

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

CRIMINALISATION OF MARITAL RAPE IN INDIA: A CONSTITUTIONAL AND HUMAN RIGHTS IMPERATIVE

AUTHORED BY - SALONI MANDLOI

Sage University Indore

Criminal Law

GUIDED BY: DR JAYSHREE NANDESHWAR

(ASSOCIATE PROFESSOR)

Abstract

Marital rape, which refers to non-consensual sex within marriage, is a serious issue that sadly remains unrecognized by law as a form of violence against women in India. While many countries worldwide acknowledge marital rape as a violation of basic human rights, Indian criminal law still provides an exemption for husbands from punishment under Section 375 of the Indian Penal Code (IPC), effectively allowing impunity for sexual violence within marriage. This research paper explores the socio-legal context around marital rape, including its historical and cultural origins, comparative laws from other regions, and the constitutional issues arising from this exemption. Using a doctrinal approach, it draws on judicial rulings, legal texts, committee reports, and international human rights documents. The paper contends that this exemption violates Articles 14, 15, and 21 of the Indian Constitution and goes against India's international commitments under treaties like CEDAW. In conclusion, it presents specific legislative and policy suggestions aimed at criminalizing marital rape and ensuring effective support for survivors.

Keywords: - Marital Rape, Gender Equality, Consent, Sexual violence.

Introduction

Marital Rape refers to a sexual act perpetrated by a husband against his wife without her consent. Often, certain husbands exploit their wives sexually to assert their dominance and power. This coercive act infringes upon the fundamental rights of women in our nation. The right to life is compromised through acts of rape and the threats posed to a wife's ability to live freely. The right to privacy is also breached when a husband disregards his wife's personal boundaries and fails to respect her refusal. Furthermore, the 'right to equality' is undermined when marital rape is not recognized as a form of rape. In India, this issue has escalated to a critical level and must now be treated as a serious offense warranting stringent penalties. Therefore, it is crucial to criminalize marital rape in India.

However, the exception (2) of section 375 of the Indian Penal Code, 1860 states that sexual intercourse by a man with his own wife, provided the wife is not under fifteen years of age, does not constitute rape.

Section 198 (6) of the Code of Criminal Procedure indicates that no offense shall be recognized under section 376 of the Indian Penal Code, 1860 when the offense involves sexual intercourse by a man with his own wife, if the wife is under fifteen years of age and more than one year has passed since the offense occurred. These legal provisions perpetuate a culture of marital rape that is erroneously deemed 'normal,' and they should be abolished to halt the normalization of such a culture. In legal terms, marriage is viewed as a protective barrier and sanctum; thus, these laws fail to address the issue of marital rape adequately. Consequently, India requires specific legal measures to support victims of marital rape.

The decision not to criminalize marital rape in India raises several significant issues. Primarily, it brings to light the fundamental questions regarding a woman's right to bodily autonomy, privacy, and dignity—rights that are protected under Article 21 of the Indian Constitution. The unequal treatment of married versus unmarried women concerning consent also contravenes the principles of equality before the law (Article 14) and protection against discrimination (Article 15). As highlighted by the Supreme Court in Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1, the right to privacy is a vital component of life and liberty, encompassing the right to make personal decisions regarding one's own body. Furthermore, the social and cultural ramifications of not criminalizing marital rape are extensive. This inaction perpetuates patriarchal norms that regard women as the property of their husbands, effectively

denying them agency within intimate relationships. Survivors frequently endure physical violence, psychological distress, and social exclusion, with limited legal options available. The stigma surrounding the reporting of such offenses is exacerbated by the lack of a legal framework that recognizes the crime in the first instance.

In contrast, more than 150 countries have enacted laws against marital rape, including nations such as the United States, United Kingdom, South Africa, and Nepal. These legal frameworks affirm that marriage does not equate to a license for sexual violence, and that consent is a fundamental aspect of all sexual relations, regardless of marital status. India, despite being a signatory to numerous international human rights agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), continues to neglect its responsibilities by not addressing the issue of marital rape.

