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The Spectrum of Asexuality a Deep dive into the Community, its History, and the Legal Barriers

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Asexuality is a sexual orientation characterized by a lack of sexual attraction or desire toward others. Asexuality is a spectrum, and individuals who identify as asexual can experience it in different ways. Various historical and cultural contexts have contributed to the marginalization of asexual individuals. In the past, the lack of knowledge and understanding about asexuality has led to stereotypes and misconceptions about asexual individuals, with their orientation being mistaken for celibacy or a mental disorder. According to The Hindu Marriage Act 1955, a marriage can be consummated only through sexual intercourse between the husband and wife¹. This requirement for consummation is based on the assumption that every person is capable of sexual activity and desires it as a part of a normal marriage which certainly is not the case for people in the asexual spectrum. Article 21 of the Constitution of India² assures the right to life and personal liberty. This legal provision safeguards the entitlement of every individual to protect and maintain their life and personal liberty, this also encompasses individuals who identify as being on the asexual spectrum. Hence asexual individuals' right to life and personal liberty must be protected by the state. Any violation of this right is considered a violation of the fundamental rights guaranteed under the Indian Constitution and should be allowed to be challenged in a court of law. Indian legal system must recognize the existence of asexuality, educate people about it, and provide legal remedies for those who experience discrimination. Policymakers, lawyers, and other stakeholders should be urged to work towards creating a society that respects the right of asexual individuals to live with dignity and free from discrimination.

¹ Hindu Marriage Act 1955, s 12(1)(a)

² Constitution of India 1950, art 21

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INTRODUCTION

Since times immemorial sex has been a fundamental aspect of human life. From procreation to pleasure, the act of sexual intercourse has played a significant role in shaping our societies and relationships. Throughout our history, sex has been intertwined with love, marriage, family, religion, and even politics. Amidst all of these societal norms, there exist many individuals who do not possess the experiences of sexual attraction or engagement. Now, let's just step into the shoes of a 19-year-old girl who belongs to the asexual spectrum and witness what life holds for her in this contemporary world.

Meet Suhana, who at 19 felt like an outsider to the world. Everywhere she looked, it seemed like sex and sexuality was at the center of people's lives and relationships. From the romantic comedies she watched, and the casual conversations she overheard to the pop culture references in the latest Netflix series, in everything sex seemed to be an integral part of the human experience. But for Suhana, that just wasn't the case. She had never felt sexually attracted to anyone and often felt left out and alone in a world that seemed to revolve around sex. Suhana was always left feeling confused and out of the loop when her friends would sing along to the latest pop songs with ease nor did she connect with the love stories that her friends seem to fantasize about.

Asexuality raises important questions related to law as it raises important questions about equality, discrimination, and how these principles apply to people who may identify as Aroace.³ Legal systems and regulations in various jurisdictions protect against discrimination based on an individual's sexual orientation. However, the recognition and protection of asexual individuals may not be explicitly addressed in these laws. This can result in a lack of legal protection for individuals who identify as asexual, as well as a lack of understanding about their experiences and needs.

³ 'Aroace' (*Urban Dictionary*, 30 August 2017) <<https://www.urbandictionary.com/define.php?term=aroace>> accessed 16 February 2023

HISTORY

The history of asexuality as a recognized sexual orientation is relatively recent. The concept of asexuality originated in the late 1890s, when Magnus Hirschfeld, a German sexologist, referred to individuals who lacked any sexual desire in his work *Sappho und Sokrates*, referring to them as ‘anesthesia sexual.’ In the 20th century, the understanding of asexuality was further developed, with its inclusion in the Kinsey Scale in the 1940s. Psychologists in the 1970s distinguished between a lack of sexual behavior and a lack of sexual attraction, consolidating the modern understanding of asexuality. The term gained prominence in the following decades, featuring in various contexts, including in a manifesto by the New York Radical Feminists and a personal essay by Zoe O’Reilly. In 2001, David Jay founded the Asexual Visibility and Education Network (AVEN), which has since become the most prominent platform for asexual communities. In 2002, the Sexual Orientation Non-Discrimination Act was passed in New York, which was the first and only legislation to date that mentions asexuality

