



THE CSGS WORKSHOP TOOLKIT

centre for studies in
gender and sexuality



INTRODUCTION

There's never enough to know and understand about sexuality, whether in terms of theory or experience. This toolkit is designed as a supplementary and standalone document which helps expand on concepts, demystify terms and bust myths.

If your interest is sparked, if you want to know more - continue reading. We hope this acts as a good starting point/ resource for you. **The toolkit cannot solve the problem of gender discrimination. It cannot be cited as a legal document. It cannot be treated as the absolute definition of how to get gender right.**

Who is this toolkit for?

This toolkit is for anyone who is looking to learn more about gender and sexuality. It tries to answer some basic questions and will hopefully equip people with inclusive vocabulary and practices.

We have a small section which details out a few highlights about the Anti-Sexual Harassment Act in India. This is to equip readers with very basic knowledge about the law. We have also provided a list of resources that can be accessed by readers. It is not an exhaustive compilation of resources but should enable readers to delve more into the world of gender and sexuality. These resources are suggested articles to read, videos to watch, popular FB pages and Instagram accounts to follow.

If you have any ideas/ suggestions or feedback about the toolkit, please write to us at csgs@ashoka.edu.in

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WHAT'S IN A NAME?

Fluid, spectrum, heteronormative, asexual...

Our workshops throw open a world of concepts relating to gender and sexuality, some of which are new to many of us. These concepts are not mere words and labels but a sum of our experiences, and so, you may ask - what's in a name, anyway?

Well, in our experience, it has been important to understand these words and labels in order to engage with them and relate them to our experiences. The lexicon of gender and sexuality is constantly expanding and evolving.

The list below is in no way exhaustive or comprehensive, and can even lead to some kind of confusion which, for us, is a good kind of confusion as it marks an engagement with these concepts! Please note that the list has been divided into three sections and has been arranged in an alphabetical order.

Social Fundas

Across cultures, various systems and practices are used to organize people and institutions. Often considered as “given”, these “fundas” actually emerge through a series of interactions between people and their families, modes of upbringing, their place of study or work, their legal codes and moralities.

Biological Sex

It is a label — male or female — that you are assigned at birth, most likely by a doctor, based on the genitals you’re born with and the chromosome pairing you have. This term doesn’t fully capture the complex biological, anatomical, and chromosomal variations that exist across the globe. Hence, it is unfair to view sex in the binary of female and male. Instead of saying “biological sex,” some people have normalized using the phrase “assigned male at birth” or “assigned female at birth.”

Gender

Refers to the attitudes, feelings, and behaviours that a culture associates with a person’s biological sex. This term often includes gender identity and gender expression. Behaviour that aligns with cultural expectations is referred to as gender-normative; behaviours that don’t align with the mainstream might be considered gender non-conforming.

Gender Expression

Refers to one’s presentation of gender - which might include your actions, clothing, hairstyle, to name a few. These presentations are often viewed within a rigid cultural understanding of ‘masculine’ and ‘feminine’ traits, however, there is no wrong or right way to present yourself. Our gender expressions are fluid and evolving.

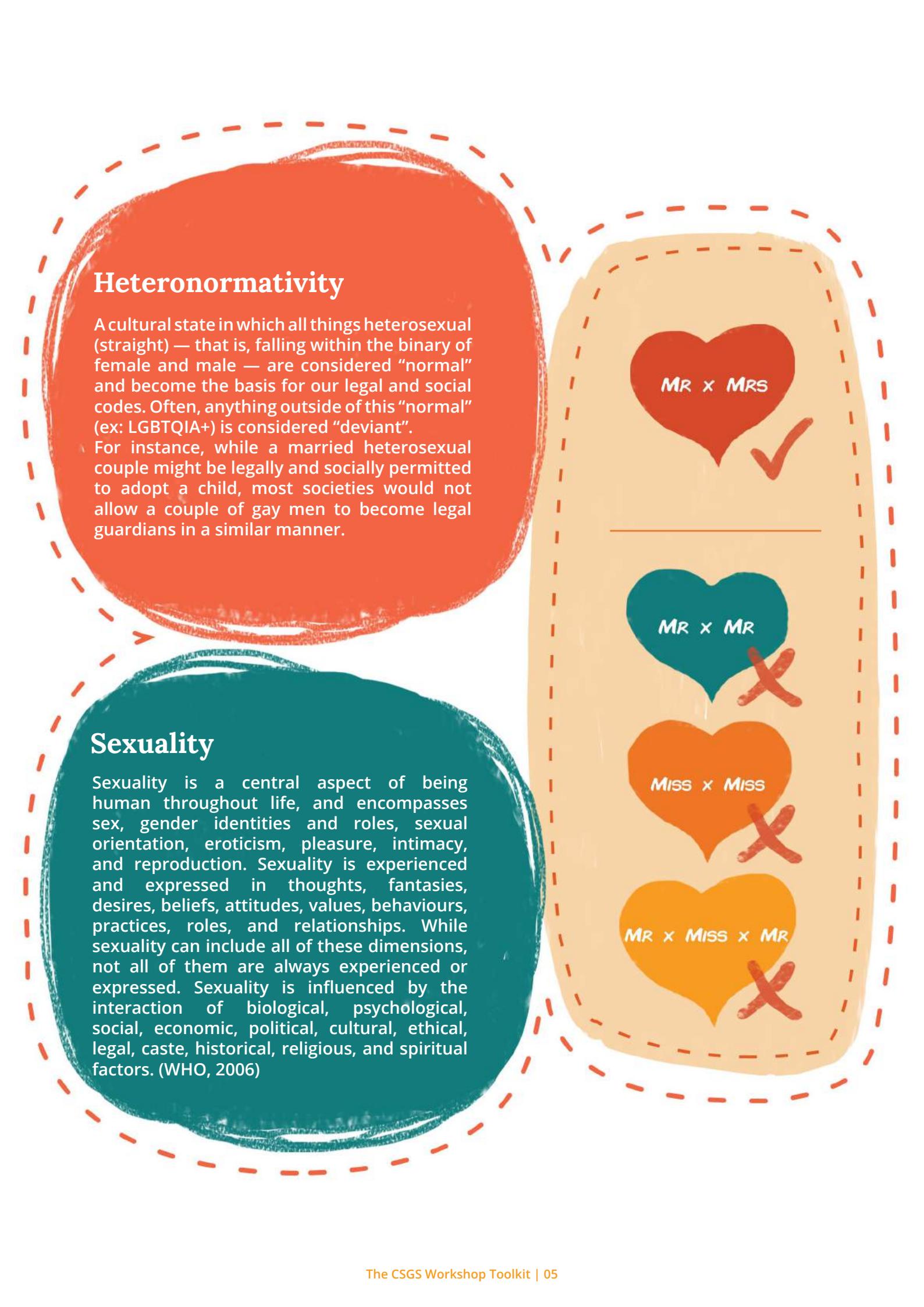
Heteronormativity

A cultural state in which all things heterosexual (straight) — that is, falling within the binary of female and male — are considered “normal” and become the basis for our legal and social codes. Often, anything outside of this “normal” (ex: LGBTQIA+) is considered “deviant”.

