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Sex Discrimination: Beyond the Two Genders

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Abstract

This paper is about sex discrimination in contemporary Indian society. It delves into the intricate distinctions between male, female, and LGBTQIA communities related to biological and sociological perspectives. The discourse revolves around how stereotypes make or break a person and explain terminologies related to gender that one needs to keep in mind. The focus is on women subordination and the discrimination towards the LGBTQIA community. Emphasis is laid on Sustainable Development Goal (SDG) 5: Gender Equality. The subordination of women can be related to different factors ranging from patriarchy to ideas followed in educational institutions. Psychological and medical communities have attempted to resolve how one's sex should be determined for medical purposes. Legal authorities have been blind to the need to define 'male' and 'female'. It ignores other medical conditions in which an individual's sex may be equivocal. Even in the 21st century, women are expected to confine themselves to their 'gender roles' and there still remains stigma associated with the LGBTQIA community. Suggestions and recommendations have been made to overcome gender disparity and promote a gender-friendly world.

Keywords: *women, LGBTQIA community, sex discrimination, abuse, violence, patriarchy, gender equality.*

1.0 Introduction

The legacy of the 21st century is very appealing- from its fast pace towards technology to the growth of under-developed countries. Yet, the female and the LGBTQIA community remain the "downtrodden"- still subjected to discrimination, exploitation and subordination. Several countries, including India and China, have passed laws prohibiting sex-selective abortions for reversing imbalances in the sex ratio. In India, an option preferred is to continue to have children until you get a male heir and people in India mostly adhere to this continuing method. There are about 21 million "unwanted girls" from 0 to 25 years of age as of 2018 (Government of India Ministry of Finance Department of Economic Affairs Economic Division, 2018), and this "son meta preference" is terrifying. Thus, it is evident that patriarchy wins at the end of the day, and

that women and gender minorities are under heavy-handed suppression.

Currently, around 140 million women are estimated to be "missing" worldwide (Gender-Biased Sex Selection, n.d.) – due to discrimination with a preference for the male child, backed by gender-biased sex selection. The term "missing women" refers to "those numbers reflected in sex ratio imbalances at birth as a result of gender-biased (prenatal) sex selection, combined with excess female mortality stemming from postnatal sex selection" (Ochab, 2021). Even though a female foetus has more chances for survival than a male foetus, the variation in survival rates indirectly refers to sex selection. Since the 1980s, ultrasounds and other technologies have enabled the detection of the sex of a fetus during prenatal screenings leading to abortion of female foetuses. The number of "missing women" have risen over the years, with more than doubled over the past 50 years, from 61 million in 1970 to 142.6 million in 2020 (State of World Population 2020, 2020). Together, China and India account for about 90-95% of the missing female births worldwide by prenatal sex selection, while India was estimated with 45.8 million deaths of unborn females caused by sex selection (PTI, 2020)

A terrifying issue with the Indian legal system is that marital rape is not deemed illegal. Marital rape refers to the act of forcing your spouse into having sex without consent. It is an unjust method to disempower women. Today, marital rape been criminalized in more than 100 countries but, India is one of the only 36 countries where marital rape is still not criminalized. In 2013, the UN Committee on Elimination of Discrimination Against Women (CEDAW) and JS Verma Committee recommended that the Indian government should criminalize marital rape. (Singh, 2020)A study in India showed that newly married women were less likely to refer to their first sexual intercourse as forced or against their will because sexual intercourse was expected within marriage. Thus the notion of women's consent was considered irrelevant in sexual intercourse after marriage. Even if it was forced, it was thought to be a marital duty and not a matter of consent (UNFPA, 2019). Thus, even in marriage, the woman is considered the property of the man, her husband, and this attitude remains the same even in 2021.

Accordingly, the 2015-17 Sample Registration System shows that India has a skewed sex ratio; 896 girls are born per 1,000 boys (National Statistical Office, 2020). The central government banned sex-selective abortions through the pre-conception and pre-natal diagnostic techniques (Prohibition of Sex Selection) rules in 1996. But rather than prenatal discrimination, girls also face discrimination later in their lives. Policies for reducing prenatal discrimination can lead to the increased prevalence of postnatal discrimination, as in educational investments or neglecting the health and nutrition of the daughters or resort to female infanticides because son preference is deeply rooted and underlying social norms favouring sons remains unchanged (Rastogi, 2020).

Since the decriminalization of Section 377, society's attitude towards LGBTQIA community have been gradually changing with the protection of the law encouraging individuals from the community to be more open and accepted in public. However, it can be understood that no comprehensive anti-discrimination code exists. Though the Indian Constitution prohibits discrimination based on sex and gender, it does not apply to the private sector, but only to the government sector. The LGBTQIA community, particularly in rural areas continue to suffer ill-treatment and discrimination in their lives, including education, work and public spaces (India: Sexual Orientation and Gender Identity and Expression, 2021).