POP CULTURE

David Bowie’s 1974 Rolling Stones interview with William S. Burroughs is a well-known reference to asexuality, becoming an iconic mention of the topic. There are other notable individuals, such as Isaac Newton, Nikola Tesla, H. P. Lovecraft, Morrissey, and Caitlyn Jenner, who are believed to be or have been asexual. The adult animated series *BoJack Horseman* also prominently features asexuality, with one of its main characters, Todd Chavez, coming out as asexual. *BoJack Horseman*’s multi-season arc exploring Todd’s journey of self-discovery and acceptance, including his attendance of an asexual meetup group and a date with another asexual, Yolanda Buenaventura (Natalie Morales), has been noted for changing asexual representation in popular media. Prominent aromantic asexuality activist, and British model Yasmin Benoit, has created the Twitter hashtag #ThisIsWhatAsexualLooksLike⁴ As time has passed, the idea of asexuality has become more widely acknowledged and comprehended. In

⁴ ‘What is Asexuality?’ (*Feeld*, 24 April 2020) <<https://feeld.co/blog/feeld-guides/definition-aseexual>> accessed 17 February 2023

2010, the American Psychological Association officially recognize asexuality as a valid sexual orientation, and more and more individuals have come forward to identify as asexual.

THE SPECTRUM

Demi Sexuality: Individuals who identify as demisexual only experience sexual attraction towards someone when they share an emotional bond with that person. Demisexual individuals may identify as gay, straight, bisexual, pansexual, or any other sexual orientation and may have any gender identity. The term "demi" derives from the Greek word for "half," suggesting that demisexual individuals experience a degree of sexual attraction that falls somewhere between sexual and asexual orientations. Demisexual individuals experience secondary attraction, which is the kind of attraction that develops after getting to know someone, rather than primary attraction, which is the initial attraction you feel when you first meet someone. Demisexuality is sometimes considered to be a subset of asexuality, as both orientations involve a lack of sexual attraction. To sum up, demisexual individuals are not the same as asexual individuals because the former can feel sexual attraction, but only towards someone they have an emotional bond with.⁵

Graysexuality: Graysexuality, which can also be spelled as grey sexuality, gray asexuality, gray-a, gray-ace, or grey-ace, refers to individuals who identify as asexual but do not fit neatly into the three main categories of asexuality. These categories include sex-repulsed individuals who feel no interest in or are disgusted by the idea of sex, sex-neutral individuals who do not actively seek out the sex but may still engage in it in certain circumstances and sex-positive individuals who are asexual but still have sex for pleasure. Graysexuality is an intentionally vague term that acknowledges the existence of a gray area between asexual and sexual orientations. These individuals may occasionally experience sexual attraction, but for the most part, they do not. ⁶

⁵ 'What Is Demisexuality?' (*WebMD*, 28 June 2021) <<https://www.webmd.com/sex/what-is-demisexual-demisexuality>> accessed 16 February 2023

⁶ 'What Is Graysexuality?' (*WebMD*, 29 June 2021) <<https://www.webmd.com/sex/what-is-graysexuality>> accessed 16 February 2023

Aceflux: Aceflux is a type of sexual orientation that exists on the asexual spectrum. People who identify as aceflux experience fluctuations in their sexual orientation, moving between asexuality, gray sexuality, and allosexuality at different times. This orientation can be used alone or combined with other terms to describe the type of attraction they experience. Aceflux individuals typically feel attracted to the same gender(s) consistently, but the level or intensity of that attraction can change. Those who identify as asexual but experience occasional spikes of attraction may use the term ‘acespike.’⁷

Orchidsexuality: Orchidsexual is a specific term used within the asexual spectrum to describe individuals who experience sexual attraction but do not desire to engage in sexual relationships or encounters. This term can be used on its own or as an umbrella term to describe other individuals who feel similarly. Someone who identifies as orchid sexual may find others to be sexually attractive but does not have the desire to engage in sexual activities. It is the opposite of cupiosexual and falls under the grey sexual category.⁸

Aegosexuality: Aegosexual (also known as anegosexual, historically referred to as autochorissexual) is a micro-label within the asexual spectrum that pertains to individuals experiencing a detachment from the object of arousal. Aegosexuals might have sexual fantasies, appreciate pornographic or other sexually suggestive material, or engage in self-stimulation. Nevertheless, they typically experience little or no sexual attraction and usually do not desire sexual interaction with another person.⁹

