerated. There is what is termed a "wage gap" between men and women's work.

Slide 15

What Does This Picture Depict?



FACILITATOR NOTE: Open up this picture to encourage discussion on what it shows about roles of the woman and the man including the productive and reproductive role and valuing of the work and role of women.

Eg is it a typical situation for female judges and male judges in their own households?

TOPIC 3 WHY IS GENDER STEROTYPING AND GENDER ROLES AN ISSUE?

Slide 16

FACILITATOR NOTE: Open this topic up for answers from the group. Potential answers to share during or after discussion.

- It is common for gender role to be wrongly regarded as being a sex role

- The result is that if roles are defined in terms of sex they are regarded as unchangeable whereas when roles are defined in terms of gender, they can be seen for what they are and can change and improve over time.
- If instead a particular characteristic is correctly identified as being in fact a gender stereotype, then this can lead to changes in society and opportunities to redress discrimination and inequality between men and women.
- The wrong attribution of gender roles results in women are repeatedly being undervalued in the household, in society, in the work force.

WOMEN'S ROLE UNRECOGNISED AND UNDERVALUED

Slide 17



FACILITATOR NOTE: Open up this picture and encourage discussion on what it shows about roles of the woman. For example :

- Is the work of these women fully recognized for its contribution to the household and society?
- Is it properly valued?
- What does it show about the physical strength of women?
- What are the constraints for women, eg basic education and literacy they are constrained for obtaining the best and highest jobs which are held by men.

- Do they receive equal pay for equal work or for work of equal value?

Even if they are working in a profession at the same classification, do they always get given the same responsibilities and are they able to achieve the same promotions?.

TOPIC 4 WHY DO WE HAVE THESE GENDERED VIEWS?

SLIDE 18

NARRATIVE

What are the influences?

When do they start?

How are these views perpetuated?

- **Childhood experiences?**
- **Education at school?**
- **Religion?**
- **Mass Media?**
- **Language?**
- **Other?**

CONFORMING TO SOCIETY'S BELIEF OF MASCULINE AND FEMININE

SLIDE 19

CHILDHOOD

NARRATIVE

- treating boys and girls differently from birth
- dressing them differently
- giving them a different choice of toys
- reinforcing by speaking about a "strong boy" and a "pretty girl"
- telling boys that they should not cry
- requiring girls to help their mothers with housework and the boys to play sport
- spending more time with boys
- other?

EDUCATION

Slide 20

Conforming to Society's belief of Masculine and Feminine?

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Education

اردو جماعت ہفتم : صوبہ سرحد

میں میرے نام (صفحہ ۱۱۶): اب تم اردو کی ہوگی وہ وقت قریب آ گیا ہے کہ تم پرانے گھر کی ہونے والی ہو۔ یکجہلیت نہ ہوگی تو کٹ جائے گی۔ کھیل تاشے کا وقت ختم ہوا۔

عمر کا چھلک : لڑکے ہاں اگر اس بار بھی لڑکی پیدا ہوگی تو اسے بچا ہوتے ہی قتل کر دیا۔ خدا سے بچاؤ سے جو سلطنت کا وارث ہو۔

اولاد دینے کے لئے دعا کریں اور مسجدوں میں اچھا نہیں گئیں (صفحہ ۷)

پھر ایک رات اس نے مردانہ لباس پہنا اور شو اور سے کی تلاش میں کسی نامعلوم منزل کی طرف روانہ ہو گئی (صفحہ ۱۳)

اردو جماعت ہفتم : صوبہ سرحد

صبح سویرے : ایک دو سال پہلے زہرا کی لڑکی کے ساتھ تیرا کرتا کرتی تھی۔ کراہ دو بی بی ہو گئی ہے۔ بی بی لڑکیوں کا پرانے گھر آج بھی ہے۔ کراہ لڑکیوں کے ساتھ لڑکے بی بی ہاں کی۔ لڑکی ہوتی ہے۔