This analysis seeks to illustrate that the absence of criminalization of marital rape is at odds with the principles of justice, equality, and human dignity, which are fundamental to the Indian Constitution. Additionally, it aims to propose practical legislative reforms that align with India's constitutional values and its commitments under international human rights law.

Background of Marital Rape

Section 375 of Indian Penal Code criminalize the act of rape, providing a broad and inclusive definition that encompasses not only sexual intercourse but also other forms of sexual penetration, Including oral sex. However, the provision contains **Exception 2**, which specifically exempts sexual intercourse or sexual acts between a husband and his wife from being considered rap. As a result, under current Indian law, a wife has no legal remedy under criminal law if she is subjected to non-consensual Sex by her husband. This legal position stems from the language of section 375 as revised through the criminal law [Amendment] Act, 2013. Section 375 says that, A man is said to commit “rape” if he- penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or marks her to do so with him or any other person; or inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any ~ of body of such woman or makes her to do so with him or any other person or applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven

descriptions:

First- Against her will.

Secondly without her consent.

Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly- with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly- With her consent when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly- With or without her consent, when she is under 18 years of age.

Seventhly- when she is unable to communicate consent. Explanation 1- For the purpose of the section, "vagina" shall also include Labia Majora.

Explanation 2- Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who doesn't physically resist to the act of penetration shall not by the reason only of the fact, be regarded as consenting to the sexual activity.

Exception 1- A medical procedure of intervention shall not constitute rape.

Exception 2- Sexual intercourse or sexual acts by man with his own wife, the wife not being under 15 years of age, is not "rape".

Exception 2 to section 375 of the Indian Penal Code [IPC] does not provide any specific rationale for excluding sexual intercourse or sexual acts between a husband and wife from the ambit of rape. One possible explanation could be that the law prisms concern with the institution of marriage, rendering the issue of consent legally irrelevant in such cases. Alternatively, this exclusion may reflect a deliberate legislative choice to keep the offence of rape outside the bounds of marital relationships, perhaps due to the traditionally high regard and sanctity attributed to marriage in Indian society. The interpretation gains support from other provisions within the IPC that also grant certain immunities to spouses.

While the law does not criminalise marital rape, a specific form of marital rape is criminalised, i.e., non-consensual sexual intercourse when the wife and husband are living separately on

account of judicial separation or otherwise. Section 376B of the IPC states: “ Section 376B: Sexual intercourse by husband upon his wife during separation: Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to 7 years, and shall also be liable to fine.

Explanation- In this section, “sexual intercourse” shall mean any of the acts mentioned in clause [a] to [d] of section 375”.

This section suggests that under Section 375 of IPC, consent is generally presumed within the context of marriage. However, this presumption becomes questionable when the husband and wife are not cohabiting. Cohabitation may imply presumed consent, but such an assumption does not hold when the couple is living separately. This issue invites further examination, and an analysis of the evolution of legislative debates and the reports of the Law Commission of India offers insights into the rationale behind the marital rape exception in Indian law.

The 42nd Law Commission Report was the first to address this concern. Although the law has undergone multiple amendments since this report, its value lies in revealing the law commissions perspective on marital rape. The report made two notable recommendations. Firstly, it suggested that the exception clause should not apply in cases where the husband and wife are judicially separated. While this recommendation was progressive, the justification provided was vague. The report observed that “in such a case, the marriage technically subsists, and if the husband has sexual intercourse with her against her will or without her consent, he cannot be charged with the offence of rape. This does not appear to be right”.

The 42nd law commission does not elaborate on why the presumption of consent within marriage, especially when spouses live together, is inappropriate. It merely implies that such consent may be presumed in prohibiting relationships but not when the spouses live apart. The second key recommendation in the report concerned non-consensual sexual intercourse with a wife aged between twelve and fifteen. The commission suggested that such offences should be dealt with under a separate legal provision and ideally should not be treated as rape. These recommendations stemmed from the earlier provisions of the IPC where a distinct punishment was prescribed for rape by a husband when the wife fell within this age bracket. The core of this suggestion reflects a hesitancy to recognise marital rape as rape instead treating it as a

lesser sexual offence.

