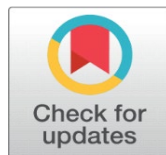
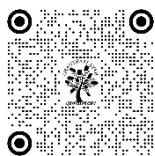


## GENDER DISCRIMINATION

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### ABSTRACT

Over the course of the last several years, there has been a significant amount of attention paid to the grave issue of women in India misusing the judicial system. The fact that women in India are often subjected to discrimination and do not have equal rights and opportunities contributes to the existence of gender bias in many aspects of Indian society. However, the fact that women often take advantage of the judicial system just helps to exacerbate the gender bias that already exists. Throughout the history of the legal system, there have been several instances of women attaining their objectives, sometimes at the expense of men. This behaviour is not only inappropriate from a moral standpoint, but it also goes against the Constitution. In the Indian Constitution, there is no section that specifically addresses the issue of gender equality. Over the course of its history, the Constitution has been subjected to several amendments in order to ensure that women are afforded equal legal protection. It is a fundamental human right to ensure that women are protected from any kind of discrimination, regardless of circumstances. Despite this, prejudice against women continues to exist in many aspects of society, such as the marriage market, the job, and educational institutions. In India, the most prevalent instances of women misusing the judicial system are those that include domestic violence and offences involving dowries. According to Indian law, crimes that include dowries are considered to be of a criminal character and entail criminal consequences. Instead, women often create charges of dowry harassment against their husbands or in-laws in order to achieve what they want in a divorce or property dispute. This is done in order to get what they want.

Because of this misuse, men are deprived of the rights that are rightfully theirs, in addition to eroding the value of the law. To add insult to injury, when confronted with charges of domestic violence, law enforcement officers often do nothing, so allowing the perpetrators of the abuse to take the blame. This violates not just the rights of the victims but also sends the message that violence against women is acceptable.

One of the most significant issues that has to be addressed is the fact that women in India are misusing the judicial system. In accordance with the provisions of the Indian Constitution, which guarantees gender equality, it is the responsibility of the government to ensure that women are afforded equal rights and opportunities. It is imperative that we take precautions to prevent women from exploiting the legal system and to ensure that they are afforded enough protection against discrimination on the basis of their gender. Furthermore, individuals who are culpable for this crime should be subjected to the full force of the law, and victims of gender-based violence should get proper assistance and protection while they are victims.

**Keywords:** Gender-Based Laws, Legal Loopholes, False Accusations, Misuse of Domestic Violence Laws, Legal Reform

### DOI

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## 1. INTRODUCTION

Women's empowerment in India is greatly influenced by a variety of factors, including age, social position (caste and class), amount of education, and geographic location (urban vs rural). The empowerment of women is a goal of national, state, and municipal (Panchayat) policies. Some of the areas in which these policies attempt to empower women include health, education, economic opportunity, gender-based violence, and political participation. However, there are

significant gaps between the policies that are being developed and the practices that are being implemented at the community level. It is possible for women to experience disparities in a variety of different ways. There is no formal schooling for them. Only 79.3 percent of males and 57.9 percent of women were able to read and write in 2011. To have a maternal mortality rate that is more than 200 per lakh is unacceptable. The prevalence of anaemia and malnutrition is also on the rise. During the year 2012, the percentage of women who were employed was 29.0%, whereas the percentage of women who were members of parliament was just 10.9%. In the year 2012, there were around 2.40 lakh cases of crimes committed against women that were reported in India. In spite of the fact that a National Policy for Women has been in place since the year 2001, the number of these offences has increased over the course of the last 10 years. There is a connection between these crimes and a broad variety of other crimes, such as rape, abduction, acid assaults, torture, trafficking, underage marriage, prostitution, dowry-related mortality, and many more. There are a significantly lower number of working women compared to the total number of women in the population. It is still the case that they are silenced, mistreated, and ostracised, and they have very few options for seeking justice. In India, about half of the population does not have much of a voice in their own lives, if any at all. In many areas, including but not limited to population, health, education, labour, social stereotypes, domestic violence, and security, gender disparity is ubiquitous. This includes but is not limited to some of these areas. Because she lifted weights, she was not very strong. Her strength stemmed from her ability to rise above the ridicule she received from society.