بچہ لڑکا یا لڑکی ہی چاہی ہے۔

بڑے بچے اور بچوں کے ساتھ لڑکے ہوتے ہیں۔ (صفحہ ۱۰)

کسی کے ہاں بچہ ہو یا نہ ہو لڑکی کا بیچ ہونا ناگوار نہیں ہوتی جاتی ہے۔ (صفحہ ۱۳)

اردو جماعت ہفتم : صوبہ سرحد

مردوں کی بڑی شہرت : وہ وہ ایسا معلوم ہو رہا تھا کہ کوئی مرد بچہ آ کر نہ ہو رہی ہو۔ لڑکیوں کا بیچ ہونا کتنا ہی اچھا نہیں ہے۔ لڑکیوں کے ساتھ لڑکے ہوتے ہیں۔ (صفحہ ۱۰)

جو لڑکی : بچاؤ میں لڑکیوں کو مردوں کا لڑکے ہے۔ لیکن لڑکی کو مرد کی خاطر جو اچھا کرتی سمجھائی جاتی ہے۔

اردو جماعت ہفتم : صوبہ سرحد

کھڑے کھڑے : لڑکیوں کو کھڑے کھڑے لڑکے ہوتے ہیں۔ لڑکیوں کو لڑکیوں کا بیچ ہونا کتنا ہی اچھا نہیں ہے۔

اردو جماعت ہفتم : صوبہ سرحد

شہرت کی بڑی شہرت : لڑکیوں کے ساتھ لڑکے ہوتے ہیں۔ لڑکیوں کو لڑکیوں کا بیچ ہونا کتنا ہی اچھا نہیں ہے۔

EDUCATION AT SCHOOL

SLIDE 21
NARRATIVE

- subjects available at school
- girls doing history, language, arts and boys doing maths and sciences
- electives available to girls include home economics, cooking and sewing; for boys carpentry and computer studies
- gender content in text books
- gender images in textbooks and visual aids
- Islamic books used in teaching may be gender specific. Men as the financial provider and protector while woman is the homemaker
- Other?

RELIGION

Slide 22

FACILITATOR NOTE: Open up this picture and encourage discussion on what it shows about roles of the men and woman and how women are differently treated in relation to Talaq and Kula divorce and the reactions of the family members.

Conforming to Society's Belief of Masculine and Feminine?

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• Religion



RELIGION CONT.

SLIDE 23

FACILITATORS NOTE: These points below and others can be amplified by the individual Facilitator

- Normative teachings of Islam and diverse cultural practices among Muslims in Pakistan
- Cultural and community influences (local and foreign) on the practice of Islam and the roles ascribed to men and women in Pakistan
- Personal understanding and interpretation of Qur'an and the Sunnah
- Lack of Debate and innovation in Religion in a Male dominated society
- Role of leading Women in Islam is not highlighted hence no advancement.

MASS MEDIA

SLIDE 24

NARRATIVE

- Images in media constantly portray women as housewives and sex symbols
- They reinforce women's submissive role to men.
- These are recent everyday headlines from different newspapers regarding violence against women

FACILITATOR NOTE; Open this for discussion on what it shows. Eg the focus in on showing the sexuality of women rather than the heinous acts of men. For discussion or comment.

The Media Portrayals	
Victim of gang rape sold for the fourteenth time.	بار بار کاناغریبہ اجتماعی زیادتی کی شہکار خوزادی 14 ویں بار نیلام کی پیشی کا مقدر
Twenty people subject two sisters to violence and parade them naked in public.	اوکاڑہ 20 افراد نے بہنوں کی تشدد برہنہ کر کے گھماتے رہے
A young woman publicly beats up a bearded old man.	بھرے بازار میں دو شیزہ نے داڑھی والے شخص کی ٹھکانی کر دی
Brother beats sister to a pulp.	چھائی نے چھن کو مار مار کر لڑھکا کر رکھا
Newly wed bride is violated.	نویا ہتا بے آبرو ہو گئی
Youth kills his sister and his mother for the sake of honor.	غیرت مند نوجوان نے اپنی ماں اور اس کے آشنا کو قتل کر دیا

