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## Gender, Sexuality, and Crime: A Critical Discourse

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*Gender, sexuality, and crime is the most controversial topic in today's time, there are always some debates going on regarding the increasing crime rates based on gender and sexuality. Gender equality in society is still a far cry and there is a long way to go to get a society where everyone is treated equally and the crime rate of that society is negligible. Crime is a social evil that disturbs the peace and harmony of the people living in a society. There is a lack of awareness in the people regarding their rights and the ways to protect them. They are not even aware of the difference between gender and sexuality. But with time, society has been developing. Various laws and regulations have been passed to protect the interest of the individuals living in the society and people are being encouraged to speak up for their rights instead of bearing the crimes silently. The present research paper tries to analyze the crimes happening in society and the causes of the same. It also tries to tell the difference between gender and sexuality. We will try to analyze the terms and discuss how crimes are happening against gender and sexuality.*

**Keywords:** *gender, crime, sexuality.*

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## INTRODUCTION

*“Man is by nature a social animal”*<sup>1</sup>, said a very famous Greek philosopher Aristotle, by saying so he emphasized the nature of a human being that thrives to live in society and society is a must for its better survival. A society consists of a variety of people that further forms many social groups and hence interact with each another and helps in mutual growth and development of the society as a whole. Each person in the society has its likes and dislikes and their mindset and hence every individual behaves in that way only which suits his perspective. Society is created to ensure peace and harmony among people but crime is also a part of the society and it remains always present in one or another way. Crime can be a major factor in the disharmony of society. Crime is interpreted by various social groups in their ways and their laws. It is also important to be noted that no one is born a criminal, but he may become one because of various circumstances that one face in a social setup. It would be a utopia to imagine a society without crime as even after making some stringent laws and harsh punishment for the same, one can see that the crime in a society still exists.

If we take a look at the current scenario that is still prevailing in India, then one can see that India is still a male-dominated society and the required importance to women in Indian society is still a utopia. Even after so much development and social progress, the situation of women has changed a bit but not much as it is supposed to be. Women are still considered fragile; this also plays a major part in the crime against women. The majority of the cases that one hears in daily life are committed by man. However, it does not imply that every man is safe in society and crimes against a man are a matter of chance or it rarely happens, it would be completely wrong to think this way. Even men are also victimized by crimes but the crimes against them are done by men only and we seldom hear that a crime has been committed against a man by a woman. By saying so, the author is not neglecting the possibility of the same but generally, the crimes have been committed by men only.

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<sup>1</sup> ‘Man as a Social Animal’ (*The Hindu*, 12 March 2012)

<<https://www.thehindu.com/features/education/research/man-as-a-social-animal/article2988145.ece>>  
accessed 08 January 2022

The crime rate is very high in the present world and in the further chapters, we are going to study varied reasons for the same and gender-based crimes also. Gender, sexuality, and the crimes related to it is the most significant topic to talk about but it doesn't get the desired importance. Many people in society tend to use gender and sexuality as synonymous and are not even aware of the line of difference between the two terms. Awareness of such kinds of concepts is not there in many people and hence they become the victims of such crimes. The project tends to study the reasons for the crimes and also it tries to emphasize the crimes against women and the reason for the same.

### **RESEARCH OBJECTIVES**

The objective of the study is to analyze the reason behind the surging number of crimes in society against genders and sexuality. It also aims to:

- Understand the difference between gender and sexuality.
- Understand what circumstances lead a person to commit a crime

### **RESEARCH QUESTIONS**

- What is the difference between gender and sexuality?
- What are a crime and its causes?
- What is the status of women in the current scenario?

### **RESEARCH METHODOLOGY**

The research is descriptive and analytical. The research was carried out through secondary data to understand the impacts of gender inequality, sexuality, and related crimes.

**Source of Data:** As the study is non-empirical in nature, it uses secondary data available for its analysis and draws a conclusion out of it.