The fact that her name is so insulting to women gives the impression that women are on par with men in terms of power. You can never call a woman a man, yet women may be called men. This is a common occurrence. On the other hand, this society that is dominated by men will never let a woman to take the initiative. Instead of being a lovely person, a woman should be the sort of person that makes the devil say "oh crap, she's up" as soon as her feet start to touch the floor in the morning. The straightforward cause for this is that contemporary society has an immediate need to comprehend the significance of women. It is possible to find a society in which a saree hem that is four inches is thought to be culturally acceptable, but a hem that is three inches is considered to be vulgar. You will not find any individuals who are feminists or who are focused on women in our society; rather, you will find a bunch of Hippocrates who are willing to bend over themselves in order to assist themselves. Women have been present in social and public life for at least fifty years, with a special emphasis on India, according to observations that have been made, regardless of how seldom and poorly they have been acknowledged. Despite the fact that Indian women have created an indelible mark in almost every industry as a result of their relentless determination and endurance, our society has failed to recognise or appreciate their accomplishments. The hypocrisy that exists in our society, which treats women as if they are property and fails to acknowledge the achievements that women have made to our nation and culture, is something that I want to bring to light in this piece.

## 2. THE CITATIONS AND GENDER BIAS LAWS

One example of sexism in Indian law is the criminalization of adultery, which shields males from prosecution but does nothing to prevent women from having sexual interactions with men. This is an expression of the sexism that exists in Indian law. Laws in India that put the burden of proof on the victim may make it difficult for women to seek justice in cases of sexual harassment and rape. This is because the victim is entitled to the burden of proof.

There are a number of laws that have been enacted in India to address discrimination and prejudice against women. Two of the most notable of these laws are the Domestic Violence Act of 2005 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013. It has been brought to the attention of critics that the Indian Penal Code (IPC) has a greater number of provisions that are biased against women. By way of illustration, Section 497 makes it a criminal offence for a man to engage in sexual activity with the wife of another man, but also imposes a particular punishment on men who commit this violation. The fact that this provision gives men power over their desire and treats women as property is one of the primary reasons why many people consider it to be sexist. There have been allegations that the definition of rape under Section 375 of the Indian Penal Code is biased against women. This term has also been the subject of criticism. Considering that the section solely applies to instances of nonconsensual penile-vaginal penetration, there are many who believe that the definition of rape that it provides is too restricted. Additionally, this definition does not take into account the reality that men may also be victims of rape; it also does not take into account other forms of sexual assault. In accordance with Section 155(4) of the Indian Evidence Act, the burden of proof is with the individual who has been the victim of sexual assault or rape. Due to the fact that victims are often required to present proof that they were not consenting to the sexual behaviour, it may be challenging for them to seek justice in accordance with this provision. The Indian court system, on the other hand, has made steps to remedy the

sexism that is present in the Indian Penal Code (IPC). One example of these efforts is the passage of the Criminal Law (Amendment) Act, 2013, which expanded the definition of rape and provided more severe punishments for sexual offences. This is in addition to the sexual harassment of women in the workplace.

Some gender biased legislation in India are listed below along with citations for each.:

1. Some people believe that Section 497 of the Indian Penal Code is sexist since it makes it unlawful for men to engage in sexual activity with the wife of another man, but it does not prohibit men from engaging in sexual activity with women.  
**Citation:** Indian Penal Code, 1860, Section 497.
2. Following the provisions of Section 155(4) of the Indian Evidence Act, the burden of proof is with the victim in cases involving sexual assault or rape. Due to the fact that victims are often required to present proof that they were not consenting to the sexual behaviour, it may be challenging for them to seek justice in accordance with this provision.  
**Citation:** Indian Evidence Act, 1872, Section 155(4).
3. A number of individuals have suggested that the offence of adultery is sexist due to the fact that it is only committed against men when they engage in sexual activity with the wife of another man.  
**Citation:** Indian Penal Code, s 497.
4. A number of individuals have also brought to light the fact that the Muslim personal law of India has a number of provisions that are biased against women in terms of marriage, divorce, and inheritance responsibilities.  
**Citation:** Muslim Personal Law (Shariat) Application Act, 1937.