Aromanticism: Aromantic individuals experience little to no romantic attraction towards others, and their experience, like other sexual orientations, can vary across a spectrum. They may or may not feel sexual attraction. The romantic orientation of an aromantic person does not necessarily indicate a preference for physical intimacy. While some aromantic individuals may avoid touching or being touched by others, others may enjoy non-romantic physical expressions

⁷ ‘Aceflux’ (*LGBTQIA+ Wiki*, 6 February 2023) <<https://www.lgbtqia.wiki/wiki/Aceflux>> accessed 16 February 2023

⁸ ‘Orchidsexual’ (*LGBTQIA+ Wiki*, 24 April 2022) <<https://www.lgbtqia.wiki/wiki/Orchidsexual>> accessed 16 February 2023

⁹ ‘Aegosexual’ (*LGBTQIA+ Wiki*, 6 February 2023) <<https://www.lgbtqia.wiki/wiki/Aegosexual>> accessed 16 February 2023

like holding hands, hugging, or cuddling, even though these behaviors may be perceived as romantic by others. The range of preferences of aromantic people can vary from one individual to another.¹⁰

It is worth highlighting that there is a diverse set of sexual orientations that exist within the asexual spectrum. The multitude of identities within asexuality can lead to confusion, not only for individuals who identify as asexual but also for those who lack an understanding of asexuality in itself. It is important to remember that sexual orientation is a complex and fluid aspect of human experience, and there is no one right way to express or experience it. The diversity of sexual orientations is a testament to the rich and varied experiences that make up the human experience. And while the concept of aegosexuality and other asexual identities may be new or unfamiliar to some, we must approach all sexual orientations with openness, respect, and understanding.

LEGAL IMPLICATIONS

According to the Hindu Marriage Act of 1955, the annulment of a marriage may be pursued under sections 11 and 12, which respectively address the legal categories of void and voidable marriages. Section 11¹¹ governs marriages that are considered to be void, indicating that such marriages were never legally valid. In contrast, section 12¹² applies to situations in which a marriage is voidable, meaning that either one or both of the parties may exercise the option of seeking an annulment.

Voidable Marriages: The Act states that any marriage that has taken place, whether before or after the commencement of the Act, can be declared void if certain conditions are met. The

¹⁰ 'What Does Aromantic Mean?' (*WebMD*, 27 June 2021) <<https://www.webmd.com/sex/what-does-aromantic-mean#:~:text=Aromantic%20people%20have%20little%20or,people%20or%20aromantic%20asexual%20people>> accessed 16 February 2023

¹¹ Hindu Marriage Act 1955, section 11

¹² Hindu Marriage Act 1955, section 12

marriage can be annulled by a court order if it is found that the respondent was impotent at the time of the marriage and remained impotent until the time of the legal proceedings.¹³

Impotency: In the legal case of *Digvijay Singh v Pratap Kumari*,¹⁴ the Supreme Court of India elucidated the meaning of the term "impotent." The court expounded that impotence denotes the incapacity to consummate a marriage, that is to say, the inability to engage in conjugal intercourse, which is deemed one of the primary objectives of the institution of marriage.

Consummation of Marriage: In the context of marriage, consummation means the actualization of marriage. The act of consummation in a marital context refers to the initial engagement in sexual intercourse between a husband and wife. This act is characterized by the completion of a satisfactory and normal union, as opposed to incomplete or imperfect coitus. Essentially, consummation involves the achievement of a fully accomplished and fulfilling sexual connection between spouses. In other words, the consummation of marriage refers to engaging in a sexual act that is considered normal and fully satisfies the physical aspect of the marital relationship.¹⁵

Mental and Psychological Impotency: The failure to consummate a marriage can result from not only physical incapacity but also mental or psychological causes. The judgment of the Madras High Court in 1956¹⁶ stated that a person's aversion to sexual intercourse, whether it is directed at a specific individual or in general, can also be considered a form of impotency. Therefore, impotence in the context of non-consummation of marriage may not only refer to physical inability but also to a psychological aversion to sexual activity. According to the rule of marriage, the issue of impotency is a private matter between the husband and wife, and no one else has the right to raise a claim of impotency against either party. This means that only the

¹³ Hindu Marriage Act 1955, s 12(1)(a)

¹⁴ *Yuoraj Digvijay Singh v Yuorani Pratap Kumari* (1970) AIR 137

¹⁵ 'Consummation' (*Legal Information Institute*, June 2021)

<<https://www.law.cornell.edu/wex/consummation#:~:text=Consummation%20means%20the%20completion%20of,between%20a%20husband%20and%20wife.>> accessed 17 February 2023

¹⁶ *T. Rangaswami v T. Aravindammal* AIR (1957) Mad 243

married couple involved in the situation has the right to address and handle the matter of impotency, and no other individual or party may intervene.