For instance, while a married heterosexual couple might be legally and socially permitted to adopt a child, most societies would not allow a couple of gay men to become legal guardians in a similar manner.

Sexuality

Sexuality is a central aspect of being human throughout life, and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy, and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles, and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, caste, historical, religious, and spiritual factors. (WHO, 2006)



MR x MRS

MR x MR

MISS x MISS

MR x MISS x MR

Identity

Identity is dynamic, complicated and can never be restricted within a rigid label. Often structures (such as the family, law or educational institutions) label us and push us into certain frames that we are then forced to occupy. These labels often become tools to bully. Many terms within this long history of gender and sexuality have been deployed to ostracize people. At the same time, finding or reclaiming words/labels which befit our sense of belonging (often not found within the languages we speak) can prove empowering. It signifies a reclamation of power. As you read through the following section, we want to impress upon you the importance of self identification (people reserving the right to call themselves what they want — and us respecting that!)

Butch & Femme

Butch and femme are a set of sexual and emotional identities, that emerged within lesbian subculture. Butches are described as presenting traditionally “masculine” traits in their appearance and other behaviour whereas femmes present “feminine” ones.

Cisgender

Often abbreviated to **cis**, it refers to a person who identifies with the gender they were assigned at birth. For example, you are cis if - at birth you were told that you are a girl, and at present, you identify as the same. It is important to remember that people have the right to self-identify and present themselves as they wish. These identities are not contingent on a medical or surgical procedure.

Gender Identity

Gender identity is how a person sees themselves – their personal experience of a particular gender. This is based on how much you align (or don't align) with what one understands the many channels through which gender might be expressed. For example, your gender identity can be woman, gender non-binary, man, transman... It is important to remember that people have the right to self-identify and present themselves as they wish. These identities are not contingent on a medical or surgical procedure.

Gender identity is different from sexual orientation. I/we get to decide our own gender.

Hijra

It is an identity contextual to South Asian communities with their specific conventions, kinship relations and professions. Hijras are often people who were assigned the gender male at birth and identify as women, sometimes even as "third gender" or even "a mix of both" or "neither man nor woman". While some hijras may identify as transwomen, all transwomen are NOT Hijras. The Hijra identity is closely linked to the customs and practices of the community. Across South Asia, the normative binaries of male and female are disrupted by many such regional variants - kinnars, kothis, aravanis and Nupi Maanbis, among others. It is important to remember that people have the right to self-identify and present themselves as they wish. These identities are not contingent on a medical or surgical procedure.



Intersex

Intersex is used as an umbrella term for unique variations in reproductive or biological anatomy of a human body. Variations may appear in a person's chromosomes, hormones, genitals, or internal organs like testes, uterus or ovaries. Human bodies are diverse and there is no absolute standard of a 'normal' male or female body.

Queer

The dictionary defines 'queer' as something not normal, something peculiar, something odd. Often used, in a derogatory way, to describe homosexual men, the term was reclaimed by various persons from the homosexual community as their chosen identity. This was to disarm those who used it as an insult. Since then "queer" has expanded beyond meaning only "homosexual" and has become an umbrella term for people with diverse sexual and gender identities. In fact, "queer" does not have a single meaning, except perhaps "not heterosexual." Even the "Q" in LGBTQ could stand for either "queer" or "questioning."



**F*CK
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Trans*gender/ Trans*

Refers to all persons whose personal sense and experience of their gender does not match the gender assigned to them at birth. For instance, if you were assigned the gender male, at birth (due to the presence of a penis), but you do not identify as male, then you may choose to adopt the identity of trans*.

Initially, the term had no asterisk (*). Within 'trans' identities, the binary of woman and man was maintained. To break out of this, the term has evolved to include the star/asterisk(*) to indicate that it is an inclusive term and does not adhere to the binary. 'Trans*' refers to all non-cisgender gender identities. These may include transwomen, transmen, kinnars, gender non-conforming, genderqueer, gender non-binary, kothis, among others. It is important to remember that people have the right to self-identify and present themselves as they wish. These identities are not contingent on a medical or surgical procedure.

Transman

Refers to a transgender person who was assigned the gender female at birth but whose gender identity is that of a man. Transmen may choose to undergo gender affirmation surgery or hormonal therapy, or both, for their appearance to align with their gender identity. It is important to remember that people have the right to self-identify and present themselves as they wish. Being a transman is not contingent on a medical or surgical procedure.

Transwoman

Refers to a transgender person who was the assigned gender male at birth but whose gender identity is that of a woman. Some transwomen may choose to undergo gender affirmation surgery or hormonal therapy, or both, for their appearance to align with their gender identity. It is important to remember that people have the right to self-identify and present themselves as they wish. Being a transwoman is not contingent on a medical or surgical procedure.



Sexual Orientation

A part of one's sexual identity which covers one's preferences and/or attraction towards a person/people. Attraction can be physical, emotional, romantic and/or sexual. It is not necessary for one to experience all of them. One's sexual orientation is usually an indicator of the group of people that one finds attractive.



AS ≠ CELIBACY
(The conscious decision to not act on sexual feelings, usually due to religious reasons.)

Asexual

A person who does not desire sexual activity, either within or outside of a relationship. However, this does not mean that they will not engage in sexual interactions. That is up to them. They may experience emotional, physical and/ or romantic attraction.

Bisexual

A person who experiences any form of attraction towards those of their own gender as well as those of other genders.

Gay

A man who experiences any form of attraction towards men.

