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Gender, Sexuality and Crime – A Critical Discourse

Needa Farheen^a

^aHidayatullah National Law University, Raipur, India

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Gender refers to the social construction of masculinity and femininity. Gender is a central aspect of society as it organizes sexual division and reproduction. Gender creates roles and expectations for women and men, girls and boys throughout their lives (The World Bank Group). Gender is not just something we are born with – it evolves over our lifetime influenced by our education, religious beliefs, political outlooks, family influences, etc. In this article, we are going to study Gender, Sexuality, and Crime about its Critical Discours.

Keywords: *gender, crime, sexuality.*

INTRODUCTION

Gender, Sexuality, and Crime in India is a critical discourse that has remained unexplored for a long time. Gender-based violence (GBV) is one such crime that is rampant in society, with the victim usually being female. Gender has been perceived as an instrument of dominance and control for centuries and this prevalent ideology legitimizes women's subordination and submission to men. Gender Studies, Gender and Development (GAD), Gender and Politics (GP), and Gender and Ecology (GE) are some of the academic fields that make up Gender Studies. Gender studies seek to understand the societal construction of gender in the context

which includes how it constitutes oppressions within these hierarchies. Gender has become one of the most contested concepts in today's social world. Studies on Gender and Crime have their significance as it is important to understand criminal conduct which may be attributed to factors such as education level, poverty, etc, but GBV remains a challenge for Gender Studies. Gender-based violence or interpersonal violence can take many forms including sexual harassment, rape, intimate partner violence, street harassment, etc. In India, there is a lack of gender statistics that exist related to crime which also leads to underreporting of Gender-based violence crimes which only worsens the situation. Gender Studies seeks to fill this gap by providing academic theories that help in creating awareness against Gender-based violence. Gender studies also analyze the patriarchal structure of any society and its contribution towards Gender-based crimes promoting an environment where women have been objectified apart from being subordinated.

While Gender Studies is still developing, Gender & Sexuality takes a critical look at how "gender" is used in both daily language and scholarship across disciplines, including law, medicine, psychology, biology, economics, etc., with sexuality being understood as social constructionist rather than the biological concept of sexual identity. One such example can be found in conducted on women who had been incarcerated for killing their abusive partners. These women had been subjected to Gender-based violence for more than 10 years, where they were being raped daily often termed as marital rape. The Gender & Sexuality Studies have documented how the criminal justice system tends to classify Gender-based violence crimes as "crimes of passion", which are often not given proper attention or weightage. Gender-based violence is challenging. Studies on Gender & Crime can be traced back to the 19th century when criminology was emerging as an academic discipline with two paths of research - individualistic and biological explanations of crime causation on one side and social and psychological explanations on the other. Gender & Crime studies have evolved with two main lines of inquiry - one being Gender as an independent variable impacting or influencing crime rates, while another research path links Gender to crime causation, focusing on Gender-specific forms of violence. One major argument against Gender Studies is its biasness towards "women" who are not gender-neutral which could lead to stereotyping certain demographics.

It would be better if Gender was redefined as it has many layers, facets, and dimensions that cannot be confined to a certain group of people. Gender Studies, Gender & Sexuality, and Cognitive Sciences need to come together to reduce Gender-based violence crimes specifically against women which further demands much more research on Gender-based violence crimes in India.

RESEARCH METHODOLOGY

This article is based upon the secondary data available on the Internet accessed via Keywords like Gender, Sexuality, Crime. Several Journals, Articles, Magazines were also covered to know more about this topic and to further elaborate on it.

RESEARCH OBJECTIVES

To understand Gender, Sexuality, and Crime and to perform a Critical Discourse.

RESEARCH QUESTIONS

- To understand the definition of Gender, Sexuality, and Crime
- What kind of challenges do Gender and Sexuality face when it comes to understanding Crime?

