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## **CHAPTER-VII**

### **Gender-Based Violence and Human Rights**

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## **7.1. Introduction**

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One of the most prevalent and socially accepted forms of violence in the world is gender-based violence, or GBV. It is a pervasive and chronic problem in India, and it is closely related to patriarchy and the fundamental conviction that males have the right and authority to abuse women. It has its roots in women's subservient position and is connected to the idea of masculinity which maintains that a "real man" is someone who uses violence against women. GBV seriously hinders women's ability to exercise the human and basic rights guaranteed by the Indian Constitution.

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## **7.2. Aims**

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Upon finishing this chapter, you will be able to:

- Recognize the concept of gender-based violence;
  - Identify the many forms of gender-based violence;
  - Determine the causes and effects of gender-based violence;
  - Stress the need to put an end to this kind of violence.
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## **7.3. Gender-Based Violence: What Is It?**

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The most severe example of unequal gender relations in society is gender-based violence (GBV), which is also one of the most prevalent violations of human rights. The United Nations defines gender-based violence as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering for women, whether occurring in public or private life." Sida defines to GBV as "any harm or suffering perpetrated against a woman or girl,

man or boy that has a negative impact on the person's physical, sexual, psychological health, development, or identity." Part of the violence stems from prejudice and power imbalances based on gender. Gender-based violence, as defined by the UNFPA, is "violence involving men and women in which the female is usually the victim and which is derived from unequal relations between men and women." Any harmful act carried out against a person's will (without consent) and driven by socially enforced (gender) differences between men and women is referred to as gender-based violence (GBV). The term "gender-based violence" (GBV) is used to distinguish between various types of violence committed by individuals and collectivities and violence directed towards specific persons or groups of individuals depending on their gender. Any behavior that harms someone physically, sexually, or psychologically is covered. Coercion, the threat of such acts, and the willful denial of liberty are all examples of gender-based violence. Gender-based violence may be perpetrated by governmental agents, within the family, or in the community during "peace times" or times of conflict. It can be committed by strangers, close acquaintances, family members, or even husbands. Gender-based violence is primarily committed by men against women and girls according to their gender, even though violence is horrible for everyone-men, women, and children alike. Along with its general effects on women's physical and mental health, it also affects women's dignity, security, sexuality, ability to procreate, and autonomy-the right to control one's own body. Men and women's power differences, which are exacerbated by institutional, cultural, and socioeconomic injustices, are the root cause of gender-based violence.

Although there is a subtle difference between violence against women (VAW) and gender-based violence (GBV), the terms are commonly used interchangeably. The phrase "gender-based violence" acknowledges the gender aspects of the violence, both from the perspective of the