Heterosexual

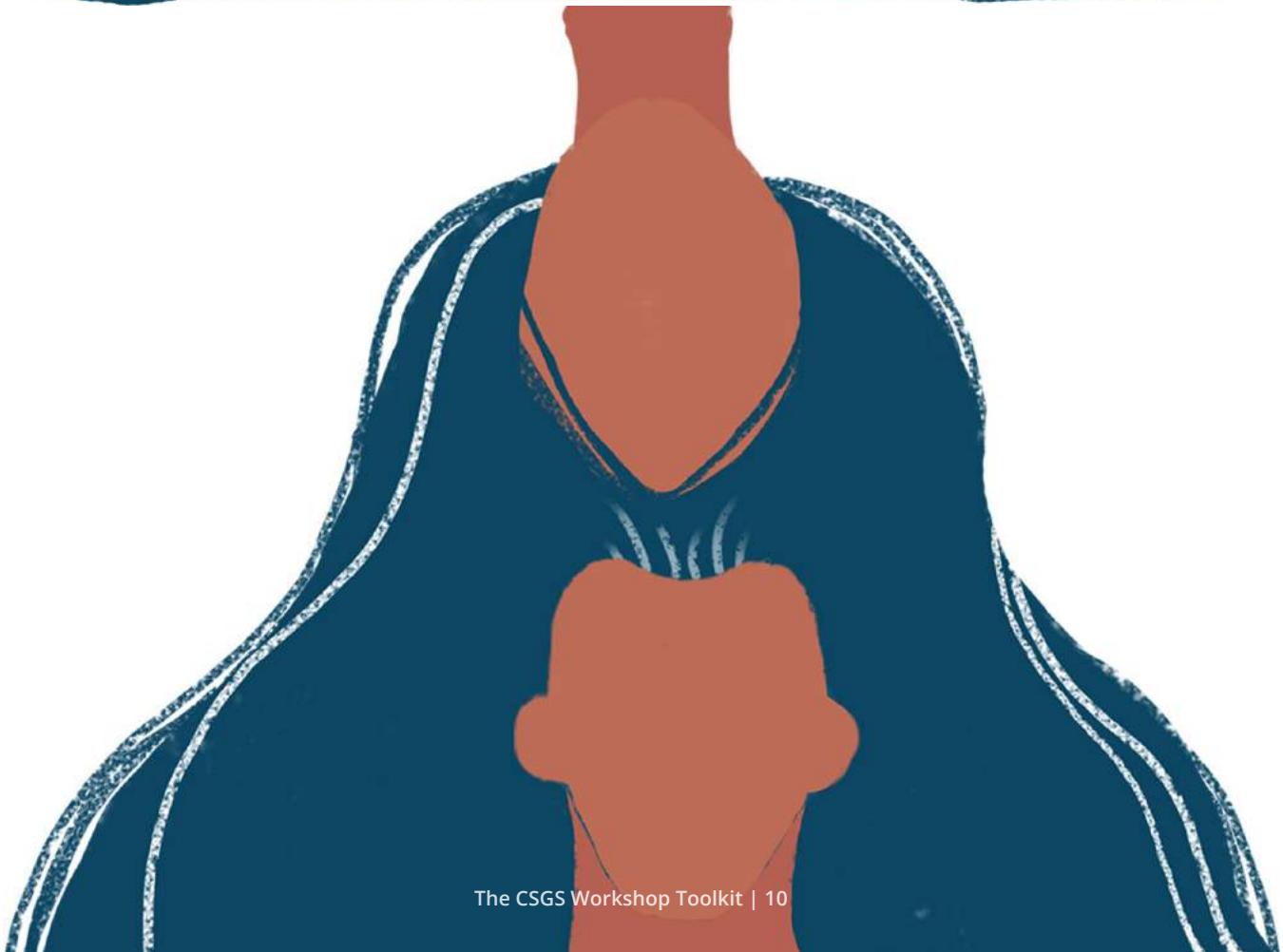
A person who experiences any form of attraction towards a person of a gender other than their own.

Homosexual

A person who experiences any form of attraction towards people of the same gender.

Adapted from:

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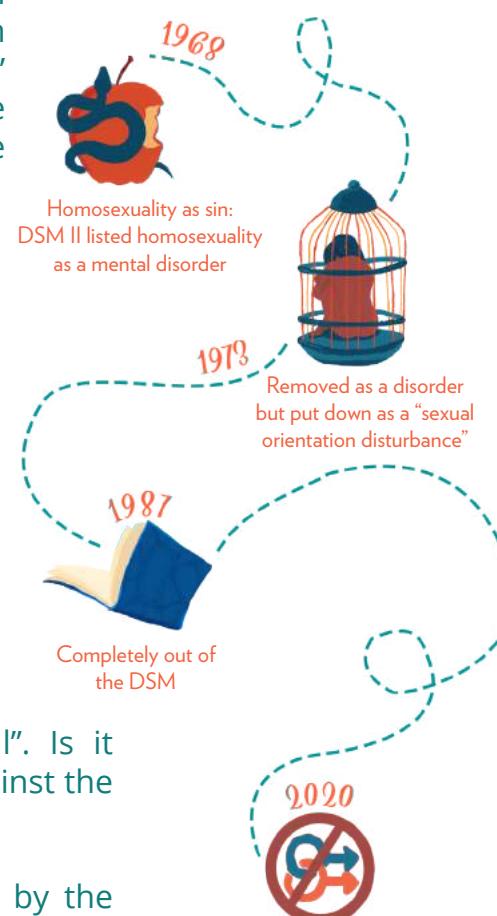
F(EARFULLY) ASKED QUESTIONS (FAQs)

What is a pride parade?
Aren't gender and sex the same?
Is it illegal to have sex before marriage?
Are all effeminate men gay?
Can lesbians be cured?

We come across questions and opinions on sexuality that are often rooted in stereotypes and misconceptions. And even when they are not, confusions abound! These questions and opinions can build a culture of stigma and discrimination for many marginalized persons and communities. So, let's find some answers! Once again, this list is not exhaustive, but it certainly is a starting point.

01 Is homosexuality a type of mental illness and can it be cured by therapy or conversion therapy?

In 1987, the American Psychiatric and Psychological Association completely dropped homosexuality from their disorder diagnostic manual. Attempts to "cure" non-heteronormative sexualities do not change the sexual orientation of a person. These "treatments" create emotional trauma and are a human rights violation.



