

International Women's Day

Role of the Judiciary in Achieving Gender Justice

(Interactive Discussion)

On the occasion of International Women's Day, 08th March, 2021 the National Judicial Academy organised an interactive discussion on the theme, "Role of the Judiciary in Achieving Gender Justice". The Director, Hon'ble Justice A.P. Sahi and faculty members NJA participated in the program. The discussion was initiated by the Hon'ble Director by highlighting the significance of celebrating International Women's Day. He further spoke on how this day is observed and recognised in various countries. In Russia, to mark the significance of the day, Women's Day is observed as a holiday. Thereafter, Hon'ble Justice A.P. Sahi elaborated that women are excelling in every area including education, employment etc. Now, they have outnumbered men in various professional examinations like- CLAT, Judicial services etc.

With this brief introduction, the floor was left open for faculty members to elucidate further.

Prof. S.P. Shrivastava, *Professor* opined that gender discrimination is a centuries old malady deeply rooted in the male dominated society. The problem is basically a problem of mind set. Gender discrimination is considered natural and routine conduct- something that the God itself has ordained. It is so deeply rooted in the belief system that often we fail to recognise that it is wrong and against the basic tenets of equality principles. Unless we can operate at the level of belief system of people, it would be impossible to eradicate the evil of gender discrimination. This can be done with the help of education only, that too at primary education level. As far as the role of the judiciary is concerned, it has adequately responded to the challenge. We have a series of cases decided by the apex court and high courts upholding the principles of gender justice. However, the Judiciary has its own limitations. It can declare laws inconsistent with gender justice void; it can interpret laws in harmony with cannons of gender justice and, in appropriate cases, it can issue code of conduct for specific purposes to enforce gender justice. But to expect that we can achieve the goal of gender justice in the society with the help of judicial decisions and legislation alone, it would be too much to expect. Even the judiciary, we can divide into two parts i.e., judiciary on judicial side and judiciary on administrative side. While the judiciary on the judicial side is doing extremely well, the judiciary on the administrative side has not done that well. Though directions of the courts are clear and specific, yet in courts and offices attached to courts, conditions are not conducive for lady lawyers, witnesses and litigants to work without being victim of gender discrimination. It was suggested, one or two sessions may be devoted to evolve tools, techniques and strategies gender sensitization in court campus and offices attached to courts.

Dr. Amit Mehrotra, *Assistant Professor*, commenced by quoting Mahatma Gandhi and Kofi Annan respectively - "*there is no occasion for women to consider themselves subordinate or inferior to*

women” & “there is no tool for the development more effective than the empowerment of women”. Provisions of the Constitution of India about the prohibitions of discrimination were discussed. It was stated that the role of a judge is to dispense justice as per the constitutional goals and one of the mandates of the Constitution is Article 14 which speaks about the right to equality. The role of the judge comes when there is gender disparity in the society either in the form of payment or gender violence or otherwise and when the case comes before the court, it is the onerous duty of the court to dispense gender justice. Personality development is a process from birth to adulthood and is shaped by others and one’s own experiences. It was emphasized that a judge should be free from all preconceived notions, biases and prejudices while adjudicating a case. It was suggested that it is the duty of district courts to follow and implement guidelines of the Supreme Court and High Courts in reference to gender justice.

Mr. Rajesh Suman, *Assistant Professor*, discussed guidelines of the Supreme Court of India for assisting the victims of rape as formulated in the case, *Delhi Domestic Working Women's Forum v. Union of India* (1995) 1 SCC 14. The guidelines set out various steps which are required to be taken for assisting the victims of rape including providing legal representation, informing victim of her right to representation, maintaining anonymity of victim and providing compensation to victim. The challenges in implementation of such guidelines at the ground level were discussed and it was emphasized that a session on ensuring implementation of these guidelines to ensure gender justice, may be included in training programs of the Academy.

Ms. Nitika Jain, *Law Associate*, accentuated that judiciary has not only upheld laws favourable to women but have also interpreted and extended these laws to provide a wide range of rights to women which includes right to choice, equal right to guardian ship, right against discrimination in service rules, right to property, right against discrimination by religious activities, right to dignity, integrity, livelihood etc. Judiciary has ensured gender justice by appreciating women in every role and facet in a society and ensured that justice should be gender sensitive and not gender blind. She further highlighted contemporary developments with respect to women’s equal rights to service in the military as that of Commissioned Officers.

Dr. Sonam Jain, *Research Fellow*, emphasized that to make the situation better, it is for the people to sensitize masses regarding gender justice. We should make the younger generation understand that the colours, toys and choices they make are gender neutral. Collectively we should leave behind all stereotypes and look at things from a wider angle.

According to Ms. Paiker Nasir, *Research Fellow*, deliberations made by all faculty members while addressing the role of judiciary in achieving gender justice emphasized that positive affirmative actions of courts are visible by the pragmatically proactive case law jurisprudence. What is indispensable thereafter, is the need to change the society as a whole. The theme of this year's International Women's Day is “Choose to Challenge”. Endured world is a vigilant world and from

challenge comes transformation and change. We can all choose to defy everything that is holding us back and become better allies.

Hon'ble Justice A.P. Sahi concluded the discussion by highlighting that women have contributed to development of society and played pivotal role in strengthening internal security as well as in improving administration. Thereafter, it was deliberated that men have enjoyed being on the privileged side since ages but now, women are also experiencing privileges by way of gender justice. Hon'ble Justice A.P. Sahi further added that etymologically, "*(S)he*" includes "*He*" and "*(Wo)man*" includes "*Man*". This in itself signifies that the harmony between two genders is inevitable.