

4. Ethical Push for Sensitive Judiciary- Polity

The Supreme Court of India has constituted an expert committee to develop guidelines that infuse sensitivity and compassion in judicial functioning, especially in cases involving sexual offences and vulnerable victims

Background and Judicial Context

The controversy originated from a 2025 order of the Allahabad High Court in a case involving alleged sexual assault on a minor. The order reportedly

1. Used explicit and graphic language while narrating the alleged act.
2. Diluted the charge from attempt to rape to a lesser offence.
3. Raised concerns regarding both legal reasoning and judicial sensitivity.

Following representations by civil society organisations, the Supreme Court of India took suo motu cognisance, highlighting that -

1. Judicial language must align with constitutional morality and dignity.
2. Court orders should avoid unnecessary explicitness that may retraumatise survivors.
3. The dignity of the victim is integral to the justice delivery process.

The Supreme Court subsequently -

1. Set aside the High Court's order.
2. Restored the summons issued by the Special Court.
3. Constituted a committee to frame guidelines on the use of sensitive and appropriate judicial language.

Rationale for Supreme Court Intervention

The issue goes beyond one individual judgment and touches on systemic concerns -

1. Re-traumatisation of victims through graphic judicial descriptions.
2. Judicial dilution of serious charges affecting the gravity of offences.
3. Normalisation of patriarchal or culturally insensitive language in legal discourse.
4. The need to reconcile freedom of judicial expression with the right to dignity under Article 21.

The intervention reflects a shift from purely doctrinal adjudication to victim-centred jurisprudence.

Key Mandate of the Committee

Promoting Compassionate Judicial Language

The committee is tasked with - Framing guidelines for appropriate courtroom language in cases involving sexual offences, child abuse, and other sensitive matters.

Ensuring that judicial orders avoid

1. Graphic, unnecessary descriptions.
2. Victim-blaming language.
3. Gender stereotypes.

Emphasising protection of -

1. Privacy of survivors.
2. Confidentiality in sexual offence cases.
3. Emotional well-being of litigants.

Addressing Cultural and Linguistic Dimensions

India's multilingual judicial system requires contextual clarity. The committee will identify expressions in regional languages or dialects that may be

1. Derogatory
2. Sexually suggestive
3. Humiliating

Clarify that casual or colloquial usage of certain terms may – Amount to legal wrongdoing (e.g., outraging modesty, defamation).

Encourage language that enables survivors to narrate trauma

1. Without fear of humiliation
2. Without facing secondary victimisation

Accessibility and Public Engagement

To ensure broad implementation

1. The report will be drafted in simple, non-technical language.
2. It will be translated into regional languages.
3. It will serve as guidance not only for judges but also for –
 1. Prosecutors
 2. Defence counsel
 3. Court staff

This reflects an effort to democratise judicial norms.

Compassion as a Constitutional Value in Judicial Functioning

Compassion is not antithetical to legal reasoning; rather, it is embedded in constitutional jurisprudence.

Protection of Vulnerable Sections

Cases involving women, children, persons with disabilities, Scheduled Castes, Scheduled Tribes, and other marginalised groups demand heightened sensitivity. Compassion allows judges to –

1. Prevent intimidation of victims during proceedings.
2. Avoid humiliating cross-examinations.
3. Ensure accessibility accommodations where required.

This aligns with

1. Article 14 (Equality before law)
2. Article 21 (Right to life and dignity)
3. Directive Principles promoting social justice

Humane Courtroom Conduct

Judicial authority is exercised not only through orders but also through demeanour. Compassionate judicial conduct includes –

1. Polite and respectful address.
2. Patience with traumatised witnesses.
3. Avoidance of stereotypes (e.g., assumptions about victim behaviour).
4. Conscious restraint in language while recording testimony.

Such conduct shapes the legitimacy of the judiciary.

Sentencing Philosophy

Compassion influences sentencing by balancing –

1. Gravity of the offence
2. Circumstances of the offender

3. Possibility of reform and rehabilitation
4. Impact on victims

It supports the doctrine of proportionality and furthers reformatory justice principles.

Importance of Compassion for the Rule of Law

Enhancing Public Trust

1. Judicial insensitivity erodes institutional credibility.
2. Compassionate reasoning fosters faith in constitutional governance.
3. Courts are seen as protectors of rights, not mere arbiters of procedure.

Improving Access to Justice

Victims often hesitate to approach courts due to -

1. Fear of public humiliation
2. Social stigma
3. Re-traumatisation

Sensitive language reduces psychological barriers and promotes meaningful participation.

Preventing Miscarriage of Justice

Insensitive attitudes may -

1. Distort appreciation of evidence.
2. Lead to dilution of charges.
3. Reinforce structural biases.

Compassion ensures attentive fact-finding and fairness.

Strengthening Democratic Governance

A compassionate judiciary reinforces -

1. Constitutional morality
2. Substantive equality
3. Human dignity as a foundational value

It operationalises justice not merely as legality, but as fairness infused with empathy.

Broader Jurisprudential Implications

The Supreme Court's initiative may -

1. Institutionalise standards of gender-sensitive adjudication.
2. Influence judicial training curricula at the National Judicial Academy and State Judicial Academies.
3. Encourage development of trauma-informed judicial practices.
4. Integrate psychological and sociological insights into courtroom procedure.

It reflects a move toward victim-centric and rights-based adjudication.

Way Forward

For meaningful implementation -

1. Judicial academies must conduct structured training on sensitive language.
2. Performance evaluations may incorporate courtroom conduct indicators.
3. Bar councils should sensitise advocates on ethical language standards.
4. Periodic review mechanisms should monitor compliance.

The Supreme Court's intervention signals that justice must not only be legally sound but also emotionally responsible. By embedding empathy into judicial processes, the Indian judiciary strengthens its constitutional commitment to dignity, equality, and inclusive rule of law.

Source - <https://www.thehindu.com/news/national/supreme-court-forms-committee-sensitivity-guidelines-for-judges-2025-allahabad-hc-sexual-assault-order/article70646642.ece>

