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# Gender Stereotypes and Human Rights Legislations in India: A Doctrinal Analysis

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## ABSTRACT

*This research aims to explore the intricate relationship between gender stereotypes and human rights legislations in the context of India. Gender stereotypes are deeply ingrained societal beliefs that often lead to discrimination and inequality. The study focuses on understanding how these stereotypes impact the effectiveness and implementation of human rights legislations in India, with a specific emphasis on women's rights.*

*The research will employ a doctrinal analysis approach, utilizing legal texts, case laws, and relevant statutes to examine the extent to which gender stereotypes hinder the realization of human rights principles enshrined in the Indian Constitution and international treaties. The objectives of the study are to (a) identify prevalent gender stereotypes in India's socio-cultural fabric, (b) analyze key human rights legislations addressing gender-based discrimination, and (c) assess the challenges faced in translating legislative intentions into practical gender equality.*

*By critically evaluating landmark judgments and legal provisions, the research seeks to shed light on the interplay between gender stereotypes and the jurisprudential interpretation of human rights norms. The study will also examine the role of the judiciary in rectifying gender-based discrimination and explore the potential for legal reforms to mitigate the adverse effects of stereotypes.*

*The findings of this research hold significant implications for policy makers, legal practitioners, and activists working towards gender equality and human rights in India. It is anticipated that the research outcomes will contribute to a better understanding of how to address gender stereotypes effectively within the legal framework, fostering more robust protection and promotion of human rights for all, irrespective of gender.*

**Keywords:** *Gender stereotypes, Human rights legislations, India, Women's rights, Discrimination, Legal reform, Jurisprudence.*

## I. INTRODUCTION

Gender stereotypes, defined as preconceived notions about roles, behaviors, and characteristics attributed to individuals based on their gender, have been pervasive throughout history and

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across cultures.<sup>2</sup> These stereotypes often reinforce unequal power dynamics, limit opportunities, and perpetuate discrimination, particularly against women and marginalized gender identities. These notions are deeply embedded in social and cultural norms, often shaping attitudes and behaviors that disadvantage certain groups while favoring others.

In the Indian context, gender roles and expectations have been deeply entrenched for centuries, often reflecting cultural, religious, and historical beliefs. Traditional patriarchal structures have assigned specific roles and responsibilities to individuals based on their gender, leading to disparities in access to education, employment, healthcare, and decision-making power. While legal reforms and social movements have brought about significant changes, gender stereotypes persist and continue to impact various facets of Indian society.<sup>3</sup>

India's journey toward gender equality has been marked by both progress and challenges. The country has a vibrant history of social reform movements and legal changes aimed at dismantling discriminatory practices. The Constitution of India, adopted in 1950, enshrined the principles of equality and non-discrimination, providing a foundation for addressing gender-based inequalities. Additionally, India is a signatory to various international human rights treaties and conventions that emphasize gender equality and women's rights.

However, despite legal and policy advancements, gender stereotypes persist and manifest in everyday life. These stereotypes shape perceptions of masculinity, femininity, and gender roles, influencing decisions related to education, career choices, marriage, and family responsibilities. They also contribute to the perpetuation of harmful practices such as child marriage, dowry, and female infanticide.

In recent years, efforts to challenge and transform gender stereotypes have gained momentum in India. Civil society organizations, media campaigns, and grassroots initiatives have aimed to raise awareness about the harmful effects of stereotypes and promote a more inclusive understanding of gender. Legal interventions have sought to address discriminatory practices such as triple talaq (instant divorce) and marital rape.

Given this complex landscape, it is imperative to delve into the interplay between gender stereotypes and human rights legislations in India. This research will critically examine how legal frameworks interact with prevailing societal norms, exploring the potential for legal

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<sup>2</sup> Tanja Hentschel, Madeline E. Heilman & Claudia V. Peus, *The Multiple Dimensions of Gender Stereotypes: A Current Look at Men's and Women's Characterizations of Others and Themselves*, 10 FRONTIERS IN PSYCHOLOGY (2019), <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00011> (last visited Aug 21, 2023).