02 Isn't being LGBTQIA+ unnatural?

Ask yourselves - what do we consider as "unnatural". Is it something against "nature"? Against our own views? Against the views of the religion we practice?

This conversation on natural and unnatural is shaped by the people, media and institutions around us. For instance, many (too many) people consider that men are *naturally* ready for sex ALL the time.

Similarly, LGBTQIA+ identities are considered "unnatural" by people who only accept people who are straight, belong in the gender binary of male and female and engage in sexual interactions solely for producing babies within the confines of marriage.

This idea of the "unnatural" in fact not very "natural".

03 We know what causes homosexuality and trans* identity and working on that can prevent these.

Some people know about it since they were 6 or 7, some people know it in their 30s or their 70s. Circumstances may prevent a person from disclosing their identity but there are no measures that can be taken to prevent one's feelings.

One's sexual orientation and gender identity is an integral aspect of our personality and there is no reliable evidence or theory that suggests that anything causes a particular sexual orientation or gender identity.



04 Are early sexual experiences in one's childhood a cause of one's sexual orientation as an adult? And people who identify as lesbian, gay, or bisexual must have been abused in their childhood.

Sexual experiences in one's childhood may shape our sexual encounters as an adult. But it does not "cause" one's sexual orientation. This idea also stems from the shame and stigma attached to sex and sexuality. Many LGBA+ people may have had heterosexual interactions, similar to how many heterosexual people would have engaged in homosexual interactions.

Children are vulnerable to abuse. One's gender identity or even perceived sexuality may make the child even more vulnerable. For instance, often young boys are beaten up and/ or abused for wearing make-up and/ or feminine clothes. And while this abuse may impact how one is in an intimate relationship or sexual encounters, it does not determine one's sexual orientation.

05 This lesbian gay is a thing from the west. Stop copying them and destroying our culture.



There are ample examples across the world to prove that same-sex desires are an integral part of humanity's shared history. South Asian history and culture is rich with examples — read Ruth Vanita and Saleem Kidwai's *Same Sex Love in India: Readings from Literature and History* or Madhavi Menon's *Infinite Variety: A History of Desire in India*.

The only thing we know about desire and sexual attraction is that it cannot be pigeon holed into straight or fluid, east or west, or original or imitation.

06 Why did he tell me he's gay? I think he has a crush on me and wants to get with me.

If someone tells you about their sexual orientation or gender identity ("comes out" to you), it means that they trust you and want you to know them better.

This sharing of personal details becomes significant especially when people automatically assume everyone to be straight — often because of the stigma attached to different sexual orientations and gender identities.

07 Lesbian women hate men.

Being a lesbian does not mean you hate people of other genders. Everyone has preferences of who they want to be around or who they want to be friends with. If this preference comes out of a prejudice against a particular gender or sexual orientation, then that is a much larger concern which plagues people regardless of their sexual orientation.

08 We all need a gay best friend

We all need close friends we can rely on and trust. A person's sexual orientation does not make them better at being a friend. If you have a best friend who also happens to be gay, please ask yourself, why are you best friends with them? Is it because they have qualities of **trust, understanding and fun**, or is it only because they are gay? If it is the latter, then it calls for introspection!

09 LGBTQ people are very sexual and promiscuous.

Popular movies often show queer people as "hypersexual". Their main storyline is to flirt with everyone else. This is a misrepresentation hinged only on one personality trait - that of wanting to have 'sex'. This is not a harmless opinion and can normalize sexual violence against queer persons and conveniently blame them.



Being sexually active or not is just an aspect common to all of us and not just queer people.

10 Is it true that men want more sex than women?

Persons of all genders can have sexual desires and have the right to express themselves sexually. Men's desires are popularly made visible and women's desire is not. This stereotype might play out to burden men to be always sexually ready.

It is believed that men's desires should be considered before anyone else's and that only men should experience sexual pleasure.



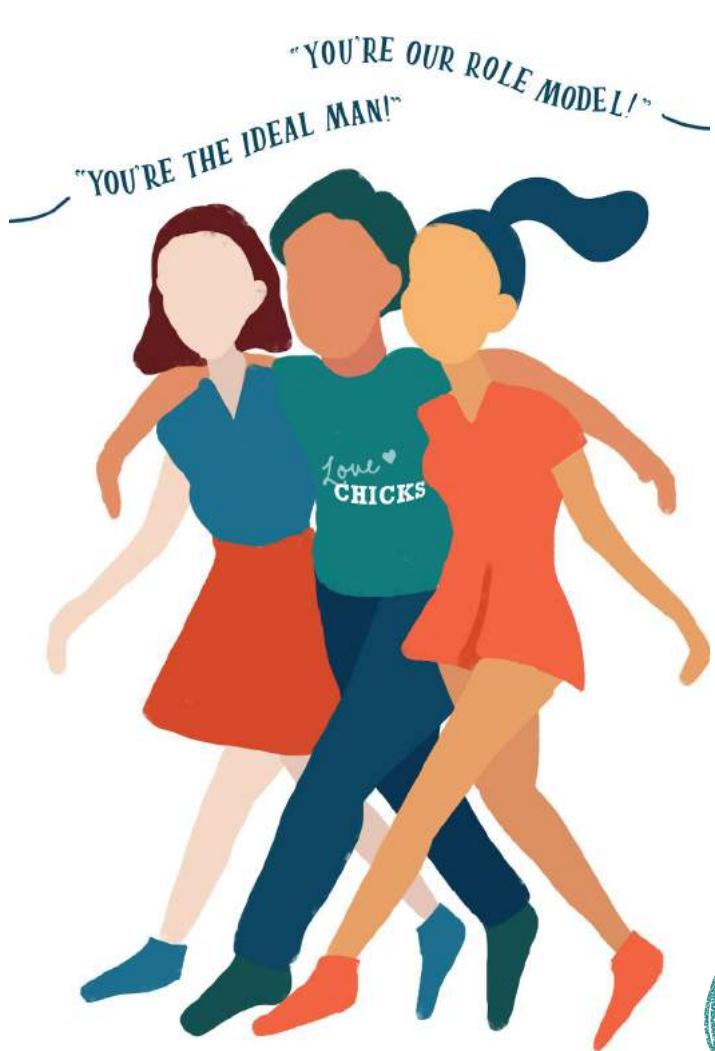
11

People with disabilities or chronic illness can't have sex.