**Method of Data Collection:** The secondary data have been obtained from various published sources and online sources like government official websites and reports, and also published journals.

**Limitation of the Study:** The project faced the limitation of appropriate data as it employs secondary resources. There were also some constraints relating to time and lack of access to study resources for better analysis of the issue. The work focuses mainly on the related aspects in India and some aspects are omnipresent.

## CRIME AND ITS CAUSES

The word 'Crime' can have different notions in different societies. A certain act may be a crime for one but may not be a crime for another. If we think of crime then generally, we may imagine that it is an act that is harmful to society or it may endanger the life of a person, hence, can have undesirable effects in the society as a whole like a disharmony, fear, violence, etc. As we take the opinion of more and more people then, we will get to see a varied number of interpretations that may differ from each other. Many circumstances can motivate a person to do any act that may be termed as crime and the environment in which he lives and the social groups in which he interacts with others can have a major influence on the behavior of a person.

To define the term crime, it would be right to say that, "Crime is a behavior that violates official law and is punishable through formal sanctions"<sup>2</sup>. In other words, any act or behavior which is in the aberration of the law of the land and doesn't fit in the eye of law is a crime and the law has also prescribed some punishments for the crime. The degree of the crime depends on the nature of the crime. The heinous the crime, the harsh the punishment would be. In India, the acts that have been covered under the India Penal Code is considered crime and has a particular punishment for the same. A universal meaning of crime is "any act or omission of an act which is punishable under the law".

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<sup>2</sup> 'Introduction to Sociology' (*Open Stax*, 24 April 2015) <<https://openstax.org/details/books/introduction-sociology-2e>> accessed 08 January 2022

The criminal behavior of a person sets him apart from the rest of society. There are some norms and ethics that one perceives but following them is based on how a person is being brought up. The mindset of the person might get tilted to the crime side by external circumstances like financial instability, gender discrimination, prejudices, etc. and if a person lets his or her prejudices drive his or her acts then it can lead to a criminal act and some acts that don't fit the norms set by the society.

**Causes of Crime:** The causes of crime are not certain or definite as different conditions or circumstances can lead or trigger a person to commit a crime. Some may do a crime to get some money so they can eat something and they don't do the act voluntarily but it becomes their necessity so that they can get some food to eat and they commit a crime for their livelihood. However, some people may commit a crime just for the sake of their pride as they want the people to have some fear in their mind about that criminal. This situation can be voluntarily done and it gives a sense of pride to the criminal. Some may commit a crime because of their biased mindset as we can see in many parts of the world women are suppressed by men and the required amount of respect is not given to the women. Domestic violence is an apt example of the dominance or biased mindset of men.

**So, the crux of the above-mentioned statement is to inform about the various causes and the reasons that may lead to a criminal act. Some of the common causes of the crime are discussed below:**

**Economic Condition:** In general, it is observed that where the economic value of the country is low or the gross domestic value is low, the crime rate of that particular country would be very high. If the economy flourishes, it means that the flow of money would be high in that economy and the generation of the income will be high, so a person who lacks monetary resources need not commit any sort of criminal activity like theft as he will get ample job opportunity to earn money and fulfill his basic needs. If the resources are unequally divided among people, then it may lead to disharmony and the crime rate will surge eventually.

**Lack of Education:** Education plays an important role when we talk about the morality and mindset of a person. The crime rate at a place, where the literacy rate is low, would be very high as compared to a place where the people are well educated. The illiterate people may not have the desired knowledge to differentiate between what is wrong and what is right, they mostly remain unaware of their rights given to them by the constitution and they suffer the criminal acts without uttering a single word or some may commit a crime unintentionally just because of the lack of awareness. If a person is not provided proper education, then he or she may not be able to understand undesired social behavior like gender discrimination, one of the main causes of crime against women in rural areas.