<sup>3</sup> Gender Roles in Indian Culture: Understanding Traditions, Trends, and Challenges - allthingsMUMBAI, <https://allthingsmumbai.com/gender-roles-in-indian-culture/> (last visited Aug 21, 2023).

reforms to bridge the gap between legislative intentions and on-the-ground realities. In doing so, it seeks to contribute to a more comprehensive understanding of the challenges and opportunities for promoting gender equality within the legal framework in India. II. Literature Review

## II. GENDER STEREOTYPES AND THEIR IMPACT ON HUMAN RIGHTS

Gender stereotypes are ingrained cultural beliefs and assumptions that assign certain roles, behaviors, and characteristics to individuals based on their perceived gender. These stereotypes often reinforce traditional binary notions of masculinity and femininity, dictating how individuals should behave, think, and interact within society. Stereotypes can take various forms, such as the expectation that women are caregivers and men are breadwinners, or that certain professions are more suitable for one gender over the other.

### Impact of Gender Stereotypes on Human Rights:

Gender stereotypes have far-reaching implications for the enjoyment of human rights, particularly those that pertain to equality, dignity, and non-discrimination. The impact of these stereotypes on human rights can be observed in several dimensions:

- **Education and Economic Opportunities:**

Gender stereotypes can limit educational and professional choices. Women may be discouraged from pursuing careers in fields perceived as "male-dominated," while men might face stigma for pursuing roles traditionally associated with women.<sup>4</sup> This perpetuates gender-based segregation in education and employment, restricting individuals' access to quality education and economic empowerment.

- **Healthcare and Reproductive Rights:**

Stereotypes about women's roles as caregivers can negatively affect their access to healthcare and reproductive rights.<sup>5</sup> The assumption that women should prioritize family responsibilities can lead to inadequate support for their own health needs, including reproductive health.

- **Violence and Discrimination:**

Stereotypes that perpetuate notions of male dominance and female submissiveness contribute to a culture of violence and discrimination.<sup>6</sup> Women may face increased vulnerability to

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<sup>4</sup> Anaïs Llorens et al., *Gender Bias in Academia: A Lifetime Problem That Needs Solutions*, 109 NEURON 2047 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8553227/> (last visited Aug 21, 2023).

<sup>5</sup> Ciara O'Connell & Christina Zampas, *The Human Rights Impact of Gender Stereotyping in the Context of Reproductive Health Care*, 144 INT J GYNAECOL OBSTET 116 (2019).

<sup>6</sup> Understanding domestic violence: masculinity, culture, traditions - PMC,

gender-based violence, as such behavior is normalized within societies that uphold these stereotypes.

- **Political Participation and Decision-Making:**

Stereotypes that associate leadership and decision-making with masculinity can discourage women from entering politics or leadership roles. This limits women's representation in decision-making processes, hindering the realization of their political rights.

- **Cultural Practices and Traditional Norms:**

Gender stereotypes often reinforce harmful cultural practices and norms, such as child marriage, dowry, and female genital mutilation. These practices can violate individuals' rights to autonomy, dignity, and bodily integrity.

- **Access to Justice:**

Stereotypes that perpetuate notions of women as less credible or capable can influence judicial outcomes, affecting women's access to justice and their ability to seek remedies for human rights violations.

Addressing the impact of gender stereotypes on human rights requires a multifaceted approach that combines legal reforms, awareness campaigns, education, and policy changes. By recognizing the profound implications of these stereotypes on human rights, societies can work toward dismantling them and creating a more equitable and inclusive environment for all individuals, regardless of their gender.

### III. THEORETICAL FRAMEWORK

Intersectionality is a critical framework that recognizes the interconnected nature of social identities and systems of oppression. It acknowledges that individuals hold multiple identities (e.g., gender, race, class, sexuality), and these identities interact to shape their experiences of privilege and marginalization.<sup>7</sup> When applied to the study of gender stereotypes, intersectionality highlights that the impact of stereotypes is not uniform and can vary based on factors such as race, socioeconomic status, and caste. Understanding the intersectional nature of gender stereotypes is crucial for comprehending the nuanced ways in which stereotypes compound and interact to perpetuate discrimination.