People have different levels of ability. Regardless, they are sexual beings and can enjoy consensual sexual relationships. Persons with disabilities are often viewed as "less than a normal person" which is also why often non-disabled people believe that disabled persons cannot enjoy the same pleasures as them.

12

LGBTQIA+ have multiple partners and cannot stay committed



It is important to question the idea of a "perfect" relationship. It is often riddled with a romantic notion of "commitment". We must be cognizant of the fact that relationships exist in multiple ways and the way that people express themselves and their feelings vary. It may or may not adhere to a popular understanding of "commitment". Being involved with one or more persons is a personal matter, however, queer people come under a lot of scrutiny for this.

Building holistic, long term relationships require enabling environments like stable family relations, economic situations and social environments that do not traumatize you. While queer people usually inhabit vulnerable identities, who often do not have access to such enabling environments, this can be true for anyone.

It is unfair to assume that solely on the basis of a person's gender or sexual identity, one cannot build "committed" relationships.

13

Bisexual people have multiple partners/ Bisexual people are always open to a "threesome"

By definition, bisexual individuals are attracted towards persons of another gender as well as persons of the same gender. This does not mean that they are open to being with anyone and everyone.



14

Who wears the pants in your relationship?

Heteronormativity often believes in a strict division of labour based on the gender binary (female and male). Due to the social acceptance of heterosexual relationships, a very common image of relationships is that of two people in which one is “masculine” (earns money, is stronger, manly, makes “important” decisions) and the other is “feminine” (“bottom”, looks after the house, shy, needs “saving”). This combination is often considered to be the crux of a relationship’s success.



The need to impose this heterosexual binary on homosexual relationships comes out of an inability to think outside this binary. People may perform roles that are commonly associated with their gender identity. This does not mean that you need to classify people in these boxes of being the “husband” and being the “wife.”

15

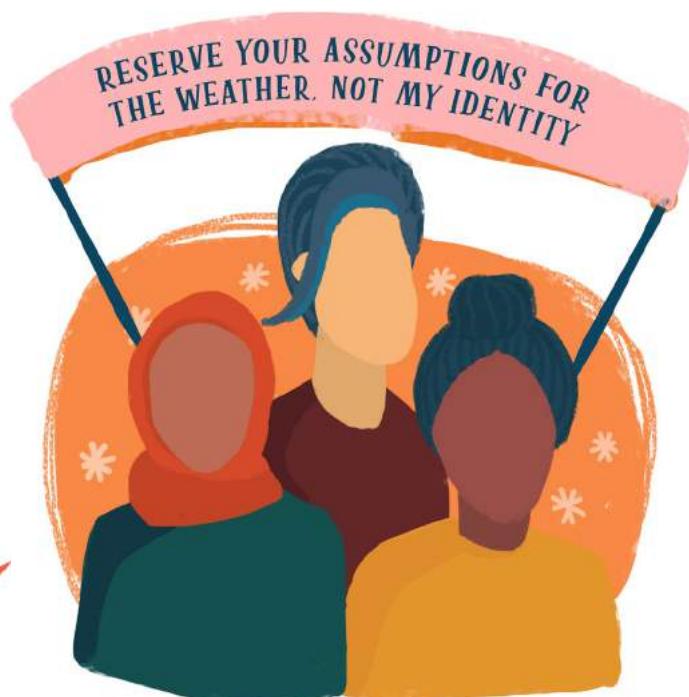
Men who act in a feminine manner must be gay. Women with short haircuts must be lesbians. Transmen are secretly lesbians, and transwomen are actually gay men.

These stereotypes confuse sexual orientation with gender norms. There are many gay men who are masculine, and many lesbian women who are feminine. Besides, some straight men have feminine traits, and some straight women have masculine traits.

Transmen are people who were assigned the female gender at their birth but their gender identity and expression is that of men. They prefer to be addressed as men, and this is because they are men. As for their sexual orientation, they may like whoever they want.

Similarly, transwomen are people who were assigned male at birth but their gender identity and expression is that of women. They prefer to be addressed as women because they are women. And they may be attracted to anyone. (Nazariya)

Human beings are diverse, have diverse preferences and how they express them.



16

Gender-neutral bathrooms can be unsafe. Allowing trans*women to use women's washrooms can be unsafe for everyone else.

Any space can be unsafe if the people within that space are disrespectful or threatening. Being a trans*woman does not make one "violent". Denying them the right to use the washroom that aligns with their gender identity creates an unsafe space for them. If cis-women feel unsafe in a washroom, it is essential to question the source of that discomfort. Is it because the trans*woman is truly threatening or because cis-women are not accepting of different bodies and identities?



17

I don't know what pronouns to use for this person, why is it even important?

Pronouns are an important part of a person's identity; by respectfully using their preferred pronouns, we are respecting them. If you do not know a person's pronouns, always ask or just say "they" instead of "he" or "she". Another way to do this would be to reveal your own pronouns. This is not just for trans*, gender non-binary or queer people — but everyone!

18

Do you have to undergo gender affirmation surgery to be trans*? If you haven't had surgery then you are not "fully trans"

Trans* persons may opt for surgery or hormone replacement therapy or they may not. The reasons could include but are not limited to personal choice or inaccessibility of medical procedures and so on. However, it is important to remember that everyone has the right self-identify and we must respect that regardless of a medical procedure or not.

One's gender identity is not made "legitimate" through surgery, it is legitimate simply because a person says so.

19

Being around LGBTQIA+ people will make you the same as them. Supporting LGBTQIA+ people means that you are one of "them"

Just like being a man in a room full of women won't make you a woman, similarly being around LGBTQIA+ people in your workspaces, colleges etc will not make you LGBTQIA+. Being an ally and supporting people who have historically been shunned does not mean you will become like them or have to be them. We also need to question where this fear of "becoming like them" comes from and why does it scare us.

20 People with disabilities are more comfortable with “their own kind.” Same can be said for LGBTQIA+ people.

Social stigma, inaccessibility of physical spaces, discrimination and nonacceptance of persons with disabilities and LGBTQIA+ people often forces them to seek out spaces and people with similar experiences. While there is comfort and safety that is drawn from our own preferred group of people, this also happens due to the larger social structure which restricts people within “their own kind”.