In summary, the 42nd report emphasised the presumption of consent in marital relationships where spouses live together and indicated a tendency to differentiate marital rape from other forms of rape, treating the former as less serious. However, it stopped short of commenting directly on the exception clause under section 375 IPC-i.e., whether it should be retained or repealed.

A more direct engagement with the validity of the exception clause came in the 172nd Law Commission Report, where the issue was raised during consultation rounds. Critics argued that, since other forms of domestic violence by husbands against wives criminalised, there is no justifiable reason to exempt rape within marriage from legal scrutiny. The law Commission, however, rejected this argument, citing concerns that criminalising marital rape would cause undue interference with the institution of marriage. This response underscores the enduring tension between recognising marital rape and preserving the sanctity of marriage under Indian law. A significant shift in perspective occurred in 2012, with the establishment of a committee chaired by Justice J.S. Verma, following nationwide protests demanding stronger legal responses to sexual violence against women. The resulting J.S. Verma Committee Report marked a clear departure from the Law Commission's earlier stance. The committee explicitly recommended the criminalization of marital rape, making two major suggestions:

1. The deletion of the exception clause in Section 375 IPC; and
2. A legal provision affirming that a marital or similar relationship is neither a valid defence nor a mitigating factor in determining the presence or absence of consent, or for sentencing purposes.

The reports strongly criticised the immunity provided to husbands, tracing its origins to the belief that women were the property of their husbands, and that marriage imply irrevocable consent to sexual intercourse. The committee noted that this outdated notion has been abolished in several jurisdictions, calling for India to follow suit.

Research Objective

1. To explore the historical legal position of marital rape in India focusing on the consequence of its exemption under section 375 of the Indian Penal Code.
2. To assess the constitutionality of the marital rape exemption in relation to Articles 14 (equality), 15 (non-discrimination), and 21 (right to life and personal liberty) of the

Indian Constitution.

3. To analyse judicial observations case laws and reports especially the Justice Verma Committee to understand the evolving legal perspective on the marital rape.
4. To examine India's obligations under international human rights convention, especially Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and their obligations for marital rape legislation.
5. To perform a comparative legal study of nations that have enacted laws against marital rape and extract insights that could be relevant to the Indian scenario.
6. To identify the legal, social, and political challenges faced in criminalising marital rape in India
7. To propose constitutional and legal reforms aimed at criminalizing marital rape in India, thereby ensuring justice for survivors within the context of gender equality and constitutional integrity.

Hypothesis

The legal exemption of marital rape outlined in Section 375 of the Indian Penal Code is seen as unconstitutional because it violates fundamental rights that every married woman has, including the rights to equality (Article 14), non-discrimination (Article 15), life and personal liberty (Article 21), and dignity. Therefore, it's important to eliminate this exemption to make sure that Indian criminal law aligns with constitutional values and international human rights norms.

Literature Review

The discussion regarding the criminalisation of marital rape in India has evolved over decades influenced by feminist advocacy, attempts at legal reform, international human right discourse, and judicial considerations. An examination of the current literature encompassing both academic and institutional perspectives indicates an increasing agreement that the legal exemption for marital rape within Indian legislation is antiquated unconstitutional and misaligned with contemporary ideals of gender justice.

The issue of marital rape in India has been discussed by many legal experts feminist writers, and human rights activists. Most of them agree that not punishing marital rape under Indian law is unfair and outdated. It goes against a women's right to say "no" and her right to live with

dignity. In the past, the idea that husband cannot rape his wife came from an old English law. This law said that once a woman is married, she has already given permanent consent for sex. The thinking was introduced in India during British rule and is still followed in section 375 of the Indian Penal Code. Many writers believe that this idea is wrong and doesn't fit in today's world, where consent is most important.

In 2013, the **Justice Verma Committee** gave a report after the Delhi gang rape case. It clearly said that marital rape should be removed from the list of legal exceptions. The committee believed that forcing sex in marriage is still rape and violates the constitution. But even after the report, the government did not change the law. It said that doing so might affect marriages and could be misused – a reason that many experts and activists strongly oppose. Some important cases have also talked about these issues. In the **Independent thought vs Union of India (2017)** case the Supreme Court said that sex with minor wife is rape, even if they are married. This judgement shows that consent is important even within marriage.