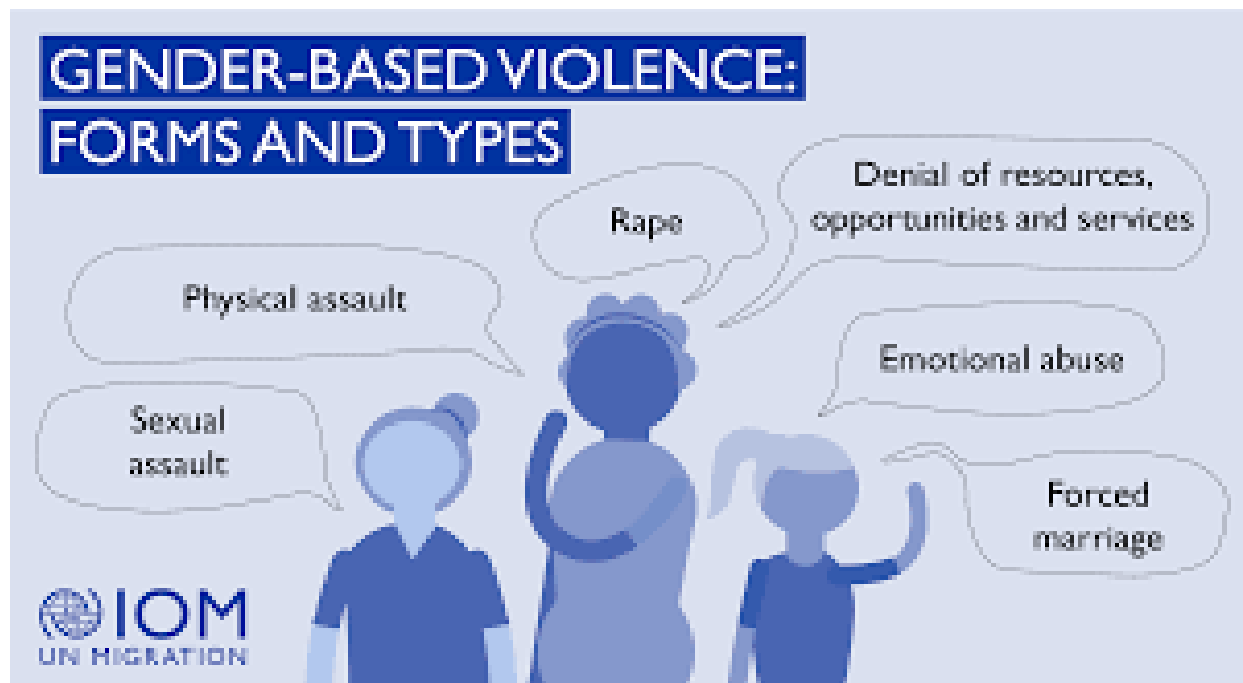
perpetrators and the victims, even if VAW includes all types of GBV against women and girls. Gender-based violence (GBV) is a term used to differentiate other types of violence committed by individuals or groups from gender-based violence. In "peace times" or times of war, gender-based violence can happen in the community, within the family, and by both state and non-state actors. It could be carried out by close friends, family members, strangers, or romantic partners. Thus, GBV is more inclusive and broad. Men and women's disparities are both reflected in and encouraged by gender-based violence, endangering the victims' autonomy, security, dignity, and well-being. It covers a wide range of violations of human rights. Although it affects women and girls more than men, GBV is not just a problem for them. Although boys and men are occasionally the targets of gender-based violence, it is unknown how much of an impact GBV has on them. The clash between mainstream and alternative sexuality understandings and practices shows how gender-based violence is made worse against lesbians, gays, bisexuals, and transgender persons. Taking note of the severe human rights offences committed against members of India's LGBT populations, as well as the incidence of GBV against them.

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#### **7.4 Classifications of Violence Based on Gender**

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**Classifications of GBV:** GBV is a multifaceted phenomenon that is closely linked to gender inequality. In order to stop and address all forms of gender-based violence, we must take every safety measure. The following defines the six primary forms of GBV.



**Fig.1.**

**7.4.1 Rape:** Using a penis or other bodily part to enter the mouth, vagina, or anus without consent is known as rape. This also includes the non-consensual insertion of an object into the anus or vagina. A few instances are forced oral sex, sodomy, gang rape, and marital rape, but there are more. Since there was no penetration, attempted rape is not included in this type of GBV. For instance, one morning a woman was raped and beaten by two men. When she gets home that afternoon to tell her family what happened, they throw her out since she brought the family into disrepute. She then reports what has happened and seeks assistance from a GBV service provider. The case manager needs to fill out two different intake forms and handle this as two separate incidents. It is appropriate to categorize the first incident as "Rape" and the second as "Denial of Resources."

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**7.4.2 Sexual Assault:** Non-consensual sexual contact that does not involve penetration is referred to as sexual assault. Attempts at rape, unwelcome kissing and stroking, inappropriate contact with the breasts, genitalia, or buttocks, and female genital mutilation are a few examples. Because it involves penetration, rape is not included in this type of GBV. For instance, sexual assault is made possible by the complete concentration of power in the hands of a male boss, on whom a woman depends to get or maintain employment and who sets her pay, evaluates her performance on the job, offers her opportunities for advancement, provides training, and decides the kind and level of work she must do. Women's lower job skill levels, the lack of societal recognition of the work they do, the more dependent nature of their employment status, and their lack of autonomy and decision-making power are risk factors.