The condition of the LGBTQIA community is not satisfactory at all. According to an article by Reuters, published in 2019, in a survey of almost 400 LGBTQIA youth in Tamil Nadu, India, by the United Nations agency, UNESCO, more than half of them skipped classes to avoid bullying, a third dropped out of school altogether. It was reported that they had to face threats of rape, groping, hitting and kicking (Nagaraj, 2019). LGBTQIA individuals have significant difficulties in accessing sanitation facilities in public spaces, such as public transport. They are denied access to restrooms according to their self-identified gender. This violates the LGBTQIA persons' rights to freedom of movement that negatively impact their access to work, education, cultural spaces, and public events. 'Public and private workspaces are gendered within a sphere of male-female binary, which results in discriminatory effects, like the imposition of codes on dress codes and appearances (Country Policy and Information Note India: Sexual Orientation

and Gender Identity and Expression Version 4.0, 2021) From these reports, it is evident that even in this new age of the 21st century, the LGBTQIA community has to face great struggles for job security and are victims of assault, bullying, sexual/mental harassment and discriminatory dismissal in workplaces. This paper will be looking into the forms of discrimination against women and gender minorities.

2.0 The Concept of Gender and Sex

This section elucidates the meaning of 'Gender' and 'Sex' along with some terminologies related to gender.

Gender refers to the learned roles and responsibilities of men and women created in families, societies, and cultures, including the associated economic, social, political, and cultural expectations. The notion of gender roles -being a woman or a man - vary among cultures or change over time that can be modified by class, ethnicity, physical and mental disability, age and more. Gender reveals how men's domination is socially constructed (UNESCO, 2003). Sex refers to biologically and genetically defined differences between males and females concerning their physiology and reproductive potentialities. It is primarily unchanging, without surgery (Gender Concepts and Definitions, 2018b).

2.1 Understanding Binary Genders

The binary genders are male and female. Individuals born with XX chromosome leads to womanhood, and XY chromosome leads to manhood. The typical medical criteria of sex determination involve genetic or chromosomal sex (XY and XX), reproductive sex glands (testes and ovaries), internal morphologic sex (prostate, vagina), external morphologic sex (penis and clitoris), hormonal sex (androgens and estrogens), secondary sexual features (facial or chest hair and breasts), assigned sex and gender as well as sexual identity (Newman, 2021).

2.2 Understanding Non-Binary Genders

LGBTQIA+ is an umbrella term used to address the gender minority groups. The gender minorities are recognized as individuals who have non-congruent sexual attributes (Abrams, 2019):

- L stands for "lesbian": A woman who is physically, emotionally and romantically attracted to other females. In some cases, they prefer to be identified as gay women.
- G stands for "gay" and describes men who are physically, romantically and emotionally attracted to individuals of same sex i.e males.
- B stands for "bisexual" and refers to those who are attracted towards those of same gender and to those of another gender.
- T refers to "transgender": A transgender person's gender identity and gender expression does not correspond with the sex assigned at birth. Some of them are prescribed hormones or surgeries by doctors to align them with their gender expression.
- Q stands for "queer" and "questioning": Queer is an adjective used for those who are not heterosexual. It does not mean lesbian, gay or bisexual. It is used for those other than the latter. Questioning is used for those who are still in the pursuit of understanding and identifying their sexual orientation or gender identity. The LGBTQIA community claimed this term, which was previously used as a slur, to define their identity (Defining LGBTQ, n.d.)
- I stand for "Intersex": It refers to those who naturally have biological traits unidentified with being male or female. Some of them have XXY chromosomes and some have internal sex organs. Identifying as an intersex can have varied sexual orientations, gender identities and gender expressions.
- A stand for "asexual" and "ally": Often referred to as ace or asexual, such individuals do not experience any or low sexual attraction towards any person (OutRight Action International, n.d.)

2.3 Terminologies Related to Gender

There are some terms that need to be identified along with the concept of gender. They are as follows (Annex IV: GENDER RELATED TERMINOLOGY, n.d.):

- **Gender Empowerment:** Gender empowerment refers to both men and women taking control over their lives by setting agendas, gaining skills, increasing self-confidence, solving problems and developing self-reliance. It is an outcome and a process.
- **Gender Blind:** Gender-blind refers to an approach, strategy, framework and programme wherein gender dimension is not considered and is often attributed to lack of training, knowledge and sensitization to gender issues.
- **Gender Neutral:** Gender-neutral refers to an approach, strategy, framework and programme where human dimension is not a consideration and gender is not an implication.
- **Gender Analysis:** Gender analysis is a tool to assist in strengthening development planning, implementation, monitoring and evaluation, and to make programmes and projects more efficient and relevant. It helps frame questions about women and men's roles and relations to avoid making assumptions about who does what, when and why. The aim of such analysis is to formulate development interventions that are better targeted to meet both women's and men's needs and constraints.
- **Gender Mainstreaming:** In the UNEP (United Nations Environment Programme), gender mainstreaming involves ensuring that attention to gender equality is a central part of all environmental and sustainable development interventions, including analyses, policy advice, advocacy, legislation, research, and the planning, implementation, monitoring and evaluation of programmes and projects.
- **Gender Expression:** Gender expression is the external appearance of a person's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined masculine or feminine behaviors and characteristics.
- **Gender Fluid:** Gender fluid refers to a person who does not identify with a single fixed gender, and expresses a fluid or unfixed gender identity. One's expression of identity is

likely to shift and change depending on context.