These are some of the causes of the commission of a crime but these are not the only causes, there can be a number of reasons that can lead a person to commit a crime. In the above points, some reasons are mentioned so as to give a clear understanding of the circumstances that can trigger a person to commit an act that is not in the line with the norm of society. Some other factors like anger, jealousy, fear, revenge, etc. can also be the reason for the crime. A crime-free society is just a utopia for many countries. Different societies have different crime rates and that too of different types. Some may have crimes against women, children, men, or any other gender. The crime rate also varies and hence we seldom see a society that is free of crimes. But it doesn't mean that nothing can be done about the criminal actions, some laws, awareness programs can be introduced in the societies to ameliorate the crime rate. The areas of improvement are still there in many countries, only identifying and working on them can lead to peace and harmony in the society.

## **GENDER AND SEXUALITY**

Gender and Sexuality are used as synonymous by many people and sometimes these two terms create confusion in the mind of a person. They are used interchangeably but both are different from each other. The primary purpose of this chapter is to elaborate on these two terms and highlight the difference between the two for better understanding. Imagine any form that you have filled recently it must have contained the option to fill gender or sex, almost every form contains only one of the two terms but you barely find any form which

contains both of the terms in it. So, till now most the people also consider them as the same thing. But in Sociology, both the terms are different and have different meanings.

Now as per many sociologists the terms sex and gender are different and hence cannot be used interchangeably. According to them, 'Sex refers to physical or physiological differences between males and females, including both primary sex characteristics (the reproductive system) and secondary characteristics such as height and muscularity. "Gender is a term that refers to social or cultural distinctions associated with being male or female". In other words, we can say that sex of a person can be determined from the birth itself by observing the genitals of a newborn baby as a person can tell about the sex of a newborn baby boy having a physical appearance of the body organs of a male that the sex of the baby is male, but the same doesn't go with gender as the society is always changing and one cannot predict the characteristics that one is going to perceive from the surroundings. The gender of a person can be determined by having an observation of social or cultural differences of any person and the role that one plays in one's life.

Although it can also be possible that one may adopt a character or trait as his or her gender, it may vary from their sexual orientation. Those whose gender identity doesn't match with their sexual orientation are referred to as transgenders. Society generally doesn't accept gender other than male or female. There is always debate and discussion on the third gender, they face discrimination and harsh behavior in society. A norm has been set in the society that a male will marry a female-only and vice-versa or the opposite sex marriage is being promoted but nowadays we hear about the homosexual, who has the liking for the same gender as them and hence they want to spend their life with the same gendered person. But, because of this aberration from the societal norms they face torture and violence. But we can also observe that in many parts it is being normalized as well. The historical judgment in 2018 was a ray of hope for many, in which the Supreme Court gave a green signal to same-sex marriage and homosexuality<sup>3</sup>. So, society is also developing and the mindset of people is also changing but it

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<sup>3</sup> *Navtej Singh Johar v UOI* AIR 2018, SC 4321

will take some time and awareness programs to stop the crime against third gender and homosexual.

## **CRIMINALISATION AND VICTIMISATION**

The crime rate in India is increasing at a very high pace and if one observes these crimes in research then one will find that the crimes based on gender and sex are also increasing. Even when gender equality is being promoted in various levels of society, discrimination based on gender is still there. Women are the major victims of the crimes based on gender roles. As women are competing with men in various areas, be it job or sports, the crime against women is very high. Earlier women used to be at home and men were the only earners of the family but this gender equality era has changed the whole scenario. With some benefits of equality, women have to face the evil of society as well. They face issues in their jobs, like even for the same work the salary of a man is higher than that of a woman.