**7.4.3 Physical Assault:** This type of violence is defined as non-sexual physical assault. Examples comprise, but are not restricted to: shooting or using any weaponry, acid attacks, punching, slapping, choking, cutting, shoving, burning, or any other act that results in physical pain, suffering, or injury. Female genital cutting or mutilation, as well as honour killing, are not considered forms of gender-based violence. Physical assault can occur to anyone, regardless of gender, age, or any other trait. It can be discrimination or hate crime, which means that the assault was motivated by hostility towards a person or group because of a protected characteristic, domestic violence, which means that the assault occurred within a relationship or between family members, or sexual assault and rape, which means that the assault was sexual in nature.

**7.4.4 Forced Marriage:** When someone is married against their will, it is known as forced marriage. Forced marriage occurs when you are

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coerced into marriage using extortion, harassment, financial pressure, emotional pressure, guilt, or threats. When women in India reach a particular age, they are emotionally blackmailed or compelled to marry. In several sections of the country, girls under the age of 18 are forced to marry. However, not every girl would like to marry at a young age. Many girls in India aspire to further their education and become self-sufficient. As a result, it is critical that every woman in India understands her rights and the legal choices open to her in the face of forced marriage.

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**7.4.5 Refusal of Opportunities, Resources, or Services:** This refers to the act of denying someone their rightful claim to financial resources or assets, opportunities for a livelihood, health, education, or other social services. Examples include, but are not limited to, a widow losing her inheritance, having her money taken from her by a family member or intimate partner, a woman not being allowed to use contraception, a girl not being allowed to go to school, and so on. Reports of pervasive poverty are not included in this kind of GBV. For instance, if the woman was living with her boyfriend and financially dependent on him before getting pregnant, and he later kicks her out of the house and stops supporting her financially, this should be classified as "Denial of Resources, Opportunities, or Services." Likewise, in the event that the woman gets in touch with him after giving birth and claims that her boyfriend is no longer willing to accept that the child is his and has stopped providing financial support; this should be classified as "Denial of Resources, Opportunities, or Services."

**7.4.6 Abuse of the Mind or Emotions:** The causing of pain, suffering, or emotional or mental distress. Examples include making threats of physical or sexual violence, intimidating, humiliating,



isolating yourself, stalking, verbally abusing others, drawing unwanted attention, making menacing or sexual remarks, gestures, or writings, destroying priceless items, and so forth. For instance, the occurrence ought to be classified as "Psychological/Emotional Abuse" if the woman lived independently or with her parents and was not financially dependent on her partner.

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## **7.5 The Causes of Gender-Based Violence and its Effects**

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**[A] Gender-Based Violence Causes:** One of the most obvious effects of unequal power relations between men and women is gender-based violence. GBV is not caused by a single component; rather, it is the result of several elements working together, and the interaction of these factors is what causes the majority of the issues. Among them are the following:

**1. Poverty:** Girls and women who are impoverished are more susceptible to being trafficked and used for sex purposes. Due to a lack of funds and resources, victims of intimate partner or domestic abuse have fewer options for escaping violent relationships.

**2. Dowry:** In India, dower is said to have had a major role in the violence against women that has been documented. Brides and young girls are killed before marriage in some of these murders, which also entail emotional and physical abuse.

**3. Lack of Education-** The detrimental effects of a lack of education can be seen throughout a woman's lifetime. An uneducated female is less equipped to make her own family planning decisions. A child bride is more likely to experience health problems and psychological distress, while her children are more vulnerable to starvation and illiteracy.

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**Fig. 2:** The branches represent the various types of GBV that can happen as well as the factors that influence it.