- **Gender Identity:** Gender identity means a person's innermost concept of self as man, woman, a blend of both, or neither – how individuals perceive themselves and what they call themselves. Gender identity can be the same or different from one's sex assigned at birth (Adams, 2017a).
- **Gender Non-Conforming:** Gender non-conforming is a broad term referring to people who do not behave in a way that conforms to the traditional expectations of their gender, or whose gender expression does not fit neatly into a category.
- **Misgender:** Misgender means referring to or addressing someone using words and pronouns that do not correctly reflect the gender with which they identify (Adams, 2017b).

2.4 Understanding Masculinity and Femininity

Gender stereotype theory suggests that men are perceived as masculine and women are seen as feminine. Gender stereotypes are concepts that people have on masculinity and femininity: what men and women of all generations should be like and are capable of doing (Gender Concepts and Definitions, 2018).

2.4.1 Traits

According to N. Drydakis, traits seen as masculine are dominant, strong, independent, decisiveness, assertive, being ambitious, acquisition of wealth, brave and innovative. Emotional, collaborative, nurturing, vulnerable, caring, environmental awareness, loving connection and humble are stereotyped as feminine characteristics. Feminine traits yield fewer rewards consequent to which it is plausible that they experience a higher rate of unemployment relative to men (Drydakis et al., 2018). Generally, when a woman is assertive and dominant she is assumed to be bossy. If a man behaves authoritatively, then he is taking control and is a boss. When a man expresses his emotions or is of a caring nature, he is considered weak and if a woman does so, then it is natural and acceptable (Masculinity and Femininity, 2019). Indian society lays

profound stress on these characteristics.

According to Tamson Firestone, neuroscientists have been researching the divergence between male and female brain structure and a number of structural elements have been found that differ between the genders. For example, the left and right hemispheres of the female and male brains are not akin. Females have verbal centers on both sides. Males have verbal centers only on the left hemisphere. That is why females have an advantage when it is about opening up feelings and emotions. Researchers investigate the different chemical effects of testosterone in men as well as estrogen and progesterone in women. For example, while testosterone is connected to aggression, it doesn't offer an explanation for male behavior (Firestone, 2018). Existing irrational stereotypes put men and women under a socially created barrier. Society bears these biases and strengthens them but they are not accurate.

The "Big Five" personality traits of psychology such as openness, conscientiousness, extraversion, agreeableness, and neuroticism do not vary between men and women (Ferro, 2021). The cultural expectations came about naturally due to variations between men and women and the division of labour.

3.0 Gender Discrimination in India

3.1 A look at the History

Since time immemorial, India has been dominated by patriarchy (Narayanan, 2016). The system of patriarchy is a social system wherein the father or an elder male has absolute authority over the family. A progeny carried the surname of his father. When a male perished, his property was distributed amongst male members of his family such as his brothers and sons. The daughter is under the control of her father or husband and in-laws. An unmarried daughter stayed under the shield of her father or brother. Traces of independent property of women known as bride price and stridhan (stri meaning women and dhana meaning property) can be seen. (Rajratnam, 2020)It included items such as ornaments, jewellery etc. which were given to a woman at the time of her marriage.

Women were considered as 'spectators'. Widows had no right in the property. Sati, prohibition on widow remarriage, performances of child marriage, keeping the women behind the curtains worked as agents of discrimination against women. The advent of British rule in India brought out awakenings in the minds of Indian people (Srivastava, 2019). Social reformers like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar initiated struggles to abolish evil customs like sati, ill treatment of widows, prohibition of widow remarriage, polygamy, dowry, child marriage, denial of property rights and education to women (Bose, 2012). Raja Ram Mohan Roy took up the problem of the right of inheritance for women. Ishwar Chandra Vidyasagar, was the man who initiated 'Hindu Widow Remarriage'. Remarriage was not an option for a widow then, while a widower was allowed to remarry. He took stand against polygamy and child marriage. The British introduced law reforms namely "Bengal Sati Regulation Act, (India Today Web Desk, 2015) and Widow Remarriage Act 1856 (Sharafi, 2020). The Sharda Act fixed eighteen as the marriageable age for girls that came into force on 1st April, 1930. (Lawtimes Journal, 2020)

3.2 Factors contributing to Gender Discrimination

3.2.1 Factors for Discrimination against women

Upbringing (Infants) - Discrimination starts from the stage of infants when a girl child has been provided toys like a doll, vessels, kitchen materials, and a boy with a car, and cricket bat. From all these primary habits, the male-dominated society decides the value of productive work and economic activities. Patriarchy is sustained and reinforced through the glorification of motherhood. A woman's responsibilities of being an ideal wife, and childbearing and child-rearing are perceived as the duty of the woman which is trained and taught since childhood, to serve the family members.