Citations for the following offences that exhibit gender prejudice are provided.:

1. Over the course of the last few years, there has been a considerable increase in the amount of attention paid to instances of hate crimes committed against transgender individuals. There are several acts of violence done against transgender individuals in India, including homicide and sexual assault, among other forms of abuse.  
**Citation:** National Crime Records Bureau, Ministry of Home Affairs, Government of India, "Crime in India," 2019, Table 2.17 (<https://ncrb.gov.in/en/crime-in-india-2019>).
2. Acid attacks are a prominent kind of gender-based violence in India. These attacks often target women and girls as a form of reprisal or retribution. Acid attacks are part of the gender bias crime category.  
**Citation:** Indian Penal Code, 1860, Sections 326A and 326B.

A few statutes that safeguard women in India, along with references to them, are as follows:

1. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, every business is obliged to form an internal complaints committee in order to address claims of sexual harassment in the workplace. This is done in order to ensure that the allegations are handled appropriately.  
**Citation:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.
2. Specifically, the Immoral Traffic (Prevention) Act of 1956 makes it illegal to engage in sexual exploitation of children and women for economic purposes.  
**Citation:** The Immoral Traffic (Prevention) Act, 1956.
3. According to the Prohibition of Child Marriage Act of 2006, those who promote or officiate marriages between children are liable to penalties associated with their actions. Because to the Prohibition of Child Marriage Act, which was established in India in 2006, it is now against the law to marry a girl who is less than 18 years old and a man who is younger than 21 years old. In addition to putting an end to the practice of child marriage, the legislation's goal is to protect the rights of children, especially girls, and to eliminate the practice of child marriage. People who fail to forbid marriages between children, as well as those who advocate or solemnise weddings between minors, are subject to legal consequences. In 2007, the Prohibition of Child Marriage Act was referred to as Act No. 6 of 2006, which was passed in 2006.

Citations of Indian anti-discrimination statutes:

1. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, every business is obliged to form an internal complaints committee in order to address claims of sexual harassment in the workplace. This is done in order to ensure that the allegations are handled appropriately.  
**Citation:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

2. Equal opportunity and rights safeguards are specified in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, which was passed in 1995. This act also makes it illegal to discriminate against people with disabilities in the workplace via discrimination.

**Citation:** The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

3. Employers are required to draft and publish standing orders that control employment conditions, such as working hours, leave policy, and termination, in accordance with the Industrial Employment (Standing Orders) Act, which was passed in 1946.

**Citation:** The Industrial Employment (Standing Orders) Act, 1946.

Cases that have had a lasting impact on gender bias:

1. **Case in point: Vishaka et al. v. Rajasthan state (1997)** —In a decision that will go down in history, the highest court in India supported the legitimacy of sexual harassment as an insult to the intrinsic dignity that women possess. As a result of the social worker in Rajasthan becoming the victim of gang rape, the court in a later case set processes for the investigation, prosecution, and remediation of events of this kind.

**Citation:** Vishaka and Others v. State of Rajasthan, AIR 1997 SC 3011.

2. **"Shayara Bano v. Union of India" was decided in 2017** —At the centre of this case was the practice of triple talaq, which is a technique of obtaining a divorce in India that is employed by Muslim men. After reviewing the case, the Supreme Court of India came to the conclusion that the practice violated the constitution and was discriminatory against women. Because of this, the legislation that previously allowed Muslim men to divorce their wives by only pronouncing the word "talaq" three times was declared unconstitutional.

**Citation:**Shayara Bano v. Union of India, (2017) 9 SCC 1.

### 3. THE PUBLICATIONS THAT DISCUSS THE GENDER GAP

- **GENDER & SOCIETY** -Within the pages of this scientific magazine that is subject to peer review are articles that discuss the role of gender in society and culture. Articles that discuss the role of gender in society and culture are published in the scholarly magazine Gender & Society, which is subject to expert assessment. Through the publication of research that study the ways in which gender interacts with other social factors such as sexual orientation, nation, class, and race, the journal wants to contribute to our understanding of the role that gender plays in society. Some of the articles that have recently been published in Gender & Society that discuss bias based on gender include the following:

- The research paper titled "Gender, Family, and Workplace Segregation in the United States" (2021) was written by Paula England and Asaf Levanon.
- This article, "Gendered Workplace Policies and the Motherhood Penalty" (2020), was written by Kate Weishaar.
- "The Gender Wage Gap and Sexual Orientation: Evidence from the National Longitudinal Study of Adolescent to Adult Health" is the title of an article that was written by Elizabeth L. Davison and James E. Pustejovsky and published in the year 2020.