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<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7599123/> (last visited Aug 21, 2023).

<sup>7</sup> Jane Coaston, *The Intersectionality Wars*, VOX (2019), <https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination> (last visited Aug 21, 2023).

## **Legal Foundations of Human Rights in India:**

India's legal framework for human rights is founded upon the Constitution of India, which guarantees fundamental rights and principles of equality and non-discrimination. Key provisions such as Articles 14 (right to equality),<sup>8</sup> 15 (prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth)<sup>9</sup>, and 21 (right to life and personal liberty)<sup>10</sup> provide the basis for challenging gender stereotypes that infringe upon these rights. Additionally, Directive Principles of State Policy enjoin the state to ensure gender justice and provide equal opportunities for men and women. The Constitution also allows for affirmative action measures to uplift marginalized groups, including women.

The Indian judiciary has played a pivotal role in interpreting and expanding the scope of these constitutional guarantees. Landmark judgments have recognized the importance of gender equality and non-discrimination, interpreting these rights as not just formal legal principles, but substantive guarantees that require active measures to rectify historical injustices.

The research will explore how the intersectional understanding of gender stereotypes interacts with the legal principles enshrined in the Constitution and how the judiciary's evolving interpretation addresses the complexities of these intersections.

By grounding the analysis within these theoretical frameworks, this research aims to provide a comprehensive understanding of the relationship between gender stereotypes, human rights, and legal frameworks in India. It seeks to unveil the ways in which intersectionality shapes the experience of gender stereotypes and the legal mechanisms available to counteract their harmful effects. Through this exploration, the research aims to offer insights into the efficacy of the existing legal provisions and avenues for improving the protection and promotion of gender equality and human rights.

## **IV. HUMAN RIGHTS LEGISLATIONS ADDRESSING GENDER DISCRIMINATION**

### **A. Constitution of India: Foundational Framework for Gender Equality:**

#### 1. Article 14: Equality before the Law:<sup>11</sup>

Article 14 of the Indian Constitution guarantees equality before the law and equal protection of laws to all individuals. This provision establishes a fundamental principle of justice that prohibits arbitrary discrimination. It serves as a bedrock for challenging gender-based

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<sup>8</sup> INDIA CONSTI., art. 14.

<sup>9</sup> INDIA CONSTI., art. 15.

<sup>10</sup> INDIA CONSTI., art. 21.

<sup>11</sup> INDIA CONSTI., art. 14.

discrimination and ensuring that no individual is treated unfairly due to their gender. The judiciary has often interpreted this article to emphasize substantive equality, highlighting that formal equality alone is insufficient when addressing historical and systemic inequalities based on gender.

## 2. Article 15: Prohibition of Discrimination:<sup>12</sup>

Article 15 prohibits discrimination on various grounds, including sex. It affirms the state's commitment to preventing discrimination and upholding the principles of social justice. This article enables the government to enact laws and policies that promote the interests of marginalized groups, particularly women, who have historically faced discrimination and exclusion. The judiciary's interpretation of Article 15 has extended its protection to encompass intersectional discrimination, recognizing the compounding effects of multiple identities.

## 3. Directive Principles of State Policy: Gender Justice and Empowerment:

While not enforceable by courts, the Directive Principles of State Policy provide a roadmap for governance and policymaking. Article 39(a)<sup>13</sup> directs the state to ensure that citizens, both men and women, have equal rights to adequate means of livelihood. Article 42<sup>14</sup> emphasizes just and humane conditions of work and maternity relief for women workers. These principles guide the state's commitment to gender justice and empowerment, encouraging legal and policy interventions that address structural inequalities.