Segregation (Childhood) - Segregation involves enforcing the gender rules and creating gender-separation and boundaries in socialization. This starts from childhood or enforced through behavioural-type variables like playing with same-sex peers and forcing them to take up specific activities (Martin & Ruble, 2010). Any kind of touch between a man and a woman in public is considered 'apprehensive' in India. This "no-touch" practice between opposite genders

increases the possibility of gender segregation. Co-educational institutions are the agencies of power where this practice could be seen strictly enforced. The partition at the center in classrooms with separate seating arrangements for boys and girls that marks a fixed distance is not a mere division. It is an official confirmation of the "differences" between gendered identities that have been habitually taught as natural for a young child. The strict adherence to this segregation by authorities makes the child believe that genders should be differentiated because the gendered essences are rigid and unchangeable.

This practice of gender segregation in co-ed schools takes away the possibility of a childhood experience that could have been more inclusive and productive. Educational institutions may risk the psychological and emotional health of the children under their care. They are taught to keep away from the other gender through their schooling years, and children would have framed "pre-set" notions about the other (George, 2020).

Being infant and a child, the family and the society plays a role in training one to interact with the same-sex and avoid involving much with the other sex. If this is not followed, the child would be taunted and forced to do as the society asks to behave. But after childhood, towards puberty, the stage of taunting and advice changes, and strict enforcement can be seen involved, such as physical punishment or mental abuse. The mental abuse would range from alleging that the child is misbehaving and 'off-the-track', that could lead to trauma throughout their lives.

Preferential Treatment for Men - Patriarchy has taught that women are forced to fulfil 'motherhood' while a man lives as head of the household or wage-earner. Begetting a male child is a prestigious, ritually rewarding, and desired goal in some Indian families. But this expectation or a cherished desire puts unhealthy pressure on a woman's reproductive capacity as her sexuality and reproductive capacity is controlled in the framework of patriarchal dominance. Motherhood ideology that glorifies a mother's duties restrains her participation in public life. Patriarchal ideology states that salvation and happiness of women depend on chastity as daughter, wife and widow. Malnourishment, exhaustion and alienation of women are commonly experienced and are attended to by home remedies while men in the house enjoy the best meal

and healthcare. An ideal woman needs to be self-sacrificing, obedient, unassertive and non-complaining. The patriarchal structure of society advocates the theory that a male is superior and considers a girl child as an economic burden; the girl grows up with a feeling of rejection and timidity (Mokashi, 2018). So a woman would feel that she is entitled to sacrifice, confine herself to the kitchen, feed her family and look after her children even though it is not true, but this is imprinted on her by the ideas imposed by patriarchy on the upbringing.

3.2.2 Factors for Discrimination against the LGBTQIA community

Stereotypes - Even in this advanced era of posthumanism, the issues faced by the LGBTQIA community are diverse and multifaceted. Their body and its representations are often subverted and ridiculed. A major stereotype about the LGBTQIA community is that the majority of them are affected with HIV/AIDS. This is clearly not the case. HIV/AIDS affects the gender minorities and women in different degrees depending on the epidemic's characteristics (Neeraj & Muraleedharan K, 2021). It is mainly an issue among the heterosexual individuals in parts of the world. However, stigma, bigotry, and alienation of people belonging to the LGBTQIA community results in the lack of access to safe sex practices information, prevention, testing, treatment, care, and support. As a result, the third gender is at a higher risk of contracting HIV. The best way to end the HIV epidemic for all, regardless of sexual orientation or gender identity, is to reduce stigma, eradicate discrimination, and loneliness, and improve access to treatment.

There is a belief that being LGBTQIA can be cured by 'medical experts'. Many people think that a person's sexual orientation and gender identity can be changed, and the LGBTQIA community is persuaded for these surgeries'. According to the World Health Organization (WHO), gender identity cannot be altered. The attempts to persuade the gender minorities to change their sexual identity are ineffective, harmful, and actually torturous. The World Health Organization publicly stated that homosexuality is neither an illness nor a disease, emphasizing that it is a normal and non-pathological variation in human sexuality (Sexual-Gender-Diversity, 2016).

Culture and norms - Transgender women in India get little or no schooling. Often rejected by family, they join marginalized communities where they resort to sex work or begging. Lesbians in India who live openly in a same-sex relationship or display “masculine traits” are excluded from social networks. They face discrimination in employment and lack access to services. Transgender individuals are scoffed and rejected at a young age in a violent manner because of their traits which do not correspond with those expected by society. Being one among the gender minorities is considered as ‘unnatural’ and against the culture of India. It is considered as something to be ashamed of. They are subjected to pejorative and obnoxious remarks since they are unable to voice their opinions and are seen as ‘deviants’ incapable of cultural representation.

4.0 Types of Gender Discrimination

The different types of gender discrimination are direct discrimination, indirect discrimination, harassment, and victimization (Sex Discrimination | Equality and Human Rights Commission, n.d.-b)

4.1 Direct Discrimination

Direct discrimination takes place when one person treats another person in an unfair manner because of his or her sex. For example, a night club offers free entry to women but charges five thousand rupees from men.