- **SIGNS:**In the Journal of Women in Culture and Society, feminist scholars contribute articles to the publication that discuss topics such as gender inequality, discrimination, and culture and society. The purpose of the scholarly journal known as the Journal of Women in Culture and Society, which is published every two years and is subject to peer review, is to investigate the cultural and sociological experiences of women. A wide variety of disciplines, such as sociology, literature, history, anthropology, psychology, and politics, amongst others, contribute to the substance of the magazine with their contributions. The year 1975 marked the beginning of the publication of the journal by the University of Chicago Press.

- **JOURNAL OF GENDER STUDIES** -Among the subjects that are discussed in this academic publication that are subject to peer review are issues pertaining to gender, sexuality, and feminist theory. The publication of Gender Studies is an academic journal that is published on a quarterly basis and is subject to peer review. It covers topics related to gender studies and feminism. The journal is published by Taylor & Francis, and Diane Richardson, who is affiliated with the University of Newcastle, acts as the editor-in-chief of the publication. Routledge is the publisher at the moment, and it was first published in the year 1992. In the journal, articles are published that discuss topics such as feminism, sexuality, and gender identities. It is within its scope to do research on gender in relation to a wide range of social and cultural phenomena, including but not limited to sexuality and feminist theory, as well as

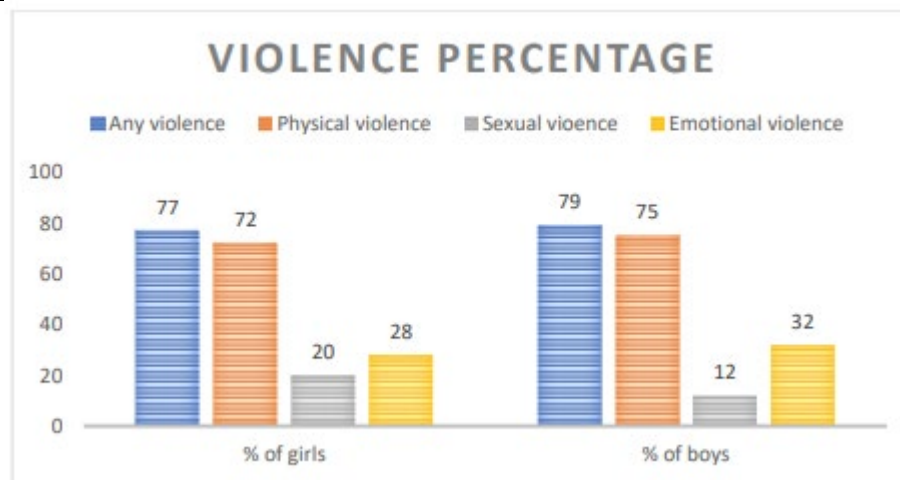
interdisciplinary and worldwide studies of these subjects. Special issues and book reviews are also published in the journal on occasion. The publication also publishes book reviews.

- **FEMINIST ECONOMICS** -This academic publication publishes research on a variety of topics, including bias in the workplace, gender inequality, and prejudice in economic systems, as well as in the workplace. One subject of economics, which is referred to as "feminism," investigates the conventional gender roles that are prevalent in the workplace and beyond. The investigation of the influence of gender stereotypes on monetary outcomes is carried out by feminist economists via the use of a variety of methodologies. The goal of feminist economics is to get an understanding of the historical and present influence that gender roles have had on the economy of the whole world by calling into question long-held ideas and established models. One of the objectives of the field of feminist economics is to investigate the ways in which monetary systems might be made more egalitarian and inclusive of people of colour and especially women. The gender wage gap, employment discrimination, the financial toll of caring, and the financial ramifications of violence against women are just some of the many sectors that might potentially benefit from feminist economic study.
- **JOURNAL OF INTERPERSONAL VIOLENCE** -This scientific paper focuses on the consequences of gender discrimination on attempts to prevent and intervene in violent occurrences, as well as other types of interpersonal violence. Another form of violence that is addressed in this book is sexual assault. SAGE is responsible for a number of publications, one of which is the academic journal known as Interpersonal Violence (JIV). In addition to its origins, consequences, correlates, prevention, and treatment, it has been around since 1986 and comprises research on violence in all of its forms and situations, including personal, family, community, and workplace dynamics. It also includes studies on the dynamics of violence in the workplace. The Journal of International Violence (JIV) welcomes research contributions from a broad range of fields, including sociology, psychology, public health, education, criminal justice, social work, health, and many more. Due to the fact that JIV is an international newspaper, the research that is included inside its pages originates from all over the globe.