CURRENT SCENARIO

The subject of asexuality highlights a deeply concerning issue in contemporary Indian society, where there exists a prevalent expectation for married couples to have children shortly after tying the knot. Such societal pressure places an unimaginable burden on married individuals. However, if one identifies as asexual and experiences discomfort with sexual activity, this adds an even greater degree of strain. Notably, this scenario not only results in a tense societal atmosphere but also puts pressure on the partner of the asexual individual to engage in sexual activity. Unfortunately, what exacerbates this situation further is the lack of empathy and understanding among people toward the reality that some individuals may experience significant fear and discomfort with sexual activity.

Following a legal analysis of the matter, it becomes evident that in the event of an asexual person being compelled into marriage and subsequently declining to engage in sexual activity with their partner, this situation can be legally viewed as a substantial ground for divorce. Unfortunately, such a scenario places additional social stigmatization and pressure on the asexual individual, akin to that experienced by divorcees in Indian society. The asexual individual is not only at risk of facing societal discrimination but may also be subjected to the negative consequences of having their asexuality publicly exposed by their partner. Such acts of public exposure can have significant adverse effects on the mental health of the asexual individual. In the most egregious instances, asexual individuals may find themselves subjected to sexual coercion, which can significantly undermine their psychological well-being and social existence. In such circumstances, the fear of having one's asexuality publicly disclosed can discourage these individuals from reporting instances of sexual harassment, which is a clear infringement of their fundamental human rights. It is disconcerting to note that the fear of exposure can often be a more formidable concern than the actual harassment experienced by the individual.

The asexual and aromantic (aro/ace) community is a marginalized group within the broader LGBTQ+ community, and this marginalization can be attributed to several factors. One significant reason for this marginalization is that asexuality and aromanticism are not as apparent as being gay or lesbian. Unlike other members of the LGBTQ+ community, asexuals and aromantics are not required to disclose their orientation, and their lack of visibility has resulted in a lack of awareness and understanding about asexuality and aromanticism. This lack of awareness and understanding, in turn, has led to significant misconceptions about asexuality and aromanticism, with many individuals mistakenly viewing it as celibacy or a mental disorder. Another significant factor contributing to the marginalization of the aro/ace community is the diversity of experiences within the community. Different people experience asexuality and aromanticism in various ways, and the experience is often a spectrum. This diversity of experiences makes it challenging to define and understand asexuality and aromanticism as a whole, and this difficulty has contributed to a lack of research and advocacy in the area.

CONCLUSION

In the past, left-handed people faced significant discrimination, and few people understood that left-handedness was a biological difference from the majority. Moreover, the word "left" was associated with evil and satanic values. However, today, science has provided reasons and research explaining why some individuals are left-handed, and this knowledge has dispelled many myths surrounding left-handedness. The difference between ancient times and today's world is a lack of knowledge and understanding. Humans tend to fear things they do not understand, as evidenced by the belief in ancient times that lightning was a sign of divine displeasure. Similarly, even today, many people may not understand or experience asexuality, but as educated citizens of this world, we must respect others' right to be themselves, as it is not a choice.

The right to life and personal liberty is ensured by Article 21 of the Indian Constitution. This constitutional provision guarantees every individual the entitlement to safeguard their life and personal liberty. This fundamental right has been recognized as one of the most crucial rights

and is available to all individuals irrespective of their nationality, gender, or religion. The article states that "no person shall be deprived of his life or personal liberty except according to a procedure established by law." This implies that no individual can be deprived of their life or personal liberty except through a process laid down by law.¹⁷

Hence, one thing we could all agree on is that every human deserves to be treated equally just as article 21 of our constitution describes. The right to life and personal liberty is a fundamental right that is essential for the protection and preservation of individual freedom and dignity. It is the duty of the state, and lawyers to ensure that this right is protected and that no individual is deprived of their life or personal liberty without due process of law. Hence, any violation of the right of the people of this community is a clear violation of the fundamental rights guaranteed under the Indian Constitution and should be defined for it to be challenged in a court of law.

¹⁷ Constitution of India 1950, art 21