4.2 Indirect Discrimination

Indirect discrimination occurs when a particular policy that applies to both the sexes in same way, but puts a person at a disadvantage because of their gender. For instance, a company changes its timings from 1 pm to 5 pm. Women who have to pick up their children from school are at a disadvantaged position.

4.3 Harassment

Harassment can be grouped into three types:

- The first type of harassment is the same for all the sexes, it involves humiliation and making a person feel degraded or offended.
- The second type of harassment is sexual harassment. This happens when a person makes someone feel humiliated, offended or degraded in a sexual way. It also involves sexual jokes or comments, inappropriate touching, assault, and sharing of sexual nature or pornographic videos without consent.
- The third type of harassment takes place because of refusal to put up with sexual harassment. For example, a person denies sexual favours and later his or her promotion is cancelled. Any type of harassment is unacceptable and unjustified. Strict actions must be taken to overcome them.

4.4 Victimization

Victimization refers to treating a person in an unfair manner because he or she has lodged a complaint against it. For example, a person can be removed from his or her office for filing a complaint against a perpetrator.

5.0 Discrimination against women in contemporary India

5.1 An Overview

In a developing country such as India the sex ratio is unfavourable towards women (Ochab, 2021). The varied sex ratio can be attributed to sexual offences against women.

- Instances of selling girls can be found in many parts of India (India Today, 2015).
- Newlywed brides are in some cases tormented or killed for not bringing dowry in any material form (Chelala, 2020). Though dowry is a crime in India, incidents of domestic violence for dowry still echo (Garg, 2021).
- Women suffer brutally at the hands of men. It can be in the form of psychological,

physical or emotional abuse. Domestic violence includes hitting, slapping and public humiliation. Domestic Violence Act exists in India in humongous numbers (Bhandare, 2020).

- Child marriage continues to prevail in many parts of India. Marriage at a young age steals innocence and obstructs mental and physical development of a child (Indo-Asian News Service, 2019).
- Son preference is deeply rooted in some parts of India. It emerged with the transition from primitive to contemporary society which used to be ruled by patriarchy. Women have to face backlash for giving birth to a girl instead of a boy (Deswal, 2020).
- Practices like female foeticide, female infanticide and sex-selective abortion are rampant in India even though the Government of India has declared prenatal sex determination as illegal (Vaze, 2021).
- Right to Education under Article 21 makes it mandatory to provide free education to everyone. Sarva Shiksha Abhiyan has brought girls back to school but the dropout rate is still high. Estimated reasons for this are engaging girls in household chores, taking care of grandparents, parents and siblings. Parents want to educate boys but not girls because they would be married off and bearing the cost of education would be unnecessary (Singh A. , 2019).
- Cases of molestation are surging day and night. Girls don't want to register complaints because of social stigma and taboos that come with it. Those who have the grit to file complaints stand in the long and never-ending trail to seek justice. (Awasthi, 2021)
- The year 2018 saw the rise of #MeToo Movement inspired by a global campaign against sexual harassment and assault. Women opened up and shared their heart wrenching stories related to abuse by men in power. From actors, film directors to advertising top guns, artists and writers and politicians, women professionals clamoured about behaviour at the workplace. From unwanted attention in the office to sexual innuendos on the film set, there were many kinds of allegations that came up. (No Me Too for Women Like Us, 2020)

Considering that Indian society is keen on victim-blaming, the accusers and their accounts were called out as false and they were often slammed with trolls, hate and abuse. Women were accused of tarnishing men's careers. The survivors were called 'attention-seeking' women who only got some fame. Women kept their identity under wraps because of the pessimistic consequences that could hurt them personally and professionally (Jain, 2020a). This open conversation about inappropriate behavior and harassment forced companies and institutions to constitute Internal Complaint Committee and follow the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, also known as POSH law.

All these incidents are not just found in villages or limited to uneducated people. They are found below veneers of modernity and are pervasive in metropolitan cities too. Words such as 'mother', 'sacrifice', 'giving' describe women. Through these words, women feel overwhelmingly burdened by the 'should' of Indian society (Bajpai, 2020) (Chelala, 2020). Women are responsible for protecting the family's honor and are kept silent on anything that violates the sanctity of being a woman (Jain, 2020b).

5.2 Case Study: Discrimination against women

5.2.1 Direct Discrimination

Direct Discrimination can be faced by a woman when she is not entitled to any opportunity or reward because of the society believes that she is 'less efficient as compared to a man' (Queensland Human Rights Commission, 2019). One such instance was when Kerala Minerals and Metals Limited, a PSU, invited applications for the permanent post, it was made clear in the notification that women need not apply. Treasa Josefine (25), a native of Sakthikulangara in the Kollam district of Kerala and an engineering graduate. She felt that it was unfair as she did fill all the criterias they had asked for yet denied a job. She filed a lawsuit in the Kerala High Court challenging the male-only condition of the post. The court examined that restricting a qualified woman from a job based on gender amounted to a violation of Articles 14, 15, and 16 of the Constitution (Rajagopal, 2021).