#### **4. IN AN EFFORT TO REDUCE THE GENDER BIAS VIOLENCE PERCENTAGE AND THE NUMBER OF CASES OF WOMEN MISUSING THE LAW IN INDIA**

1. In order to put an end to discrimination against women and to cease treating them differently on the basis of their gender, the legislation has to be changed. To do this, it is necessary to guarantee that all individuals have equal access to the judicial system and its resources, as well as equal reward for an equivalent amount of labour.
2. Individuals who take advantage of the legal system for their own personal benefit need to be subject to harsher fines and more severe regulations.
3. Ensure that lawbreakers are notified, monitored, and punished by putting in place a procedure.
4. It is important to provide persons who have been victims of legal injustice with access to professional counsel and emotional support.
5. It is imperative that a legal system be established that acknowledges and recognises the rights and concerns of women.
6. Be sure to spread the word about how the law need to be respected and used in the appropriate manner.
7. The development of educational programmes that emphasise the significance of women's empowerment and safety should be implemented.
8. If we want to ensure that justice is served, we should strengthen the legal system.
9. It is possible that the investigation and prosecution of cases involving potential violations of the law may be more effective if the police and legal authorities were provided with more funds.
10. Any act of lawlessness should be reported to the appropriate authorities, and the general people should be motivated to do so.

Because there is a lack of trustworthy statistics, it is impossible to determine the actual gender bias ratio in India. With that being said, India is at the top of the list of nations that have the worst gender imbalance. According to a research by the World Bank, the gender gap in India is more than twenty percent. Therefore, women earn twenty percent less than men do for the same amount of effort that they put in. In addition, just 27% of women in India are working, while 82% of males in the country are employed. On the basis of these facts, it is clear that gender prejudice is widespread in India.

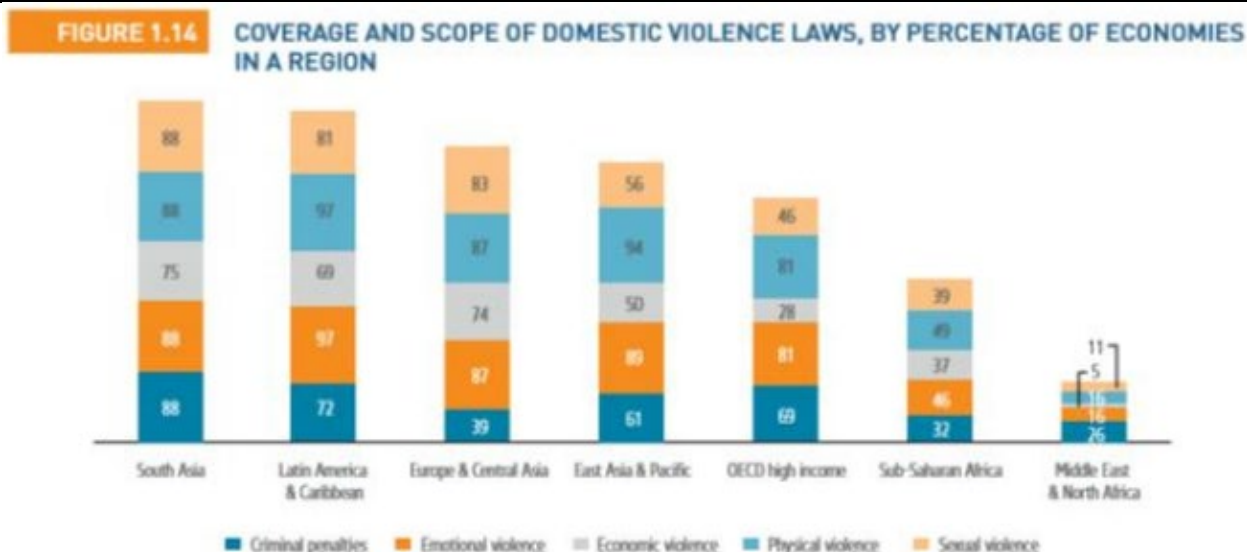


It is the ratio of gender discrimination worldwide. On a worldwide basis, there is a significant disparity in prejudice ratios between men and women. The gender gap was 0.68 in the year 2020, as reported by the World Bank, which indicates that it is still present. This score contrasts men and women in four important categories: economic empowerment, educational accomplishment, health and survival, and economic involvement and opportunity. There are four essential aspects that are considered. Similar to the gender gap, the gender gap varies from nation to country. Sweden and Norway are two nations that have relatively low rates of gender bias, in contrast to Yemen and Saudi Arabia, which have much higher rates of discrimination against women.