**4. Cultural and Social Attitudes:** Laws, attitudes, and practices that discriminate against and violate the rights of women and girls are categorized as cultural and social attitudes. Violence against women is frequently justified by gender stereotypes. Cultural norms often require men to be aggressive, controlling, and dominant, while women are expected to be submissive, obedient, and dependent on men for support. A culture of open abuse may be fostered by these customs.

**5. Alcoholism and Drug Abuse:** Men drink more alcohol and follow riskier drinking habits, like binge drinking in short bursts. Excessive alcohol consumption raises the possibility of aggressive conduct, such as sexual assault and violence in close relationships.

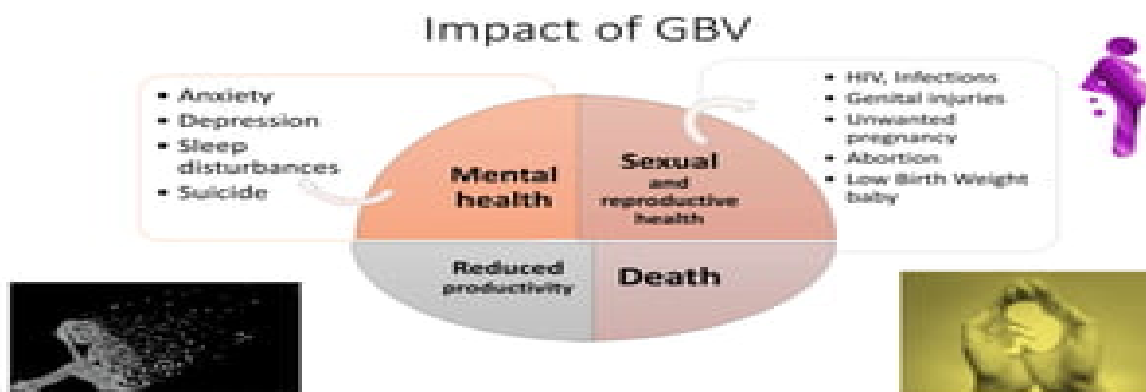
**6. Judicial Barriers:** Poor access to justice institutions and mechanisms leads to a culture of impunity for abuse and violence; insufficient and costly legal counsel and representation; inadequate victim/survivor and witness protection mechanisms; and an inadequate legal framework, which includes discriminatory national, traditional, customary, and religious laws against women and girls.

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## 7. Absence of Institutional Grievance and Complaint Procedures:

In situations where grievance and complaint procedures are lacking or nonexistent, women tend to keep quiet to avoid losing their jobs and facing more abuse. Additionally, sexual problems can harm women's and their families' reputations over the long run, which can seriously jeopardize young women's chances of getting married.

**[B] Effects and Repercussions of GBV:** GBV can result in psychological distress, including suicidal thoughts and feelings of fear, anxiety, and self-blame. In contrast to physical trauma, it is not always evident, but girls and women are disproportionately affected by it. The effects can extend beyond physical harm, impacting behavior and social interactions. Women who experienced sexual molestation as children, for instance, are more likely to feel horrible about it. They start to feel bad about themselves and become less confident. People often engage in high-risk behaviors and activities as a result of these self-defeating attitudes. They become more vulnerable to STIs like HIV, unwanted pregnancies, and infertility as a result.



**Fig. 3.** After being raped, the woman depicted in the above image has developed depression. She believes that no one can relate to her circumstances and that she is alone.

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Additionally, the spread of STIs is encouraged by sexual violence. For instance, infection may occur in a woman or girl who is sexually assaulted by an infected person. Additionally, it's possible that she is carrying an unwanted pregnancy, which might lead to a number of unfavorable consequences, including an unsafe abortion. Girls who have been victims of gender-based violence (GBV) may see medical facilities frequently for a range of complaints, such as increasing pain, back and pelvic pain, gastrointestinal problems, recurrent STI episodes, or unplanned pregnancies. This is especially true when physical and sexual abuse is involved. Nonetheless, patients might choose not to disclose their experiences of sexual violence to medical professionals, and medical professionals might overlook the fact that untreated GBV is the underlying cause of all these problems and symptoms, so they don't ask about violence. These women and girls consequently do not obtain the essential medical attention.