## 4. Reservations and Affirmative Action:

The Constitution allows for reservations and affirmative action to uplift marginalized and disadvantaged sections of society, including women. Articles 15(3), 15(4), and 16(4)<sup>15</sup> permit the state to make special provisions for women and other groups that face social and economic hardships. These provisions recognize that systemic discrimination requires targeted interventions to create a more equitable society.

## 5. Judicial Interpretation: Expanding the Scope of Gender Equality:

Over the years, the judiciary in India has played a crucial role in interpreting and expanding the scope of constitutional guarantees to address gender discrimination. Landmark cases have affirmed the need for substantive equality, recognizing that formal legal provisions must be supplemented by affirmative action and active measures to rectify historical injustices. The

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<sup>12</sup> INDIA CONSTI., art. 15.

<sup>13</sup> INDIA CONSTI., art. 39(a).

<sup>14</sup> INDIA CONSTI., art. 42.

<sup>15</sup> INDIA CONSTI., art. 15(3), 15(4), 16(4).

courts have emphasized the importance of equal access to opportunities, dismantling discriminatory practices, and promoting the dignity and autonomy of individuals irrespective of their gender.

In sum, the Constitution of India provides a strong foundational framework for addressing gender discrimination through its fundamental rights, directive principles, and provisions for affirmative action. It enshrines the principles of equality, non-discrimination, and justice, and its evolving interpretation by the judiciary demonstrates a commitment to upholding these principles in the pursuit of gender equality. However, while the constitutional framework sets the stage, effective implementation of gender equality requires the enactment and enforcement of specific legislations that address the nuanced challenges of gender-based discrimination.

#### **B. Domestic Violence Act (Protection of Women from Domestic Violence Act, 2005):<sup>16</sup>**

This act recognizes the multifaceted nature of violence against women by addressing not only physical abuse but also emotional, verbal, economic, and sexual abuse within domestic relationships. It provides for protection orders, residence orders, and monetary relief for victims. The act acknowledges the need for specialized mechanisms to address violence that often arises from gender-based power dynamics.

#### **C. Sexual Harassment Act (The Sexual Harassment of Women at Workplace [Prevention, Prohibition and Redressal] Act, 2013):<sup>17</sup>**

Filling a critical gap, this act aims to prevent and redress sexual harassment at workplaces, which is rooted in unequal power dynamics. It mandates the formation of internal complaints committees and enforces mechanisms for reporting and investigating complaints. The act recognizes that gender-based discrimination hampers women's full participation in the workforce.

#### **D. Maternity Benefits Act (The Maternity Benefit Act, 1961):<sup>18</sup>**

This act recognizes the unique challenges women face during pregnancy and motherhood and seeks to protect their rights in the workplace. It guarantees maternity leave, prenatal care, and postnatal benefits, acknowledging the importance of ensuring women's health and economic security during these critical phases.

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<sup>16</sup> Domestic Violence Act (Protection of Women from Domestic Violence) Act, 2005, No. 43, Acts of Parliament, 2005 (India).

<sup>17</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

<sup>18</sup> The Maternity Benefit Act, 1961, No. 53, Acts of Parliament, 1961 (India).



**E. Prohibition of Child Marriage Act (The Prohibition of Child Marriage Act, 2006):<sup>19</sup>**

Child marriage is often driven by deeply entrenched gender stereotypes that reinforce unequal power dynamics between men and women. This act aims to curb child marriage by setting a legal age for marriage and criminalizing its practice, safeguarding girls' right to education, health, and personal development.

**F. Legal Reforms and Emerging Laws:**

In recent years, discussions around marital rape laws, the decriminalization of homosexuality, and the protection of transgender rights have gained momentum. These discussions underscore the evolving nature of gender discrimination laws in India, highlighting the need to address gaps and challenges within the legal framework.

**G. Intersectionality and Inclusivity:**

While these legislations offer critical protections, there is a need to adopt an intersectional approach to ensure that the laws effectively address the diverse experiences of discrimination faced by marginalized communities. Incorporating provisions that consider the intersection of gender with other identities such as caste, religion, and sexual orientation can lead to more comprehensive legal remedies.