21 LGBTQIA+ people are all same. They are a community.

LGBTQIA+ is an acronym for multiple identities. People may have intersecting identities, for instance, being asexual and trans*. It is important to understand that the acronym encompasses a multitude of experiences and people. These experiences are not the same for everyone. An intersex person will not have the exact same experience as a gay cis-man.

We use the acronym and often refer to it as a community because there is a shared history of trauma and oppression. It is also often done to signify solidarity against the hegemonic patriarchal system which enforces one particular kind of sexual orientation and a gender binary.



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UNDERSTANDING THE POSH ACT, 2013



To access the "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act", 2013, please visit: www.india.gov.in and type in the name of the Act in the search bar. Popularly referred to as POSH (Prevention of Sexual Harassment).

The information provided below is based on the Act and is NOT the entire act. It is highly recommended that you seek legal advice if required. This is simply to empower oneself with knowledge about the law.

The key purpose of the Act is to prevent, prohibit and redress issues of sexual harassment. While workspaces and universities focus on the redressal aspects, prevention and prohibition require a much longer process and active role.

Rights of the Complainant:

- An empathetic attitude from the Complaints Committee so that grievances can be stated in a fearless environment
- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent
- Keeping identity confidential throughout the process
- Request for interim reliefs from the ICC
- Support, in lodging FIR in case she chooses to lodge criminal proceedings
- In case of fear of intimidation from the respondent, statements can be recorded in the absence of the respondent
- Right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee

Rights of the Respondent:

- A patient and non-biased hearing to present their case
- A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant
- Keeping identity confidential throughout the process
- Right to appeal in case not satisfied with the recommendations/ findings of the Complaints Committee

FAQs

Can anyone other than women be victims of workplace sexual harassment?

Yes, any person can be victims of sexual harassment. However, the safeguards/protection under the POSH Act is available only to women. The University Grants Commission in 2016 under its guidelines expanded the Act to cover “students” in Higher Educational Institutions. This means that in colleges and university spaces, a students of any gender can file a complaint.

The POSH Act is not gender-neutral. A man who is a victim of sexual harassment at the workplace is not entitled to invoke POSH, rather he must rely on company policies that prohibit harassment of any nature or approach the police under the IPC.

Can a POSH policy be gender neutral?

This depends upon the company. The policy can be made gender neutral, however, if the complainant (who is not a woman) were to file a police complaint or challenge the ICC inquiry in a court of law, then that complaint will not be taken under the POSH Act.

Can verbal conduct amount to sexual harassment?

Verbal harassment that is sexually coloured can constitute sexual harassment. Words can be just as offensive as physical acts and contact. Sexually coloured jokes, comments and stories are some examples.

When is an establishment required to constitute an ICC?

The Act mandates a grievance redressal forum. Every establishment having 10 or more employees is required to constitute an ICC.

In the absence of an ICC, you can approach the Local Committee. You can Contact the District Officer's office OR Contact One Stop Centre/Women Helpline (toll-free through 181, 100 etc.) functioning in your district/state. OR Contact the State Commission for Women OR Contact the State Department of Women and Child Development/department looking after women's issue.

Is an ICC required to be constituted at every branch/office?

Yes, an ICC is required to be set up at every branch/office of the company wherein at least 10 employees are employed.

Can a sexual harassment complaint be filed with and inquired by the HR manager of the company?

No, the complaint needs to be filed with and inquired into by the ICC.

Can a complaint of sexual harassment be conciliated/mediated between the parties?

Yes (at the request of the aggrieved woman), but the law prohibits monetary settlement during a conciliation process.

How do I file a case if I don't have evidence in the form of CCTV footage/ emails or any person who witnessed the incident?

The POSH Act emphasizes on impact rather than intent. In the absence of tangible “evidence” like video recordings, emails, eye-witnesses etc - the testimony of the complainant is counted as evidence. The ICC must work with the understanding that sexual harassment often happens behind closed doors and is hard to prove. A witness in terms of the first person who saw you after the incident or a friend/ family/ therapist etc., who talked to about the incident can be used as evidence. Diary entry pages, your performance at the work place/ university can be used as evidence.

Tips on drafting a complaint (this is not mandated by the law but have been put down as best practices to follow)

1. The complaint should be addressed to the ICC members and not the employer/HR representative.
2. The complaint should always be submitted in written.
3. The complaint should be concise, i.e. it should be written in simple language which can be understood easily.
4. Details of the exact incident, date and time, witness etc. to be included, as far as possible. For instance, "he misbehaved with me" can be interpreted in multiple ways and is not sufficient information for the ICC to take into consideration. It is important to expand upon the incident. For instance, "He tried to block my way with his hands and when I insisted on leaving he grabbed my shoulders and pushed me back."
5. Circumstances preceding and following the incident should be mentioned
6. Whether the complainant asked the respondent to desist from the unwelcome act(s).
7. Append as many documents as possible in whatever format i.e. relevant e-mails, screenshots of SMS's/WhatsApp messages, call details, photographs, recordings etc. It is probably a good practise to record conversations between colleagues on emails or texts.
8. Details of the respondent including name, designation, reporting structure between complainant and respondent if any (whether subordinate, colleague or superior).
9. Do not state any fact that is false or incorrect.
10. The relief that is sought from the employer.

Procedure of the ICC/ filing a complaint

1. To file a complaint one must submit six copies of the written complaint, along with supporting documents and names and addresses of the witnesses to the ICC or LCC. The law also makes provisions for friends, relatives, co-workers, psychologist & psychiatrists, etc. to file the complaint in situations where the complainant is unable to make the complaint on account of physical incapacity, mental incapacity or death.
2. The complaint must be filed within 3 months of the incident, or within 3 months of the last incident in case of a series of sexual harassment incidents.
3. The ICC, at its sole discretion, is empowered to grant extensions up to three additional months if it is satisfied that the circumstances were such which prevented the person from filing a complaint within the said period.
4. Any complaint received by the members (in writing) should be immediately forwarded to the Presiding Officer, and this must be notified to other committee members at the earliest.
5. Notice shall be issued to the respondent within 7 working days of receipt of the complaint and 10 working days shall be given for submission of reply (along with the list of witnesses and documents.)
6. If a conciliation or settlement is not feasible, a notice for a hearing will be issued.
7. The complainant can request (in written) for the following **interim reliefs (during the course of the inquiry):**
 - Transfer to any other department or change of supervisor;
 - Granting leave to the up to a period of 3 months in addition to regular statutory/ contractual leave entitlement;
 - restrain the respondent from reporting on the work performance of the complainant or writing their confidential report, which duties may be transferred to other employees.
 - Any other reliefs that the situation may require
8. The Committee shall provide reasonable opportunity to all parties for presenting and defending their case.
9. The past sexual history of the 'aggrieved woman' shall not be probed into. Such information shall be deemed irrelevant to a complaint of sexual harassment.
10. There is confusion around cross-examination. While this can be allowed, it will only be through the committee and only in writing.
11. All inquiries must be completed within 90 days of the receipt of the written complaint.
12. Submission of report — The IC must submit the report within 10 days of completion of the inquiry to the employer. Further, if the parties to the incident so desire, the report can be made available to such parties.
13. Implementation of recommendations — The employer must implement the recommendations shared as part of the report prepared by the IC within 60 days of receipt of such recommendations by the employer.
14. Appeals — All appeals under the Act must take place within 90 days of the recommendations