India has also signed international agreements like CEDAW (Convention on the Elimination of all forms of Discrimination Against Women which tell countries to treat men and women equally. Many countries like USA, UK, and Nepal have already made marital rape a crime, and India is being asked to do the same by international bodies. Writers like **Pratiksha Baxi** and **Ratna Kapoor** have looked at this issue from social point of view they say that **patriarchy, shame, and lack of support** made it very hard for victims of marital rape to speak up. They believe that changing the law is important but social changes is also necessary to support women. The government has still not passed a law to criminalise marital rape. Some people in the government fear it will break families or be misused. But feminist writers argue that these are just excuses to avoid giving women full rights inside marriage. Recent studies also talk about +the mental and emotional trauma that women face when they are raped by their husbands and cannot even report it. The legal system not recognising this pain makes them feel more helpless and alone.

To sum up almost all scholars and experts reviewed in this literature agree that the marital rape should be criminalised. It goes against the Constitution, women's rights, and international law. Without this change justice for married women will always be incomplete.

Analysis

In India the discourse around marital rape is gradually transitioning from social whispers to legal debates, yet the law remains hesitant to recognise it as a crime. The present legal framework under the Indian penal code 1860, particularly Section 375 exempts a husband from being charged with rape if the victim is his wife, provided she is not under fifteen years of age. This exception institutionalizes a deep-rooted patriarchal notion that consent becomes irrelevant within marriage, effectively stripping married women of their bodily autonomy. The criminalisation of marital rape challenges not only legal orthodoxy but also the social-cultural understanding of marriage, consent, and gender equality in the Indian context.

The primary argument in favour of criminalising marital rape is based on the fundamental right to bodily integrity and personal liberty as guaranteed under Article 21 of the Indian constitution. Consent must be ongoing conscious and enthusiastic regardless of the relationship between individuals. To assume perpetual consent through the institution of marriage is to undermine the very essence of individual autonomy. Internationally, a number of democratic nations including the United Kingdom, Canada, and South Africa have already criminalised marital rape, recognising that marriage cannot be license to override consent. India, being a signatory to international conventions such as CEDAW, has an obligation to align its domestic laws with evolving global human rights standards.

The persistence of the marital rape exception is also rooted in the societal perception of marriage as a sacrament rather than a contract. Traditional beliefs often portray the wife as a submissive partner, obligated to serve the sexual needs of her husband, with no room for refusal. This power imbalance and social conditioning result in the normalisation of sexual violence within marriage, further silencing survivors. Moreover, many women do not recognise their experience as rape due to lack of legal recognition, limited awareness, or the fear of social ostracism. This legal vacuum fosters a culture of impunity for perpetrators and severely limits the scope for justice for survivors.

Opponents of criminalising marital rape argue that it would destabilise the institution of marriage and lead to misuse of the law. However, such arguments are often rooted in patriarchal anxiety rather than evidence-based reasoning. Any law is susceptible to misuse, but that cannot be a justification for denying a legal remedy to genuine victims. The fear of misuse should be addressed to legal safeguards and robust judicial process, not by withholding recognition of the

crime itself moreover legal reform is necessary to challenge the societal narrative that a wife must endure all forms of violence in the name of marital duty.

Judicial responses to marital rape in India have shown signs of evolution. In the Independent thought vs Union of India (2017) case, the Supreme Court read down the exception to section 375 to raise the age of consent for married girls to 18, aligning it with other child protection laws. Though the ruling was limited to minor it was a significant step towards recognising the inconsistency in the legal treatment of sexual violence in marriage. However, despite judicial advancements, legislative inertia continues to hinder comprehensive reform. Multiple petitions filed before the courts, including the Delhi High Court, have demanded criminalisation of marital rape, but the central government has repeatedly sought more time, citing social, legal, and religious complexities.