In examining these human rights legislations, it becomes clear that addressing gender discrimination requires a multifaceted legal approach that recognizes the intricacies of gender-based power dynamics and acknowledges the diverse experiences of individuals. These laws, while instrumental, need continued vigilance, amendment, and implementation to bring about substantive gender equality and create a more inclusive and just society.

**V. CASES****1. Indra Sawhney v. Union of India (1992):<sup>20</sup>**

In this case, commonly known as the "Mandal Commission case," the Supreme Court upheld the constitutional validity of reservations in public employment for Other Backward Classes (OBCs). The court recognized that affirmative action measures were necessary to rectify historical injustices and address social and economic inequalities. While this case primarily dealt with caste-based reservations, it laid the foundation for the principle of affirmative action to achieve substantive equality.

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<sup>19</sup> The Prohibition of Child Marriage Act, 2006, No. 6, Acts of Parliament, 2007 (India).

<sup>20</sup> AIR 1993 SC 477

**2. Vishaka v. State of Rajasthan (1997):<sup>21</sup>**

The Vishaka case was a pivotal moment in recognizing gender-based discrimination as a violation of fundamental rights. The Supreme Court laid down guidelines to address sexual harassment at the workplace and emphasized the importance of creating safe working environments for women. The court's proactive approach underscored the need for legal interventions that actively combat gender-based discrimination and protect women's rights to dignity and equality.

**3. National Legal Services Authority v. Union of India (2014):<sup>22</sup>**

In this landmark case, the Supreme Court recognized the rights of transgender individuals and their entitlement to constitutional protection. The court's judgment acknowledged that discrimination against transgender individuals is a violation of their fundamental rights and highlighted the need for legal reforms to rectify such discrimination. This case marked a significant step toward recognizing the intersecting vulnerabilities faced by transgender individuals and the importance of affirmative action to address their unique challenges.

**4. Shayara Bano v. Union of India (2017):<sup>23</sup>**

Popularly known as the "Triple Talaq case," this judgment declared the practice of instant triple talaq (talaq-e-biddat) as unconstitutional. The court emphasized that gender equality and the dignity of women are integral to constitutional values. By striking down a discriminatory practice that perpetuated gender-based inequalities, the judgment reaffirmed the principle of substantive equality and the need to actively eliminate practices that undermine the rights of women.

In each of these cases, the judiciary recognized that achieving substantive gender equality requires moving beyond formal legal equality to address historical injustices and systemic discrimination. These cases highlighted the importance of affirmative action, active measures, and policy interventions to rectify imbalances and promote equal access to opportunities for marginalized groups, particularly women. The judiciary's evolving interpretation underscores the dynamic nature of legal principles in the pursuit of gender justice.

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<sup>21</sup> AIR 1997 SC 3011

<sup>22</sup> (2014) SCC 438

<sup>23</sup> (2017) 9 SCC 1

## VI. JURISPRUDENTIAL ANALYSIS

### A. Landmark Court Cases on Gender Stereotypes and Human Rights

#### 1. **Rajesh Sharma v. State of Uttar Pradesh (2017):**<sup>24</sup>

This case drew attention to the need to prevent misuse of the anti-dowry law. The judgment's casual reference to mediation and counseling as potential remedies sparked concerns about undermining the seriousness of gender-based violence. The legal and social implications of gender stereotypes in the context of domestic violence and dowry-related cases were highlighted by this decision.

#### 2. **Anuj Garg v. Hotel Association of India (2007):**<sup>25</sup>

This case addressed the stereotype of women as responsible for protecting "Indian culture" by upholding a policy that restricted the entry of unmarried couples to hotel rooms. The Supreme Court struck down the policy, emphasizing that it perpetuated gender-based discrimination and violated individuals' right to privacy and dignity.

### B. Judicial Interpretation of Gender Equality Principles:

#### 1. **Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) (Right to Privacy Case):**<sup>26</sup>

While not directly a gender discrimination case, this judgment recognized privacy as a fundamental right. Privacy is essential for protecting individuals from discriminatory practices and invasive stereotyping based on their gender or sexual orientation. The judgment underscored the importance of personal autonomy and freedom from intrusive state interference.