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LANGUAGE

SLIDE 25

NARRATIVE

- Language is the most subtle but most pervasive form of reinforcing gender stereotypes
- Language articulates our consciousness, culture and it affects socialization.
- For example if we say that women are "the weaker sex" then we are expressing that women are indeed weak and we would act accordingly.
- Sexist language, even if done unthinkingly, reinforces how we perceive gender
- Many jokes are based on sexist attitudes and reinforce stereotypes, which can be very demeaning of women. This is particularly if they are of a sexual nature and expressed by men in front of women.
- Use of language in the Court is important.

State of Punjab v. Gurmit Singh & Ors, 1996 AIR 1393; 1996 SCC (2) 384 (Anand J) (India, Supreme Court)

'The trial court not only erroneously disbelieved the prosecutrix, but quite uncharitably and unjustifiably even characterised her as a girl "of loose morals" or "such type of a girl". ... We must express our strong disapproval of the approach of the trial court and its casting a stigma on the character of the prosecutrix. The observations lack sobriety expected of a judge. ... The courts are expected to use self-restraint while recording such findings which have larger repercussions so far as the future of the victim of the sex crime is concerned and even wider implications on the society as a whole – where the victim of crime is discouraged – the criminal encouraged and in turn crime gets rewarded!'

SLIDE 26

Language in the courtroom - case examples

- Some simple but important examples in court decisions which are patronising or suggest gender roles :

Current usage	Preferable alternative
Lady Doctor	Doctor
Female lawyer	Lawyer
Male nurse	Nurse
Male secretary	Secretary
Working mother	Wage earner
Lady Justices	Justices

TOPIC 5 WHAT IS UNCONSCIOUS OR IMPLICIT BIAS?

SLIDE 27

NARRATIVE

- As humans we often make instinctive decisions about people
- Scientific evidence and the work of psychologists reveal that our unconscious people preferences or biases affect how we engage and make decisions about them.
- Our brains are hardwired to rapidly categorize people instinctively using obvious and visible categories:
 - gender, age, size, physical-attractiveness, disability, accent, social background, social orientation, nationality, religion, education and even a job title

- We assign a whole suite of unconscious characteristics both good and bad to that person as a result

FACILITATOR NOTE: The Facilitator may wish to use themselves as an example

UNCONSCIOUS OR IMPLICIT BIAS

SLIDE 28

NARRATIVE

- Judges perceive themselves as being “fair” and “independent” of bias
- Without further enquiry into attitudes and potential “blind spots”, it makes judges vulnerable to making decisions which may be influenced by our bias
- Research reveals that the human instinct is to value, support and defend those who are most like ourselves
- We cannot process everything about every new person we meet and instead we make rapid judgements about them
- Judges also need to unpack their attitudes about people and also cultural values so as to better and more fairly assess what is real and not biased perceptions or stereotypes

RISK FACTORS FOR JUDGES

SLIDE 29

NARRATIVE.

FACILITATOR NOTE: This could be delivered by a series of questions on the topics

Emotional states

- Certain emotional states such as anger or disgust can increase the risk of implicit bias in making decisions.
- This may be due to personal matters about domestic issues arguments illness or worry.
- Or they could arise in the course of the court hearing due to anger or exasperation about counsel, witnesses, staff or other court matters.
- We all know as a matter of our common experience, that thinking and making decisions when we are angry, upset or other similar high emotional states, does not allow us to think and analyze situations clearly. So too it increases the risk that we oversimplify and generalize and fall back on stereotypes and bias.