Furthermore, the lack of criminalization denies women legal recourse and access to rehabilitation under the current framework survivors of marital rape are forced to rely on provisions of cruelty under section 498A IPC or the Protection of Women from Domestic Violence Act, 2005. While these provisions provide some relief, they do not adequately address the specific trauma of sexual violence. The absence of a dedicated legal framework also impacts data collection, policy formulation, and resource allocation for victim support services. Criminalising marital rape would allow for better documentation, resource planning, and sensitization of law enforcement and judiciary.

The conversation around marital rape also intersects with issue of class, education and rural-urban divides. Many women, especially in rural or economically marginalised communities remain unaware of their legal rights. Even in urban contexts, educated women often face societal pressure to remain silent to preserve family honour. Therefore, legal reform must be accompanied by widespread social awareness and education campaigns. Schools, colleges, and workplaces, and media can play a critical role in shifting public attitudes towards consent, marital rights, and gender equality.

Religion too plays a recruitment role in resistance to criminalisation. Various religious groups fear that such a move might infringe upon personal laws governing marriage. However, the protection of fundamental rights must override any religious or cultural name that perpetuates harm. The Indian judiciary has on multiple occasions upheld constitutional morality over

religious orthodoxy, most notably in the Sabarimala and Triple Talaq judgments. A similar approach is needed here to affirm that marital rape is a violation of constitutional rights irrespective of religious considerations.

A reformed legal framework must include a clear definition of marital rape, procedures to ensure safe reporting, provision for legal aid, and victim-sensitive training for police and judiciary. Moreover, courts should be empowered to provide compensation, counselling, and rehabilitation to victims. Comprehensive reform would also involve amending the Evidence Act to ensure that the marital relationship does not become a shield for perpetrators during trial. In conclusion the criminalisation of marital rape is not merely a legal issue but a moral, constitutional, and human rights imperative. It is about reaffirming that marriage is not license to violate a woman's body and that every individual has an inalienable right to say no, regardless of their marital status. The Indian legal system must evolve in tandem with the principles of dignity, equality, and justice enshrined in the constitution. Only then we can claim to be a truly progressive democracy that values and protects the rights of all its citizens.

Suggestions

The issue of marital rape is very sensitive and deeply rooted in traditional beliefs. in India. The idea that husband has complete sexual rights over his wife is not only outdated but also harmful. To improve the situation and provide justice to women, several important steps need to be taken in law, society, and policy.

First and foremost, the biggest change required is in the law itself. The Indian Penal Code, especially Section 375, must be amended to remove the exception that protects husband from being charged with rape. This exception which says that sexual intercourse by a man with his own wife is not rape, completely ignores the wife's consent. It treats marriage as a license to force sex on the wife, which violates are fundamental rights. If any sexual act is done without consent, it should be punishable, whether the person is a stranger, a known person, or even a husband. Therefore, the removal of Exception 2 is the most urgent legal reform needed.

Another important step is to create separate legal framework to address marital rape. This can include a new law or special provisions under the existing law, which will provide detailed procedures, punishments, and guidelines for handling such cases. The law must ensure that the dignity in privacy of the victim are protected and that she is not treated with suspicion.

Sometimes, victims do not come forward because they fear social shame or do not trust the police or courts. To help them, the legal process must be sensitive and supportive. There should be fast-track courts to deal with these cases quickly so that victims do not have to suffer long trials.

Awareness among the people is also very important. In many parts of India, even educated people do not understand that forced sex in marriage is wrong. They think it is the husband's right. This wrong thinking comes from centuries-old customs and lack of education about rights and equality. People must be made aware that consent is important at every stage in a relationship, including marriage. Government and NGOs should run campaigns in schools, colleges, and communities to educate both men and women about sexual rights, marital relationships, and the importance of mutual respect. Media can also play a strong role in changing public opinion by showing positive examples and raising real stories of survivors in a respectful manner.

Men should also be involved in this process of change. Many times, efforts for women's rights are seen as anti-men. But the truth is true gender equality benefits everyone. Men should be taught from a young age to respect women. Schools and families must teach boys about emotional intelligence and healthy relationships. Religious and community leaders should also speak out against marital rape and explain that no religion supports violence or forced sex.