This is a real-life example of direct discrimination against women because even if a female candidate meets the criteria for the job, she is excluded from the job in the first place, citing her gender, that a woman is unable to work night shifts.

5.2.2 Indirect Discrimination

Many women still face indirect discrimination in the public space, especially in their workplaces. Even though direct discrimination is not involved here, the 'society' or the individuals engaged with her make her feel the men are superior to her, through behavioural variables. An example of such an instance was when, Sujata, post her maternity leave in the company, requested for part-time work because she did not want to leave her child with someone else. But the manager was adamant that it was against the company policy and the other employees (primarily males) worked full-time (Nagarajan, 2021). While the company policy seems justified, at a closer look, only the women were more likely to be negatively affected. This is an example of indirect discrimination against women because the workspace does not exclude women from employment yet make them stressed out for 'motherhood' and so on.

5.2.3 Victimization

Women are the section of the society who are victimized after any infringement on their lives by the male community, be it physical or mental abuse and later subjected to ill-treatment by the society; thus victimized. One among them is an account of a woman, Soni, who was 19 years old when her husband's family threw acid on her because they wanted more dowry. The acid burnt the new bride's face and throat. She endured 15 surgeries and later, when she tried to get a job or a college admission, people ignored her. She stated that they said that her face is disfigured. "Maybe they would've thought that having me would ruin their image", says Soni (Desai, 2019). Here, Soni is subjected to victimization; as a victim of acid-attack, she was further excluded and disliked by society.

5.2.4 Harassment

Harassment can be physical or mental. It can be from some individual closely related with or not. In India, harassment extends from 'whistling in the roads to abuse after marriage for dowry'. Women who are expected to 'pay dowry' for marriage, are harassed for bringing lesser dowry than expected by the in-laws. Asma who hails from Meerut, was a victim of in-laws harassment. She was physically assaulted at home and was seven months pregnant when they threw acid on her belly for being unable to pay dowry. She states that they chose this as they might've thought that if she gives birth to a boy, the child will get rights over the family property as the male heir. Instead, she gave birth to a stillborn (Rashid, 2017a). Asma faced harassment as she was a woman who was 'supposed' to pay dowry to her-in laws and was deprived of her basic rights because of the discriminatory form for women- the dowry system.

In 1992, Bhanwari Devi was a government social worker in the state of Rajasthan in India who was gang-raped in front of her husband by higher-caste neighbours angered by her efforts to stop child marriage in their family. The state authorities denied responsibility as she was attacked in her fields. The lower court acquitted the accused of rape and convicted them of lesser offences, and they served nine months in prison. The appeal is still pending in the state of Rajasthan's High Court as of 2021. Public outrage and activism paved the way for new legal protections against sexual harassment in the workplace for millions of Indian women. The Supreme Court of India in 1997 in the *Vishaka v. the State of Rajasthan*, stipulated the "Vishaka Guidelines," mandating employers to protect female employees of sexual harassment at their workplace and provide procedures on resolution, settlement, or prosecution. India brought the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013 to protect workers in formal and informal sectors ("No #MeToo for Women Like Us," 2020).

6.0 Discrimination against Gender Minority in India

6.1 An overview

The historical reference of homosexuality can be found in India. Homosexuality is seen as a heinous a crime. Biphobia and transphobia are recent phenomena. Core beliefs arise from

childhood where children are told to 'behave' or else 'eunuchs' will take them. (Patel, 2016)

Some ways in which LGBTQIA is discriminated against are described as follows:

- Disapproving stares, rejection of entry at public places and associating them with prostitution are constant challenges faced by them. People must understand that being queer is not a choice.
- In some parts, secret honour-killings are planned so that the only way for a young gay man to survive is to flee away in the cloak of the night to another city without money and social support.
- Lesbian women are subjected to family-sanctioned rapes, which are perpetrated by their own family members.
- Refusal to marry brings physical abuse. Stories of family acceptance seen on TV and other media are an urban phenomenon. The individuals are accepted by families only if they agree to behave like heterosexuals (Rai, 2020).
- It is often perceived that being LGBTQ as being sick. People assume that they can do away with it through medication and counseling sessions.
- Gays, lesbians, bisexual individuals, and transgender people have not been accepted as a gamut of the human condition. They are considered as 'deviants' and suffer from marginalized social status.
- Societal values, the caste system, arranged marriages, the high probability of being disinherited for coming out. Mental health is a low priority amongst non-binary genders and the crisis has not been acknowledged. This community cannot downplay bullying on their face and there is no redressal for this. Gender segregation exalts toxic masculinity.

