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Gender Gap and Sensitisation in Judiciary

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Why in News

Recently, the **Attorney General** (AG) **K K Venugopal**, in his written submission to the **Supreme Court** (SC), has emphasised the need for **greater gender sensitisation among members of the judiciary**.

He also highlighted that the **figure of female judges has been consistently low** across the Higher Judiciary.

Key Points

- **Background:**
 - The SC had asked AG and others to **recommend ways to improve gender sensitivity towards victims** while laying down **bail conditions for sex crime offenders**.
 - The Bench had sought view on a plea about courts **imposing bail conditions** for sex crime offenders which **end up further harassing, objectifying their victims**.

The **Madhya Pradesh (MP) High Court (HC)** asked a man (accused in a case of attempting to outrage the modesty of a woman) **to visit the home of the alleged victim and request her to tie a rakhi**.

- **Data on Gender Gap in Judiciary:**

- The **SC** only has **2 women judges**, as against the **34 seats reserved for women judges** and there has **never been a female Chief Justice of India (CJI)**.
- There are **only 80 women judges** out of the **total sanctioned strength of 1,113** judges in the **SC and the HCs**.
 - Out of these 80 women judges, there are only two in the SC, and the other 78 are in various HCs, comprising only 7.2% of the total number of judges.
 - Of the 26 courts whose data was accessed, including the SC, the **Punjab and Haryana HCs has the maximum strength** of women judges (11 out of 85 judges) in the country, **followed by the Madras HC** (9 out of 75 judges). Both Delhi and Bombay HCs have 8 women judges.
 - The **HCs of Manipur, Meghalaya, Patna, Tripura, Telangana, and Uttarakhand, do not have any women** in the sitting judges.
- Currently, **no data is centrally maintained** on the number of **women in tribunals or lower courts**.
- In the **senior designation of lawyers**, there are **only 17** women senior counsel designates in the SC as **opposed to 403 men**.

The Delhi HC has 8 women and 229 men designates. Similarly, in the Bombay HC, there are 6 women and 157 men designates.

- **Importance of Women in Judiciary:**
 - The **2030 Agenda for Sustainable Development, and Sustainable Development Goals** (SDG 5 and SDG 16 in particular), address the global responsibility of having **gender equality and women's representation in public institutions** such as the **judiciary**.
 - Achieving equality for women judges is important not only because it is a **right for women**, but also because it is **right for the achievement of a more just rule of law**. Women judges **strengthen the judiciary and help to gain the public's trust**.
 - The entry of women judges is a positive step in the direction of **judiciaries being perceived as being more transparent, inclusive, and representative** of the people whose lives they affect.
 - Women judges **enhance the legitimacy of courts**, sending a powerful signal that they are **open and accessible to those who seek recourse to justice**.
 - Women judges **bring those lived experiences to their judicial actions, experiences that tend toward a more comprehensive and empathetic perspective**.
 - **Adjudication is enhanced** by the presence of women who **bring to the fore considerations that would not have been taken into account in their absence** and the scope of the discussion is hence enlarged, possibly **preventing ill-considered or improper decisions**.
 - By elucidating how laws and rulings can be based on gender stereotypes, or how they might have a different impact on women and men, a **gender perspective enhances the fairness of adjudication**, which **ultimately benefits both men and women**.

- **Suggestions:**

- Courts should declare that **such remarks** (MP HC issue) **are unacceptable** which can potentially cause harm to the victim and to society at large.
- Judicial orders should **conform to certain judicial standards** and necessary steps have to be taken to ensure that this does not happen in the future.
- The **SC must direct the collection of data to determine the number of women** judges in the lower judiciary and tribunals and also **to determine the year-wise number of senior designates** by all HCs.
- **Greater representation of women should be ensured at all levels** of the judiciary, including the SC and this initiative must come from the SC itself, considering that the **power of appointment rests almost exclusively with the SC Collegium.**
 - The judges of the SC are **appointed by the President.** The CJI is appointed by the President **after consultation with such judges of the SC and HCs** as (s)he deems necessary.
 - The **other judges** are appointed by the President **after consultation with the CJI and such other judges of the SC and the HCs** as (s)he deems necessary. The consultation with the CJI is obligatory in the case of appointment of a judge other than CJI.
- The **goal must be to achieve at least 50% representation of women** in all leadership positions and there should be a **mandatory training of all lawyers on gender sensitisation.**

Judges, who might belong to the “**old school**” and are maybe “**patriarchal**” in outlook, **should be sensitised to deal with cases of sexual violence** so that they do not pass orders objectifying women in such cases.

Way Forward

- The wide prevalence of orders like the one from the MP HC and other similar instances makes it clear that there is a need for urgent intervention from the Courts. Improving the representation of women in the judiciary is of crucial importance and have to go a long way towards a more balanced and empathetic approach in cases involving sexual violence.
- Changing the long-established demographics of a court can make the institution more amenable to consider itself in a new light, and potentially lead to further modernisation and reform. As a court's composition becomes more diverse, its customary practices become less entrenched; consequently, the old methods, often based on unstated codes of behavior, or simply inertia, are no longer adequate.

Source: IE