LITERATURE REVIEW

Media reinforces gender norms through television shows such as "Keeping up with the Kardashians"¹, "The Bachelor" & "The Bachelorette". These shows provide examples of what one should look like or how one should act if one wants to succeed in life. These examples perpetuate dominant western beauty standards which do not necessarily work for everyone. Gender, Sexuality, and Crime Gender and crime have always been closely associated in the West and its discussions on Gender, Sexuality, and Crime because of what is believed to be a unique feature of Western Criminology which is the idea that masculinity causes crime. Media

¹ Keeping Up with the Kardashians, 'Kardashian's Totally 'Normal' Conversations | KUWTK | E!' (YouTube, 1 November 2021) <<https://www.youtube.com/watch?v=86jJTa64f2Q>> accessed 25 October 2021

reinforces Gender norms through television shows such as "Keeping up with the Kardashians", "The Bachelor" & "The Bachelorette". These shows provide examples of what one should look like or how one should act if one wants to succeed in life. These examples perpetuate dominant western beauty standards which do not necessarily work for everyone. Gender, Sexuality, and Crime Gender and crime have always been closely associated in the West its discussions on Gender, Sexuality, and Crime because of what is believed to be a unique feature of Western Criminology which is the idea that masculinity causes crime.

Candace Kruttschinn, Gender, and Crime | Annual Review of Sociology(2016): Candace Kruttschinn defines that governance and policies are considered vital to prevent atrocities and human rights violations. They are preventative measures to end gender inequality and discrimination. Social constructionist arguments suggest that Gender, Sexuality, and Crime are not natural but are learned through socialization. Gender, Sexuality and Crime Socialization - Learning based on observation during interactions with one's environment Gender, Sexuality, and Crime Gender roles are learned through socialization. Gender is a central aspect of society as it organizes sexual division and reproduction. Gender creates roles and expectations for women and men, girls and boys throughout their lives (The World Bank Group). Gender norms - implicit or explicit rules dictating how people should feel, behave, dress, etc.

CONCEPTS OF GENDER, SEXUALITY, AND CRIME

Gender: Gender is the characteristics through which society defines the people be it Male, Female, or in between society with a conservative outlook only look on an orderly traditional form. According to WHO² gender are social boundaries constructed by society for Men, Women, boys, and girls. Gender is a product of society so it can vary from time to time in different times and society. Changing society has changed several gender norms over time but gender has also been involved with a social hierarchy that produces inequality and challenges towards the minority.

² World Health Organisation, 'Gender' (*Who.int*, 19 June 2019) <https://www.who.int/health-topics/gender#tab=tab_1> accessed 25 October 2021

Sexuality: Sexuality is dynamic and ever-changing and it is unique to everyone. There are several known sexualities, they are:

Heterosexuality: it means a person is attracted to an individual of the opposite sex.

Homosexuality: in this people are attracted to individuals who have same-sex as their own.

Bisexuality: this is an attraction to individuals of either sex.

Asexuality: asexual people are not attracted to any sex, be it the same or different. However, Sexuality is not attached or known as only above but another sexuality is present in our world. Sexuality is fluid and many individuals explore their sexuality later in life. So, it is ever-changing in nature and also part of human development.

Crime: Crime is an unlawful act that is forbidden by law and which disrupts the public.

CRIME AGAINST GENDER AND SEXUALITY

Gender-based crime target those candidates who are in a submissive position or can be dominated. Gender-based violence targets women and girls much more than their male counterparts. Female is often more vulnerable than most about 1 in 3 women have suffered some type of sexual or physical and other forms of violence. Crime against women is majorly underreported in most of the world it is because of the gap in legislation, victim-blaming, stereotype, and gender inequality is the main issue. While a majority of victims are women and girls who experience either psychological or physical harm from being victimized by crimes such as rape and domestic abuse, men too have been found to face these concerning crimes though it is often underrepresented in reports. Earlier this year we saw how a taxi driver was thrashed by a girl popularly known as 'Lucknow girl' showed that if there was no CCTV present the taxi driver might have been detained and the girl would have gone scot-free. Crime against minority sexuality i.e., crime against people or individuals with different sexual orientation, people from the LGBTQ+ community has far reached consequences as it impacts society as a whole. Females are often treated as second-class citizens throughout

medieval to Vedic times. But in Vedic times women used to have rights but the situation detracted and it changes the position of women in society as a whole.