But on taking a look at flip side of the coin, homosexuality is widely accepted by the youth in India. Scrapping of Article 377 was a commendable move to accommodate LGBTQIA community in India. Doors for them are not yet opened by families, schools and colleges. Social media platforms like Twitter and Instagram are a place where voice of this community is heard. The month of June is celebrated as 'Pride Month' in different regions of the world. Flaunting

colourful garb and rainbow-coloured flags waving in the air, the streets of various cities are sprinkled with people as they celebrate the message of inclusivity and LGBTQ+ pride. People have used that voice and in the past week, the internet is stormed with messages of love and support for the LGBTQIA community. Platforms such as Twitter, Facebook and Instagram are blown up with comments of members and non-members of the community alike (Reuters, 2021). To accommodate such diverse identities in hardcore Indian society, the Karnataka government proposed one per cent reservation for transgender in the state (Correspondent, 2021) (Ratnam, 2018).

6.2 Case Study: Discrimination against Gender Minority

6.2.1 Direct Discrimination

The LGBTQIA community is subjected to direct discrimination in the public space. Though the recent judgements of the Supreme court provide them equal rights as any other individual, the society has not accepted this full-heartedly including the so-called 'progressive companies'. An instance was when two individuals from the transgender community in Pune who were approached with job offers from Amazon were shocked to know that the payment was about Rs 7000- 8000 per month, far below what was usually paid. "They argued that they were giving us a dignified living", said one of the activists who wished to remain unnamed. (Mumbai Mirror, 2020)The LGBTQIA community is shown to be supported by the companies, but direct discrimination in paying lesser than the standard wages is prevalent.

6.2.2 Indirect Discrimination

Indirect discrimination occurs when the policies of an institution affect individuals unequally, as of the following instance. In 2017, (Ganeriwal, 2020) Kerala's Kochi Metro Rail Limited employed 23 transgender persons, which was very much applauded then, for having an inclusive approach. But, later eight of them quit their jobs within a month due to refusal by several landlords to give them accommodation. They had to quit their jobs since their employer had no legal obligation and/or incentive to step in and help them fight against such

discrimination. Here, the indirect discrimination came up when the employer and the policies did not involve any obligation to support them in such a difficulty on basic needs, which might not be needed for the binary genders. But as these individuals needed help then, this policy affected them negatively.

6.2.3 Harassment

On the evening of July 20, 2020, 23-year-old Sanjit Mondal (name changed), a gay man, was stopped by two men on a motorcycle on his way home after visiting a friend in Kolkata's Chinar Park neighbourhood (Bhattacharjee, 2020). The men asked him to go with them to the nearby police station. When he refused, the men verbally and physically assaulted and tried to force him onto their bike, showed the ID card, confirming identity as a civic police volunteer." The Kolkata Municipality introduced the Civic Police Volunteer Force in 2008 to assist the Kolkata Police in traffic management. Soon, more civic volunteers joined, which attracted public attention. Mondal states that he begged the public for help but failed. On the way to the station, they allegedly asked him inappropriate questions about his sexual identity. Mondal was taken to the Narayanpur police station within the Bidhannagar City Police, where he was humiliated, threatened and abused for his sexual identity. Mondal alleges that a police official snatched his phone and checked his image gallery, showed it to others over there saying he is gay and has such images." Later that night, Mondal was questioned by two other officials who asked him more inappropriate questions, and when he told them they were doing wrong, they hit his knees with a cane." Mondal says they did not put him in lockup throughout his more than 12-hour ordeal at the police station but kept him in an empty room. He was allowed to leave at noon the next day with a warning that if he did not behave like a man, they would feed him to a crocodile. "They all agreed that gay people must be beaten," he adds (Bhattacharjee, 2020). This gives a clear picture of the extent of harassment faced by the LGBTQIA community as the police force could intrude into his privacy and humiliate him due to the social stigma associated with the community.

6.2.4 Victimization

A., from Bilaspur in the state of Chhattisgarh in India, a young gay man who wanted to be identified only by his initial, shared his story. When A., 22, had made plans to meet a man through a messaging application, he was greeted by two different men, one in a police uniform who drugged and raped and took a selfie, he said. Also, 'A' was afraid of blackmailing. He did not approach the police to report the crimes, fearing its consequences (Schultz, 2018). In this incident, even though the person faced torture and physical abuse against his wish, he could not complain to the police because of his fear. Here victimization arises, where he could not raise his voice even though he is the victim because he is bound to be looked down upon.

7.0 Need to Combat Gender Discrimination

Gender discrimination need to be curbed to make the world a welcoming place and allow sustainable development. With its end, gender equality would prevail. Gender equality refers to the state of equal ease of access to resources and opportunities regardless of gender, involving economic participation and decision-making, and the state of valuing different behaviours, aspirations and needs equally, regardless of gender.

SDG-5 of the United Nations is gender equality. The term gender equality needs to be embraced, considering the gender minorities and the women. Before the pandemic, improvements were observed in conditions of women, such as fewer girls getting married at an early age and more women in leadership roles. But full gender equality remains unreached. In the light of Covid-19 implications, lockdowns are increasing the risk of violence against women and girls. Cases of domestic violence have hiked by 30% in some countries. Women are also on the front line of fighting the pandemic. They also have to bear household burdens as well (Goal 5 | Department of Economic and Social Affairs, n.d.). The LGBTQIA community is ignored by society and they have to fight the pandemic as well as the social exclusion. Even though the gender minorities are engaged in many domains, they are still not treated equally.