Moreover, even in this era of gender equality, women are still facing issues like sexual harassment at the workplace and domestic violence. In criminal activities like rape and domestic violence, it's the women who are the main victims of such evils. And males are the ones who are the criminals or the doer of such criminal activities. The victim and criminal of such actions have been deemed and when one hears about rape then only women as victims and males as the criminal comes to one's mind. However, it cannot be concluded that men do not face any such crimes but the main turn is that in such crimes it is the men who commit it and women are the victim. Men are generally victims in malicious prosecution by their counterparts, in which the female just for the sake of defaming the other person or with some ulterior motive, accuses men. The misuse of such powers by women has been seen in many cases. Furthermore, society even believes these false accusations even before the trials began in the courts of law.

## **CRIMES AGAINST WOMEN**

The following table shows the trend of crimes against women with authoritative statistics issued by the 'National Crime Records Bureau' -

**Crime Head-wise Incidents of Crime Against Women during 2006 - 2010 and Percentage variation in 2010 over 2009**

Sl. No.	Crime Head	Year					Percentage variation in 2010 over 2009
		2006	2007	2008	2009	2010	
1.	Rape (Sec. 376 IPC)	19,348	20,737	21,467	21,397	22,172	3.6
2.	Kidnapping & Abduction (Sec. 363 to 373 IPC)	17,414	20,416	22,939	25,741	29,795	15.7
3.	Dowry Death (Sec. 302 / 304 IPC)	7,618	8,093	8,172	8,383	8,391	0.1
4.	Torture (Sec. 498-A IPC)	63,128	75,930	81,344	89,546	94,041	5.0
5.	Molestation (Sec. 354 IPC)	36,617	38,734	40,413	38,711	40,613	4.9
6.	Sexual Harassment (Sec. 509 IPC)	9,966	10,950	12,214	11,009	9,961	-9.5
7.	Importation of Girls (Sec. 366-B IPC)	67	61	67	48	36	-25.0
8.	Sati Prevention Act, 1987	0	0	1	0	0	-
9.	Immoral Traffic (Prevention) Act, 1956	4,541	3,568	2,659	2,474	2,499	1.0
10.	Indecent Representation of Women (Prohibition) Act, 1986	1,562	1,200	1,025	845	895	5.9
11.	Dowry Prohibition Act, 1961	4,504	5,623	5,555	5,650	5,182	-8.3
	<b>Total</b>	<b>1,64,765</b>	<b>1,85,312</b>	<b>1,95,856</b>	<b>2,03,804</b>	<b>2,13,585</b>	<b>4.8</b>

*Source - National Crime Records Bureau<sup>4</sup>*

It shows the crimes against women in different heads for the year 2006-10. If we observe this table then one can understand the trend of the crimes that women still had to face even in the era of gender equality. The total number of crimes against women increased from 164765 in 2006 to 213585 in 2010 which amounts to a percentage increase of approximately 29%. The number is increasing year by year as depicted in the table. From all the heads in which the crime against women has been distributed, torture is the most common of all with the highest number of cases, the women face such crimes in their day-to-day life, torture for dowry is also a common crime. Even after implementing harsh laws and punishments for the same, the crime rate has been increasing, commonly where the literacy rate is low and people are not aware of all their rights.

## CRIMES AGAINST MEN

Whenever there is a discussion about the crimes in the society, the major head for the discussion is generally the crimes faced by women in the society but it seldom happens that

<sup>4</sup> 'Crimes against Women' (NCRB, 2011)

<[https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Chapter%205\\_2011.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Chapter%205_2011.pdf)> accessed 09 January 2022

debates and discussions happen on the crimes faced by the men in the society. There are also very few laws protecting the rights of men, if a women face any sexual harassment act, then there are strict laws and regulations which try to give speedy and fair judgment and punishment to the criminal, that is, men usually. But what if a man faces any such crime related to sexual intercourse, then one will hardly find any law talking about the protection of men in such cases. Even if a woman falsely accused a man of such crimes like rape or sexual harassment then the image of that person in society degrades and even if the man is innocent but still society will treat him like a criminal. And the slow justice system would add further to it.