Another major change needed is in the training of police officers in judiciary. Sometimes, victims who try to file a complaint are not taken seriously or are shamed by the authorities. Police and judicial staff should be trained in gender sensitivity. They should learn how to listen to the survivor without judging her, how to collect evidence properly, and how to ensure the victim feels safe. Without this, even a strong law will not be effective. The justice system must be trustworthy and responsible to the needs of survivors.

Marital rape often goes hand in hand with domestic violence. So, the domestic violence act should also be strengthened to include stronger punishment and better support systems like counselling, shelter homes, and legal aid. Right now, many women tolerate abuse because they do not have financial or emotional support to live independently. The government should provide more funding to support such services. A national helpline number and online platform for women to report abuse and get help can also be very useful, especially in remote areas.

Economic independence in women is another powerful solution. Many women stay in abusive marriages because they are financially dependent on their husbands. If women have their own income, they can take a stand against violence. Therefore, skill development programs, employment opportunities, and of reservation for women in various sectors should be promoted. When women are empowered, in tech society benefits.

Mental health support is also very important. Victims of marital rape often suffer from depression, anxiety, and trauma. There should be easily available and affordable mental health services for such survivors. Counselling must be made of art of the recovery process. Support groups can also help victims share their stories and heal together. Society must be taught to treat victims very kindness, not judgement.

It is also important to look at how other countries have handled this issue. Many countries have criminalised marital rape, including the United Kingdom, United States, Canada, Australia, and several African nations. Their examples show that it is possible to respect marriage and also protect individual rights. India can study these countries laws and models to design its own strong and suitable system.

There is also need to improve data collection and research on this issue. Right now, there is very little official data on marital rape because it is not recognised as a crime. As a result, it is difficult to understand how widespread the problem is. The government should support surveys, studies, and reports on this topic. This information can help in making better policies in legal reforms.

Courts should also use their constitutional powers to protect women's rights. In many past cases, the Supreme Court and high courts have interpreted loss in progressive ways to uphold dignity of women. The judiciary can play a big role in making sure that laws are applied fairly and justly. Public Interest Litigations can also be filed by individuals and organisations to demand the removal of the marital rape exception and to improve the situation of married women.

At the same time, care should be taken to prevent misuse of law. Just like any other law, marital rape laws should have proper safeguards to ensure that innocent people are not falsely accused. False cases should be punished strictly. But this fear of misuse should not stop the country from

making necessary changes. Every law has a possibility of misuse, but that is not a reason to deny justice to genuine victims.

One more important step is to include marital rape and gender rights in schools and colleges curriculums. Students should be taught about health relationships, respect, consent and the meaning of equality from a young age. When children grow up with the right values, the future generation will be more understanding and less violent.

To create long-term change, we also need strong political will. Politicians and lawmakers must stop treating this issue as taboo. They must realise that women are not property and that forced sex is not love. They should bring reforms not just to win votes but to create a safe society for everyone. Women's groups, human rights organisations, and activists must continue raising their voice until this change happens.

Lastly, the mindset of society must change. People must stop blaming the victim and start blaming the abuser. Women must be respected, supported, and believed. Marriage should be seen as a bond of mutual love and care, not control and fear. If a wife says no, it should be respected. Her voice, her body, and her rights must matter. Until this change happens in homes, streets, courts, and minds, the fight will not be over.

In conclusion, the issue of marital rape is not just about law, but about human dignity. By making legal changes, spreading awareness, empowering women, and changing mindsets, India can move toward a safer and fairer society. Every woman deserves to live with respect and safety - in her home, in her marriage and in her own body it is time we act, not just talk.

References

1. **The Indian Penal Code, 1860** Section 375 & Exception 2.
2. **Constitution of India**, Article 14, 15, 19, 21.
3. Criminal Law Amendment Act, 2013
4. Justice J.S. Verma Committee, Report on Amendments to Criminal Law (2013).
5. Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948).
6. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Dec.18, 1979, 1249 U.N.T.S. 13.

7. European Court of Human Rights, *MC v. Bulgaria*, App. No. 39272/98 (Dec. 4, 2003).
8. Pratiksha Baxi, *Sexual Violence and the State: Litigation of Rape in India* (Orient Blackswan 2014).