#### 2. **Indian Young Lawyers Association v. The State of Kerala (2018) (Sabarimala Temple Entry Case):**<sup>27</sup>

The court's interpretation of Article 25 (freedom of religion) in this case brought into focus the balance between religious practices and gender equality. By allowing women of all ages to enter the Sabarimala Temple, the court challenged deeply ingrained stereotypes and norms that limited women's access to religious spaces based on biological factors.

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<sup>24</sup> (2017) 3 SCC 821

<sup>25</sup> AIR 2008 SC663

<sup>26</sup> (2017) 10 SCC 1

<sup>27</sup> (2017) 10 SCC 689

### **C. Role of Precedent in Challenging Stereotypes:**

#### **1. Lata Singh v. State of U.P. (2006):<sup>28</sup>**

This case dealt with the issue of honor killings resulting from inter-caste marriages. The court emphasized the right to choose a partner freely and condemned the perpetuation of caste-based stereotypes that fueled such killings. The judgment set a precedent that challenged the societal norms and stereotypes that condoned honor crimes.

#### **2. Vineet Narain v. Union of India (1997):<sup>29</sup>**

While primarily concerning corruption and government transparency, this case exemplified the potential for legal activism to challenge prevailing stereotypes. The judgment demonstrated the court's commitment to accountability and integrity, highlighting the judiciary's role in challenging societal norms that tolerate corruption and abuse of power.

In conclusion, jurisprudential analysis of landmark court cases on gender stereotypes and human rights reveals a dynamic interplay between legal interpretation, societal norms, and the promotion of gender equality. The judiciary's role in challenging stereotypes through precedent and interpretation is crucial for fostering a more inclusive and just society. These cases illustrate how the legal system can serve as a tool to challenge discriminatory stereotypes, advance gender equality, and reshape the contours of societal norms.

## **VII. CONCLUSION**

The intersection of gender stereotypes and human rights legislations in India underscores the complexity of achieving true gender equality. This research delved into the intricate relationship between these two elements, recognizing the profound impact of ingrained societal beliefs on the efficacy of legal frameworks. Through a comprehensive analysis of gender stereotypes, human rights legislations, judicial interpretation, and potential legal reforms, several key insights emerged.

Gender stereotypes, deeply rooted in Indian society's historical, cultural, and social fabric, continue to perpetuate discrimination and limit opportunities for women and marginalized gender identities. These stereotypes undermine the principles of equality, dignity, and non-discrimination enshrined in the Constitution of India and international human rights conventions.

Human rights legislations have been instrumental in addressing gender-based discrimination,

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<sup>28</sup> (2006) 5 SCC 475

<sup>29</sup> 1 SCC 226

offering protection against violence, promoting workplace equality, and addressing historical injustices. However, the effectiveness of these legislations is hindered by the persistence of stereotypes, which challenge their implementation and impact.

Judicial interpretation has played a pivotal role in expanding the scope of gender equality principles. Landmark cases have recognized the need for substantive equality and the importance of addressing historical injustices through affirmative action and active measures. The judiciary's evolving approach reflects an understanding of the complexities of intersectional discrimination and the role of legal reforms in addressing them.

Potential legal reforms, such as revisiting legal language, strengthening enforcement mechanisms, and incorporating anti-stereotyping provisions, offer avenues to challenge gender stereotypes more effectively. Such reforms can create a legal framework that not only addresses gender-based discrimination but actively challenges the norms that perpetuate it.

In conclusion, this research highlights the importance of recognizing gender stereotypes as a significant barrier to achieving gender equality. By fostering a more nuanced understanding of their impact on human rights legislations and incorporating measures to counteract them, India can pave the way for a more inclusive, equitable, and just society. This research serves as a call to action for legal practitioners, policymakers, activists, and society as a whole to work collectively toward dismantling stereotypes and realizing the full potential of gender equality and human rights.

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