<b>Table.1. Effects of gender-based violence.</b>		
<b>Physical</b>	<b>Psychosocial/mental</b>	<b>Sexual and reproductive</b>
<b>Partial or permanent disability</b>	Anger, anxiety, fear	Sexual disorders and risky behaviours
<b>Poor nutrition</b>	Shame, self-hate, self-blame	Early sexual experiences (for those who are victims of childhood sexual abuse)
<b>Exacerbation of chronic illness</b>	Post traumatic stress disorder (nightmares, recurrent distressing thoughts)	Unprotected sex
<b>Chronic pain</b>	Depression	Abortions
<b>Gastrointestinal problems</b>	Sleep disorders	Bad pregnancy outcomes, low birth weight, neonatal death
<b>Organ damage</b>	Suicidal thoughts	Maternal death
	Substance abuse	Suicide
	Social stigma	STIs including HIV
	Social rejection and isolation	AIDS
		Infertility
		Chronic pain

It is odd that girls and young women do not report GBV when they visit a health institution because GBV has a wide range of connected consequences on health.

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## **7.6 Human Rights**

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The desire for every person to have access to the conditions required for a decent living gives rise to human rights, which are here described as a set of moral precepts with legal ramifications. Rights of entitlement and personal nature are the two categories under which human rights fall. Rights that society is required to accord to every individual in order for them to be able to exist in contemporary society are known as Entitlement Rights. All people have an inalienable right to economic, social, and personal security as well as to healthcare, education, and other essential services. An entitlement to rights is recognised by the United Nations Universal Declaration of Human Rights. The rights that grant an individual the ability to govern themselves are known as Personal Rights. One of the core human rights that has been expressly acknowledged by the United Nations Universal Declaration of Human Rights is the right to a livelihood. Fundamental human rights include the freedom from governmental interference with one's own body and the right to privacy. Apart from the previously mentioned, civil and political rights can be regarded as the "first generation" of human rights, social, economic, and cultural rights as the "second generation," the right to peace, development, and a healthy environment as the "third generation," and peoples' rights as the "fourth generation."

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Governor General William Benedict officially outlawed the practice of "Sati" in 1829 after years of campaigning by Hindu reform movements like Ram Mohan Roy's Brahma Samaj against this orthodox Hindu funeral custom of widows self-immolating after the death of their right to maintenance upon divorce, which prompted protests from Muslim clergy. "The Muslim Women's Protection of Rights on Divorce Act" was passed by the Rajiv Gandhi government in 1986 in an attempt to overturn the Supreme Court's decision. The Delhi High Court has ruled that Section 377 of the Indian Penal Code, which outlaws a number of unidentified "unnatural" sex activities, is invalid. The Child Marriage Restriction Act was passed in 1929 and forbade the marriage of minors younger than 14 years old. Hindu women were given additional rights in 1955 as a result of a change of Hindu family law. The well-known Shah Banoo case, in which the Supreme Court recognised a Muslim woman's preference over a female child. The birth of a male child is regarded as a blessing, and its celebration is observed, but the birth of a female child is not honored and is perceived as a hardship. Worldwide, there is a great deal of discrimination against female children based on their gender. It manifests itself in a multitude of ways and is evident at all societal levels. In order to eradicate gender-based violence in India, the following laws have been passed on occasion and are listed in table 2.