In India Female goddesses are worshipped in fact during the fight for Independence we used slogans like “Bharat Mata Ki Jai” but due to the patriarchal nature of Indian society, we have witnessed cases of female foeticide, infanticide, workplace harassment, and rape. Gender stereotype has also evolved as the main problem as they are seen to follow a set of norms that society has made for the people to follow. According to society men can't wear makeup, if they do, they are mocked in public. Women shouldn't drink by men are allowed. These stereotypes bound genders in a set of roles that they have to do. In India, For instance, there have been many cases where Transgender individuals have challenged the status quo and refused to be confined to certain spaces because of their Gender identities which were seen as 'non-normative' by others and have led to violence and even death but those fighting for Gender rights have always been able to overturn such oppressive Gender structures. In 2013 Supreme Court of India³ recognized that Transgender People have the same equal rights as the citizens of India. They are legally recognized as the third gender and are considered backward communities for socio-economic development.

DISCUSSION, ANALYSIS, AND FINDINGS

The Gender and Sexuality debate assists in understanding crime and the way it is committed and/or the crimes that are committed against people of Gender and Sexuality. This discourse offers a way to access Gender and Sexuality as the intersectionality of power, desire, race, sexuality, and class. Gender and Sexuality also offer ways to understand how Gender and Sexuality can influence one's relationship to crime. The Gender and Sexuality discourse helps us look at the historical constructions of Gender and Sexuality which eventually led to an accumulation of gender asymmetries that we see today. These Gender asymmetries have caused certain cultures to form where women are disempowered through unequal opportunities for education, social interactions, and participation in public life. These Gender asymmetries have also contributed to the sexual stereotyping of women who are constantly

³ *National Legal Services Authority v Union of India* 2013

under surveillance and publicly shamed for their choices. Gender stereotypes often influence the policing of Gender and Sexuality which is meant to 'protect' but ends up controlling these women's movements, access to workspaces, education options, participation in public life, etc. These Gender biases also contribute to how crimes are carried out against these disempowered women.

The Gender and Sexuality discourse helps us understand Crime as an outcome of unequal Gender relations that exist where one group holds power over another group asserting its control through various means including violence, the threat of violence, etc. Crime committed against women has always been understood within the framework where it supports patriarchal notions of Gender. Since Gender is central to the way Crime is experienced, many feminists have demanded that it be taken into account as a major category for discussion; Gender must therefore become an integral part of criminology in any meaningful analysis of crime patterns. The Gender and Sexuality discourse also helps us understand how various forms of discrimination intersect with other inequalities to produce social problems in areas like criminal justice. For instance, when we talk about sexual assault cases in India there is obvious discrimination against women who are often shamed or blamed for the incident. Gender stereotypes that say that women ask for trouble or deserve this result often lead to lighter sentences or even acquittals where men are not held guilty.

The Gender and Sexuality discourse also helps us understand crimes against LGBT (Lesbians, Gays, Bisexuals, and Transgender) people due to their Gender identities which is also an extension of Gender-based crimes. For instance, there have been many cases of Police harassment where LGBT people's right to assemble in public spaces has been denied by police officials who go beyond the call of duty to 'prove' their heterosexuality. These Gender biased actions were taken by law enforcement personnel to act as deterrents for Gender non-conforming members who fear abuse at the hands of the very institution that is meant to protect them. The Gender and Sexuality discourse also helps us understand how poverty, lack of education, unemployment, etc are the main reasons why Gender-based crimes are committed against women where they are victims of sex trafficking, pro-natalist policies that