The Act has laid down certain definitions:

Employee

The definition of an 'employee' under the POSH Act is fairly wide to cover regular, temporary, ad hoc employees, individuals engaged on a daily wage basis, either directly or through an agent, contract labourers, co-workers, probationers, trainees, interns and apprentices, with or without the knowledge of the principal employer, whether paid or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

Workplace

The POSH Act applies to both the organized and unorganized sectors in India. It applies to government bodies, private and public sector organizations, non-governmental organizations, organizations carrying out commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals and also applies to a dwelling place or a house. (This list is not exhaustive)

The POSH Act has also introduced the concept of the "extended work place". This means that the work place is not just limited to the physical premises of the office or the university but also extends to the virtual world, any place visited by the employee arising out of or during the course of employment/ study, including transportation provided by the employer for the purpose of commuting. Work from Home

The most commonly seen situations of an extended workplace are those scenarios where an official event is taking place in a social setting, but endorsed or financed by the employer, in which case, such events will also be deemed a workplace under POSH Law.

Sexual Harassment

The Act has defined what constitutes sexual harassment under Section 2 (n) and states that any of the following shall mean sexual harassment:

1. physical contact and advances;
2. a demand or request for sexual favours;
3. making sexually coloured remarks;
4. showing pornography;
5. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The Act, under Section 3, has further widened the definition of sexual harassment by providing that any of the following circumstances, related to sexual harassment, may also amount to Sexual Harassment:

1. implied or explicit promise of preferential treatment employment;
2. implied or explicit threat of detrimental treatment employment;
3. implied or explicit threat about the present or future employment status;
4. interferes with work or creating an intimidating or offensive or hostile work environment and
5. humiliating treatment likely to affect health or safety.

The definition is very wide, as it provides for direct or implied sexual conduct, which may mean that what is "implied" sexual behaviour for one person, may not be the same for another person. Hence, the implied behaviour will depend only upon the interpretation of a person. Hence, in inquiries, it is often the impact that is measured and not the intention. The definition also provides that harassment may be verbal or non-verbal conduct. Physical contact is not mandatory for an incident to be sexual harassment.

Key Features of the Act:

- The Prevention of Sexual Harassment Act, 2013 extends to the 'whole of India'
- Given that the definition does not necessitate the woman to be an employee, even a customer/ client who may be sexually harassed at a workplace can claim protection under the POSH Act.
- At the district level, the government is required to set up a 'local committee' ("LC") or Local Complaints Committee to investigate and redress complaints of sexual harassment from the unorganized sector or from establishments where the ICC has not been constituted on account of the establishment having less than 10 employees or if the complaint is against the employer.
- Emphasis on "impact" of sexual harassment rather than the "intention". This means that the procedure for redressal must follow a thorough examination of context within which sexual harassment occurs. In a 2010 ruling, the High Court of Delhi endorsed the view that there are many actions that men may not view as objectionable but are offensive to women. Hence, the sexual harassment is subjective. (cite the judgement)
- The Act provides relief in case of false or malicious complaints. However it is important to note that, failure to prove (whether sexual harassment occurred) **does not amount to a false case or a malicious complaint**. To establish this, a separate inquiry needs to be conducted by the ICC to prove malicious intent.
- One can approach an ICC member to file a complaint. However, all complaints need to be filed in written.
- **Non - negotiable:** During a redress process the ICC is required to assure confidentiality, non retaliation and recommend interim measures as needed to conduct a fair inquiry.
- The Act prohibits the publication of the contents of the complaint, identity, address of the complainant, respondent, witness. Information relating to conciliation and inquiry proceedings, recommendations of the ICC or the LCC and the action taken by the employer or the District Officer shall not be published, communicated or made known to the public, press and media. However information may be disseminated **regarding the justice secured** to the complainant of sexual harassment without disclosing the name, address, identity or any other particulars.
- The procedure of inquiry for the ICC and LCC has been laid down within the Act. The ICC must complete an inquiry within 90 days of receiving the complaint. The ICC must also document (in written) every meeting, conversation and procedure followed.
- Post inquiry, ICC will have to prepare an inquiry report giving recommendations on the matter, in 10 days, and give a copy of the same to the organization / company and the concerned parties. The organization / company will have to act on the recommendations in 60 days. The Act also provides that if a victim is dissatisfied with the findings of IC, she can appeal to a Court / tribunal.
- The ICC or the LCC must forward a complaint to the Police for registering the case if the nature of the offence falls under the IPC (ex. rape) within 7 days. The ICC must also assist the woman in registering the complaint.
- In an ICC or LCC proceeding, a legal practitioner cannot represent the complainant or the respondent.

SOURCE:

- Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013
- FAQs by the Ministry of Women and Child Development
- India's Law on Prevention of Sexual Harassment at the Workplace, by Nishith Desai Associates

PRACTICING INCLUSION

Diversity and Inclusion have become buzzwords. We hear them quite often, and we believe that we are diverse in our approaches and that by respecting diversity, we become inclusive.

Practising inclusion requires self-reflection and constant evaluation of existing structures and policies. It becomes meaningful when done on the terms of those who have been underrepresented and excluded. This is one of the best ways to ensure the quality of work, inclusion and the creation of democratic spaces.