**Table-2**

<b>S.No.</b>	<b>Laws</b>	<b>Year</b>
<b>1.</b>	The Immoral Traffic (Prevention) Act	1958
<b>2.</b>	Dowry Prohibition Act	1961
<b>3.</b>	Indecent Representation of Women (Prevention) Act	1985
<b>4.</b>	Protection of Women from Domestic Violence Act	2005
<b>5.</b>	Prohibition of Child Marriage Act	2006
<b>6.</b>	Protection of Children from Sexual Offences Act (POCSO)	2012
<b>7.</b>	The Criminal Law Amendment Act	2013

Human rights initiatives can be seen in the international and regional landscapes listed below.

**Table-3**

S.No.	International Landscape	Year	Regional Landscape	Year
1.	UDHR- Universal Declaration of Human Rights	1948	Belem	1994
2.	CEDAW- the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Recommendation 12 and 19)	1979	Maputo	2003
3.	The Rome Statute	1998	Istanbul	2011
4.	The UN Security Council Resolutions- 1325, 1820, 1888, 1889.	1948	American Declaration on the rights and duties of man	1948
5.	Declaration on the Elimination of Violence Against Women	1993	American Convention on HR,s	1969
6.	Beijing Platform for Action	1995	The African Charter on human & people's rights	1982
7.	International Day Against GBV	1999.	African Charter on the rights and welfare of the Child	1990

The United Nations Charter of 1945 and the Universal Declaration of Human Rights (UDHR), which was ratified by the UN General Assembly on December 10, 1948, were both inspired by the events of World War II, particularly the violations of human dignity.

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“All human beings are born free and equal in dignity and rights”

(Article 1, Universal Declaration  
of Human Rights)

Human Rights Gender-based violence violates universal and fundamental human rights, such as:

- The right to life.
- The right to personal security.
- The right to equal protection under the law.
- The right to freedom from torture and other cruel, inhumane, or degrading treatment.

One of the most severe violations of women's rights in the world, according to the UN, is violence against women. Human rights were founded by the United Nations in the 1948 Universal Declaration of Human Rights. Since then, gender-based violence has been addressed by several international accords. This comprises the United Nations Declaration on the Elimination of Violence Against Women (1993), the CEDAW General Recommendations 12 and 19, and the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The World Conference on Women of the United Nations in Beijing in 1995 affirmed that "violence against women is an obstacle to the achievement of the objectives of equality, development, and peace." The enjoyment of women's human rights and fundamental freedoms is undermined, hindered, or completely destroyed by violence against them. Women have the right to exercise their human rights to the fullest extent possible without facing discrimination, and all employees, regardless of immigration status, have the right to remedies and protection from workplace infractions such as sexual harassment. Addressing these issues requires adhering to a number of international labour norms that are pertinent to the prevention and eradication of gender-based violence in the workplace. One of the



world's most generally recognized statements of human rights is found in the Universal Declaration of Human Rights. It includes the following crucial rights.

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- According to Article 3, everyone has the right to life, liberty, and personal security free from slavery.
  - According to Article 5, no one shall be the victim of torture or cruel, inhuman, or degrading treatment.
  - According to Article 7, everyone is equal before the law and has a right to equal protection under it without distinction.
  - According to Article 9, no one may be arbitrarily detained or arrested.
  - According to the law, everyone accused of a criminal offence has the right to a public trial where they get all the protections required for their defence and are assumed innocent unless proven guilty (Article 11 (1)).
  - No individual may be the target of willful disruption of their home, family, or privacy. According to Article 12, everyone has the right to be shielded from legal intrusions and assaults.
  - According to Article 19, everyone is entitled to the freedom of speech and opinion.
  - Article 20: Freedom of association and assembly.
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GBV is a serious issue both in our nation and globally. People must be made aware of GBV and the harm it can do to a person's life. GBV can also be eradicated by educating boys and men, empowering girls and women, altering gender stereotypes and societal norms, and passing and upholding laws at the local, national, and international levels. It is important to acknowledge women's and girls' place in society. In order to transform our societies, we must all act to eradicate all forms of gender-based violence in order to achieve gender equality and promote respect for each person's dignity and human rights. Each of us is an agent of this urgently required transformation.

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