Similarly, domestic violence is a recognized crime that affects the person physically and psychologically. It can happen with a man as well as a woman, but the laws in India are not the same for them both, and society as well does not treat them the same. If a woman complains about domestic violence, then the police will take strict action as per the laws and society will try to do everything to shun such activities against women. But imagine if a man complains about domestic violence by his wife, then would the laws will be treating the same with much gravity also the society will laugh at that person<sup>5</sup>. Hence, the whole point or the crux of the above statement is the gravity in which the crimes against men are treated. It is not taken as seriously as it is supposed to be. There are various loopholes in the existing laws and there are various possibilities of the misuse as well like false allegations by the wife against her husband for dowry, now the laws are so strict in this regard that it can have undesired results.

## DISCUSSION

The study uses some studies and anecdotes to show the current scenario of the crimes based on the gender of the person. The data is also taken from verified sources like the National crime records bureau. The crimes that are faced by women are bifurcated into different heads and the total number of cases has been analyzed. The crime rate in India has also been increasing constantly even after various laws and acts. There are various crimes as well in

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<sup>5</sup> Dhvani Desai, 'When Husbands are Victims of Domestic Violence' (*Times of India*, 10 May 2017) <<https://timesofindia.indiatimes.com/life-style/relationships/love-sex/when-husbands-are-victims-of-domestic-violence/articleshow/26031858.cms>> accessed 10 January 2022

which the men are pre-supposed to be criminals and their value is degraded in the society. But the fact that women are still victims of various harassment and taboos cannot be ignored. The protection of the women in the country is of utmost importance and if the women live their life in fear and insecurity then the proper usage of the fundamental rights in the constitution cannot be ensured.

Even after strict laws, the evils like crime are still prevailing in society, as discussed earlier that can be because of the lack of awareness of the people of their rights and that of others. A mere glance at the data released by the national crime record bureau is enough to conclude how the number of crimes is increasing. Both the central government and the state government must work in concomitant to decrease the crime rates and the mindset of the people and the society as a whole need to be liberated and that cannot happen without taking any steps towards the change. Just having favorable GDP data is not enough to have a fair idea of the position of the country, for instance, if a country is having great economic growth but along with that the number of crimes is also at a great increasing pace then what is the benefit of that economic growth if the people of that country are leaving in fear and are insecure.

There are many countries in which the crime rate is very low and is minimal, so other countries must make them their idea and learn from them, how they are managing the whole society that resulted in the low crime rate. There is nothing wrong with learning from others and following their path to reach a better position and eliminate the crimes from society. One must learn and adapt their methods and only a crime-free society would be deemed as truly happy and prosperous.

## **CONCLUSION**

Crimes are the evil of every society and they cannot be eliminated at one stroke. With the course of time and various awareness programs, society eventually leads to a more open and respectable environment. If we talk in the context of India then it is fairly a recently freed nation from the foreign rules and its society is still developing and is like a baby learning what is right and what is wrong. Society has developed its norms and any aberration from them is

considered a crime. The crimes can be triggered by various factors like economic condition, lack of education, etc. and with the advancement of technology, it can also happen online so one must be aware all the time.

If we talk about the crimes related to gender and sexuality in India, the society is not yet developed to adapt anything new if we talk about the homosexuality and LGBTQI community, they are still not welcomed by society in the same sense. Not only is the case that crimes are committed against the third gender -person, but even the natural gender like male and female also is not yet free from all the crimes. Women, in general, are the victims of the crimes be it in the workplace or their house. With some benefits of equality, women have to face the evil of society as well. Various laws and ordinances are protecting the interest of the person from crimes but still, they are various loopholes that must be identified and corrected with time. Hence, it will take the collective efforts of all the individuals to make a social structure that is free of crime and everyone is treated equally irrespective of their gender and sexuality. The main goal of every individual should be to make this world a better place to live and whenever we see a crime happening, we shall do all that is possible to stop that crime, and with collective efforts, we can achieve the 'utopian' land that is in our imaginations.