We want you to ask yourselves the following questions:

- What is the distributed gender ratio in my team/ class/ work space?
- Do we have washrooms which are accessible to wheel chair users and persons with visual impairments?
- While interviewing a female candidate, is the panel composed of all men?
- Is knowing English mandatory for someone to be a part of your institution? Do you provide support in English learning?
- Are all the floors accessible via an elevator?
- Do your students/ employees feel enabled to ask for a leave due to mental health reasons?
- Do you have an active and functioning ICC? Or is it formed only when a sexual harassment case arises?
- Are the policies drafted in a gender-neutral language?
- Are there policies in place which prohibit gender-based, caste-based, ability-based, sexual orientation-based, religion-based harassment and bullying?
- Are all company policies, especially the ones pertaining to grievance redressal, translated in local languages?
- As a Team Leader, have I created conditions where every person can contribute in their unique, meaningful way and feel safe and secure doing that?

The purpose behind these questions is not to tick boxes on a prescriptive list. They are, however, trying to point to certain practices which can normalize “diversity” within our spaces.

Keep in mind:

Inclusion is an on-going process

Unconscious biases and barriers to inclusion are not undone in a one-off session or through a new policy. They require constant engagement and questioning of our daily practices. It is unfair to assume that everyone in your team comes from the same location and sensitivity. While some may be committed to the ideals of diversity and equality, others won't be. It is important to create regular dialogue and a method to implement the suggestions that come out of that.

Expanding diversity

Hiring on the basis of diversity - to include lgbtqia+, dalit, bahujan, women, disabled persons - is only a single step towards practising inclusion. To build teams which will stay for the long term, one needs to understand end - to end employee experiences with a focus on inclusion in our daily practices. Dismissing people on the basis of "talent" and "ability" is easy. Taking the route to create spaces in which people can thrive and understanding their needs is much harder and a real commitment to practising diversity.

Oh, but we do not look at gender, we only look at their skills, it's not our fault that it's mostly men who have these skills.

Create connection, not fear

People are wired to react with fear and distrust when their beliefs are challenged. Finding ways to frame challenges through a lens of possibility, bringing out the power of shared experiences and storytelling to do so — creates greater potential for positive change.

Interrogate your own biases and beliefs

Don't be afraid to examine and acknowledge your own preconceived notions, assumptions and biases, and then work to address those if they're negatively impacting inclusion in the workplace.

Mental health is key to inclusion

There are several frameworks within which one can operate to practice inclusion. Through all of this, it's important to not only acknowledge mental well-being but understand what mental health entails. It is not enough to work on "happiness" to ensure quality of work. Striving to work towards safety, security, creating an understanding environment which does not tolerate bullying are a few essentials for the mental well-being of people within a space.



WAY FORWARD?

“But what now? How do we solve this?”

This question has been asked so many times. Sometimes out of enthusiasm, sometimes out of sheer helplessness. If going through this toolkit confused you, brought up questions, made you reflect, outlined concepts you already knew but want to know more about, we hope that this section helps you through this.

Articles you might want to read:

- A list of questions around sexual and reproductive health, compiled by TARSHI. <http://www.tarshi.net/index.asp?pid=3>
- How To Not Be Offensive - A Guide For The Average Non Queer Person. A fun guide on Gaysi. <http://gaysifamily.com/>
- The CSGS compiled reading list: <http://csgs.ashoka.edu.in/reading-group/>
- Skin Stories is a collection of narratives by person with disabilities and how their experiences. Started by Point of View, it has now been launched as a book. <https://medium.com/skin-stories>
- In Plainspeak by TARSHI. It is a digital magazine on sexuality in the global south. <http://www.tarshi.net/inplainspeak/>
- "When our bodies become data" a piece written by Anja Kovacs for Deep Dives. You can find more articles on the intersection of gender, sexuality and technology. <https://deepdives.in/when-our-bodies-become-data-where-does-that-leave-us-906674f6a969>
- The Mariwala Health Initiative has compiled a huge resource bank for queer affirmative mental health services and information along with pertinent issues concerning LGBTQIA+ people. <https://mhi.org.in/qacp/>

Here are a few Instagram handles you can follow:

@alokvmenon
@artwhoring
@auqueercollective
@bhorfoundation
@clpr_trust
@fridafund
@hidden_pockets
@internetfreedom.in
@kruttika
@littlepiecesofshubz
@nazariya.qfrg
@nirantar_trust
@projectanticastelove
@sanitarypanels
@smash.board
@sonaksha
@thebluedawn56
@theypfoundation
@transmencollective

Video you must watch:

1. **The Amorous adventures of Shakku and Megha in the valley of consent by Agents of Ishq** <https://deepdives.in/when-our-bodies-become-data-where-does-that-leave-us-906674f6a969> (do check out their other videos)
2. **Interesting webinars on gender and sexuality and video resources on anti sexual harassment, the csgs ashoka youtube channel.** https://www.youtube.com/results?search_query=csgs+ashoka
3. **Conversations about consent and rejection: exploring the faultlines between friendship, intimacy and harassment by Partners for Law in Development.** https://www.youtube.com/watch?v=ZKbfrOojEDc&list=PLmPBuZfXm9W0mijsVfvOWsr_i1wLPL0N1
4. **Project 39A aims to trigger new conversations on legal aid, torture, forensics, mental health in prisons, and the death penalty. Watch their video on death penalty in cases of Child Sexual Abuse in India. The video mentions rape, child sexual abuse and incarceration.** <https://www.youtube.com/watch?v=XYXS7jreZoE>

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About CSGS

The Centre for Studies in Gender and Sexuality (CSGS) was established at Ashoka University in 2015, and is one of the Centres of Excellence at the university. It is the first Centre of its kind in India to study the broader spectrum of questions relating to both gender and sexuality.

This spectrum includes issues of inequality, fantasy, pleasure, identity, and politics that are key realities of our everyday lives. The Centre regularly offers summer internships to students and organizes several events on the Ashoka University campus, as well as in Delhi-NCR, such as a speaker series, student seminars, workshops, performances and film screenings.

The Centre organizes annual conferences, round tables and symposiums to enable conversations around complex and provocative issues that are under-represented in public discourse. We host two flagship programmes: ISHQ (Issues in Society, History and Queerness), a cross-disciplinary speaker series that hosts scholars, thinkers and activists from wide ranging disciplines and ADA (Art, Desire and Activism) an arts series that encourages conversations on sexuality, desire and gender expression through theatre, dance, poetry and visual arts.

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