### 5. ROLE OF WOMEN'S IN COURTS:

As a matter of fact, this would include providing women with a voice in the process of policymaking. The intention is for each and every woman in the nation to participate in a local court or panchayat session pertaining to this matter for a period of one week every two months. Cases involving discrimination against women, rape, sexual harassment, bullying, and other forms of harassment will be discussed and decisions will be made at a meeting that will take place in the courtroom and last for a whole day. No one will be aware of their identities, which is another point of interest. The women will have all of the materials relating to the case, including witnesses and papers, sent to their residence one week before to the court hearing or meeting. This guarantees that the women will have the time to read and analyse the cases, which is beneficial for the process of reaching choices that are fair. At long last, the judgements made by the court will be compared to the ultimate conclusion reached by the women's group. In the event that both cases are similar, the court will determine the ultimate decision at the subsequent hearing. The proofs and evidence supporting the women's group's judgement will be reviewed by the level court in the event that there is a difference between the two decisions, regardless of how marginal or significant the change may be.

As a result, women may have the opportunity to have a role in the decision-making process in a roundabout manner, and the level court will be able to arrive at their conclusions more quickly and equitably. In this approach, women are given the opportunity to participate in decision-making processes, and we are also giving them more influence.



## 6. GENDER BIAS ARTICLES AND CITATIONS

1. Annette L. Thomas and Amanda R. Harris address gender bias in scientific research, highlighting its causes and proposing solutions such as gender parity policies and awareness training.
2. A study on the increasing importance of immigration in the U.S. labor market examines its effects on wages, employment, and public policy implications.
3. Gender bias in the workplace is described as a persistent issue affecting hiring, pay, and career development, with recommendations for employers to promote equality through policies and training.
4. A study on gender bias in the Spanish labor market reveals biases favoring male applicants over equally qualified females.
5. An article from Harvard Business Review discusses the paradox of meritocracy in the tech industry, suggesting measures like unconscious bias training and targeted recruitment to address diversity issues.
6. Research on gender bias in computer science education shows disparities in grades between male and female students, urging further investigation into causes and solutions.
7. Tannvi and Sharmila Narayana analyze gender stereotyping in Indian courts, proposing strategies to mitigate biases affecting judicial decisions.
8. The article highlights gender disparities in the Indian higher judiciary and suggests initiatives like quotas and gender sensitization programs to promote gender diversity and equality.

## 7. CONCLUSION

The issue of women in India abusing the legal system is one that has to be addressed because it threatens the basic rights of men and the families they come from. There should be a fair chance for men and their families to defend themselves, and the government should take the necessary steps to avoid the misuse of these laws. Additionally, in order to protect the rights of men and families, there has to be a bigger drive to educate the general public about the ways in which women in India exploit the legal system at the national level. A significant issue that plagues our society is the existence of gender bias. It is essential that we acknowledge the possibility that we may unknowingly contribute to the continuation of this problem and that we strive towards creating a society that is more equitable. It is possible for both men and women to have difficulties as a result of people's actions that are biased on the basis of their gender. It is imperative that we recognise the relevance of eliminating discrimination based on gender in order to construct a society that is equitable and fair. When it comes to persons of all genders and identities, we have a responsibility to ensure that they are treated with respect and decency.

In addition to this, we need to make certain that everyone has the opportunity to participate in society in whatever manner that they want. Not a single person should be forced to struggle for equal treatment or encounter obstacles to opportunities due to their gender; we must all do all we can to make this happen. Lastly, but certainly not least, we need to aim towards a society in which persons of all genders are seen to be cherished and welcomed in their natural state.

## CONFLICT OF INTERESTS

None

## ACKNOWLEDGMENTS

None

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