reward mothers for having children, honor killings, etc. It also helps us understand why Gender-based crimes happen across economic classes since Gender discrimination has no particular class association. Lastly, the Gender and Sexuality discourse helps us understand various forms of Crime against women including rape, dowry deaths, bride burnings, acid attacks, etc as being an outcome of Gender asymmetries where perpetrators believe that women need to be taught a lesson whenever they choose to take control over their own lives or exert their Gender identities. Gender and Sexuality also help us understand the various reasons behind domestic violence which often include issues like dowry demands, family honor, etc.

Gender and Sexuality spaces in India allow women to participate as equal citizens with men giving them a larger platform to challenge gender-based discrimination and inequities that exist at all levels of society. They also provide avenues for people across class and caste lines to come together and fight for their Gender rights and against Gender-based crimes. However, the biggest threat to the discourse around Gender and Sexuality is State control where it can be used by patriarchal institutions or individuals who wish to deny agency over their own lives where they are seen as 'problems because of their gender transgressions. This is a dangerous development that can go against Gender equality and Gender rights. The Gender and Sexuality discourse is also very important from the point of view of young people who are increasingly gaining agency over their own lives through various means including education, employment, etc where they do not wish to conform to gender stereotypes. It serves as a larger platform for them which helps protect their Gender identities by allowing them equal participation in all spheres of work and society without compromising on their Gender choices or other aspects like class

CONCLUSION

Gender and Sexuality spaces in India allow people to participate as equal citizens with men giving them a larger platform to fight against Gender discrimination and Gender-based crimes since most Gender-based crimes are committed by men against women using their Gender identities as an excuse for violence. However, they also pose a potential threat from the point

of view of State control where patriarchal institutions or individuals may use them for their gains which is why all concerned citizens must fight together to protect Gender rights and Gender equality. Gender, Sexuality, and Crime is a topic that has been debated as the root of many crimes in India. Gender inequality is an issue that needs to be addressed urgently. Gender issues can range from female infanticide to sexual harassment at workplaces. To end gender-based violence against women, patriarchal norms need to change – they are what make it possible for abuse or rape culture to exist. It's time we stop telling our daughters how not to get raped instead of teaching boys not to rape! The Indian government should also take responsibility by enacting stricter laws on crime related to sexuality and criminalizing marital rape - something that still isn't recognized as a form of abuse even though 50% of married women have experienced physical or sexual violence by their husbands.

The media has a huge role to play in portraying Gender, Sexuality, and Crime as social issues that need to be addressed urgently. It is important to take into account how Gender, Sexuality, and Crime are portrayed through the media especially television which influences the lives of many people. It's time we see more responsible reporting on Gender, Sexuality, and Crime instead of only viewing them as issues related to women. How about hearing stories from men who have been harassed or even violated? Why aren't they part of the conversation too if Gender equality is what we claim to want? While Gender Bias creates problems for many individuals at personal levels such as family, workplaces, etc., crime against women has taken a different shape altogether such as the 'Nirbhaya' gang-rape case in Delhi which is one of the many cases that shook India and called for a revolution. Gender Bias has led to crimes against women such as Sexual harassment at workplaces, acid attacks, etc. It's time our justice system takes Gender issues more seriously instead of treating them as incidents that are not worth reporting or discussing especially when it comes to the crime committed on women or sexual violence against them. Instead of reporting Gender, Sexuality, and Crime from a biased point of view, media should take the responsibility to educate people on Gender, Sexuality, and Crime by promoting dialogue through different platforms including public debates so that gender sensitization can be achieved. Stop by thinking about why Gender-based discrimination starts right from Sex-selective abortions to the Gender pay gap, gender

discrimination in the workforce, etc. Gender, Sexuality, and Crime issues are not just social problems but also political ones which need to be addressed right away so that Gender Equality can be achieved without delay.