Ambiguity

- When the basis for a judgment is somewhat vague such as the exercise of discretion or involves applying new or unfamiliar laws, the risk of unconscious bias is greater.
 - For example, when judges exercise discretions in matters such as deciding on credibility in matters of consent in rape, or when sentencing,

- For example when judges are required to apply new laws or laws with which they are not familiar, the process can be more difficult and challenging. It is easy to fall back and apply familiar views or experiences, the comfort zone, which may bring in biases or stereotypes.
- Judges in Punjab, will need to start applying some of the new pro women legislation, which will require special attention to these issues.

Distracted or pressured decision-making circumstances

- Judicial work can be tiring with long hours, fatigue and heavy or diverse caseloads
- This is a very common factor in all jurisdictions, but more so in some than others.
- Your jurisdictions are all high pressure with very high caseloads.
- Time pressure can force a judge into performing complex judgments relatively quickly
- Hearings are sometimes conducted in busy or noisy conditions
- Distractions can result in a judge not fully attending to incoming information

Low – effort processing

- Pressured circumstances may lead a judge to engage in “low-effort” processing or reasoning
- Low effort processing is referring to reasoning or processing which happens when a judge knows that they have to reach a decision quickly and get on with the next case. They wish to reach a settled view on the witnesses and facts as speedily as possible and this may mean that they do not go through a full evaluation process of conflicts and nuances in the evidence.
- When this happens there is a tendency for the judge to form early views and develop inferences or expectations about a witness early on in the case
- If the “low – effort” reasoning is not addressed, this can affect the approach of the judge to subsequent information and increase the risk of biased assessments and biased judgments

TOPIC 6 HOW CAN JUDGES REDUCE UNCONSCIOUS BIAS

SLIDE 30

NARRATIVE

- There are 3 excellent publications which can provide more detail and discussion on unconscious bias and how judges can reduce unconscious bias, which are in the References
- The basic techniques which are recommended are these:
 - Take notes so that you are not forced to rely on memory, particularly if transcript is not available to reflect on what occurred in a court.
 - Set out the reasoning behind your decision as this process gives a chance to review the evidence with a critical eye before giving your decision

- When you have concerns about matters of interpretation or approaches, seek feedback from other judges for whom you have respect as being fair and independent
- Regularly engage in training sessions to consider hypothetical cases which raise stereotype issues, this is particularly useful for sentencing remarks

IN SUMMARY JUDGES need to question their own assumptions and beliefs, be aware of the risks of unconscious bias and slow down their decision-making process as best they can.

FINAL SUMMARY

SLIDE 31

NARRATIVE

- This whole session has been a process of gender sensitisation
- Reflecting on individual personal views about gender, culture and society
- Discussing influences which come from backgrounds and society
- Discussing the effect which gender stereotypes and unconscious bias can have on judicial work
- Gender sensitisation requires modification and change
- As Nelson Mandela said:

“change your thoughts and you change your world”

SLIDE 32

FACILITATOR NOTE: Open up this picture and encourage discussion on what it shows about roles of the woman and man and value of work.

What does this picture say about gender roles?



REFERENCES

- Dionisio, E.R.2008. *More alike than different: Women, Men and Gender Construction*. Occasional Paper No.3: National Commission on the role of Filipino Women (NCRFW) Manila.
- McCormick, H. UNC Kenen-Flagler Business School: the Real Effects on Unconscious bias in the Workplace
- <https://www.kenan-flagler.unc.edu/~media/Files/documents/executive-development/unc-white-paper-the-real-effects-of-unconscious-bias-in-the-workplace-Final>
- National Centre for State Courts. Helping Courts Address Implicit bias: Strategies to Reduce the Influence of Implicit Bias. <https://www.law.georgetown.edu/faculty-staff/resources/upload/addressing-implicit-bias-in-state-courts-copy.pdf>
- Shire Professional Chartered Psychologists: Innovative Research Solutions: Unconscious bias. <http://www.shirepro.co.uk/index.php>
- UNESCO. 1999. Guidelines on Gender-Neutral language 3rd ed Paris. <http://unesdoc.unesco.org/images/0011/001149/114950mo.pdf>