

SUPREME COURT MUST LISTEN TO A-G, TAKE STEPS TO FIX ITS GENDER DEFICIT

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Women belong in all places where decisions are being made”: The late American Supreme Court justice Ruth Bader Ginsburg's dictum is a goal for institutions in all democratic societies. Unfortunately, the Indian judiciary falls far short of that standard. The highest court of the land, in the seven decades of its existence, has made space for only eight women judges. The current Supreme Court has two women justices. There has never been a woman Chief Justice of India. Women comprise 7.2 per cent of all the judges in the SC and the high courts for which data is available. Attorney-general KK Venugopal has done well to remind the Supreme Court of this yawning gender deficit at the heart of the Indian judicial system.

The attorney-general made these remarks in a written submission, when he was asked by an SC bench to weigh in on a particularly flagrant bail condition set by the Madhya Pradesh High Court. The HC had asked a man accused of “outraging the modesty of a woman” to visit the home of the victim and ask her to tie a rakhi. Nine women lawyers had moved the SC against the bail order, which they rightly said “trivialised” the violation. Similar observations on what constitutes women's “character” and what is “becoming” behaviour of sexual assault victims surface too often in court proceedings. The attorney-general has called for gender sensitisation of judges and lawyers to avoid judgments which get tangled in patriarchal notions of honour when they should hold up constitutional rights.

But, as he also pointed out, it is not by sensitisation alone that institutions commit to equality. Greater representation of women across all levels of judiciary is urgently needed for dismantling patriarchal attitudes that sustain a system of rank injustice, in which courts are known to prod alleged sexual offenders and victims towards “compromise weddings”. Gender justice, since the December 2012 protests, has gained political and social visibility. But it is let down by entrenched patriarchal systems, which continue to resist change. This was illustrated in the shocking spectacle of a SC Chief Justice presiding over a case in which he had been accused of sexual harassment at workplace. That the SC, which also has empowering judgments on gender rights to its credit, could not institute an impartial mechanism to deal with the allegations, signifies a blindness for which it is accountable to history. It can make amends. The judiciary should heed the suggestions of the attorney-general to collect data and apprise itself of the gender skew in its workings, and take urgent steps to bridge the gap.

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