Sustainable development refers to ending discrimination towards individuals and providing equal opportunities for them in education and employment. Gender equality has shown to stimulate economic growth, which is essential for countries with higher unemployment rates and less economic opportunity. UN Women reported that in Organisation for Economic Co-operation and Development (OECD) member countries, a lion share of the economic growth over the past 50 years could be attributed to girls having better access to education (Darrah, 2020). Despite progress under the UN Millenium Development Goals in many countries, women still face barriers to the labour market. The gender minorities and women have to face sexual harassment, gender roles, and unpaid care work and labour-heavy chores – like collecting water. Gender diversity improves an organization's productivity and innovation. When all individuals are given equal education, there will be equal job opportunities and closing the gender pay hiatus is vital now. There needs to be gender-friendly spaces. The gender minorities and women are the poorest in any economy; they are not given equal education, job opportunities and income and the cycle of poverty turns endless.

Getting the same opportunities would raise their family from poverty and reduce the world's poverty rate. If gender equality takes place in the health care sector, women and the gender minorities would get better access to healthcare facilities and improve overall societal health where independent women can take better care of themselves and their babies. Women and LGBTQIA representation in the workplace is insufficient, and most political systems still consider these communities as weak. In India, former Prime Minister and Iron Lady of India, Shrimati Indira Gandhi, former Speakers of Lok Sabha, Shrimati Meira Kumar and Sumitra Mahajan and former President Shrimati Pratibha Patil set excellent examples. The Finnish Cabinet is largely dominated by females. If gender equality was realised, the world would see a lot more women engaged in the political process. This includes political leadership (Soken-Huberty, 2020). Positive outcomes of gender equality are innumerable such as it prevents violence against women, brings goodness to the economy, it is a human right and makes a community safer and healthier (VIC Government, 2021).

8.0 Suggestions and Recommendations

Achieving gender equality is a distant daydream in India. But attaining it is paramount and the first move towards progress is awareness. If a society is unable to acknowledge gender inequality, then societal change is impossible. To bring about gender equality, people need to be aware of the status quo and the benefits of change. International Women's Day is celebrated annually on March 8 to commemorate women's cultural, political, and socioeconomic achievements. Being aware of the history of the LGBTQIA community by promoting and supporting campaigns and activities to empower them should be a priority. Some suggestions and recommendations to accomplish gender equality are given below:

- A significant obstacle to gender equality is unequal access to education. Without identical education for boys and girls, prospects for girls are limited and bleak. The discriminatory laws that aggravate gender inequality need to be repealed and new rules need to be brought. Governments, legislators, and activists all play a part in this process. (Soken-Huberty, 2020b)
- School and college curriculum must be moulded to include LGBTQIA community in policies formulation and working strategies. The stigma around them must be put to an end immediately.
- There has to be a strong anti-discriminatory and all-inclusive policy to accommodate all genders. In case of homophobia or homophobic bullying, strict action should be taken, and counselling has to be arranged for such individuals.
- Equal benefits should be offered to all individuals irrespective of their gender- be it male, female or LGBTQIA. Unisex toilets and gender-neutral language must be encouraged.
- LGBTQIA organizations must be established at schools, offices or colleges. Gender tolerance and neutrality must be taught to everyone at an early age. Spaces such as classrooms, courtrooms, office cabins should be designated as 'safe spaces' through stickers or posters on doors.
- There exists a need to develop LGBTQIA friendly workplaces that will lead to improved

health, increased job satisfaction, better relationships with co-workers and supervisors and more outstanding work commitment among them.

- Females and the LGBTQIA community should be encouraged to speak up and make sure they know the value of their opinions so that they are not scared to raise their voice against discrimination or any wrongdoing.
- People should keep abreast of events happening and be aware of rights -Fundamental Rights, Women's Rights and Human Rights and should join online protests on social media like Instagram, Twitter or Facebook by which solidarity can be ensured.
- Toxic masculinity, even in a simple form, should be checked and discouraged from childhood. For this, the socio-legal and cultural agents need to stand together with the women and the third gender.

9.0 Conclusion

The study showed that patriarchal norms and dominance backed by gender stereotypes causes sex discrimination in the contemporary Indian society. Even in 2021, the social factors play a major role in determining the position enjoyed by individuals, that results in different forms of sex discrimination against women and the gender minorities. Laws which protect individuals should be far from discrimination between male, female and the LGBTQIA community. Both women and the gender minority groups are exploited even in the contemporary Indian context. Medical studies suggest that sexual identity cannot be medically controlled via surgeries and hormones. It is widely being understood that sex cannot be comprehended in terms of just biology. Even though Section 377 was scrapped, the LGBTQIA community has been still living under the fear of being attacked, physically or mentally, and excluded from the public space. Though the legal framework offered protection, this attitude is highlighted and evident in many parts of India. So the real change should start from the society, in their mentality to respect the women and the LGBTQIA community. Judicial support should act as a backbone and the social awareness programmes will work as a catalyst for the improvement in the status of women and the LGBTQIA community.

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