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**UNVEILING THE DARK CORNERS OF MARITAL RAPE**- Kumari Anushka<sup>1</sup>**ABSTRACT**

*Marriage plays a crucial role in development of both individuals as well as society but imagine having a person that is supposed to love his partner until death, becoming the root of causing psychological, emotional and physical injuries. Marital Rape is not an uncommon term that has originated in recent times, it has been there into action from the day marital relationship of a man with a woman has begun. A myth from past contributes that when two people marry, they impliedly consents to the sexual intercourse and marital rape is not as serious as a rape committed by a stranger. Is that even a fact?*

*Partially it is depicted that marriage itself gives consent to have sexual intercourse, on the other hand it is said that consent is and should have essential role in any kind of sexual intercourse and rape should be considered as an offence irrespective of the relationship between a man and a woman. There are bona fide laws articulated at national as well as international bases but the physical existence is dissimilar to the condition of women in reality. As per current law in India, a wife is presumed to deliver perpetual consent for sexual intercourse after entering into the institution of marriage. Even if women constitute half of the world's population, there still exists a struggle among women to constitute a dignified life.*

*The main objective of the paper includes exploration of wide range of aspects concerning the issue of marital rape, the historical and cultural context, the physical, emotional and psychological damage caused to women and the paper also objects to shift the focus from legal papers to real time innovative implementation and efforts against marital rape.*

**Key words** - rape, marital rape, consent, sexual intercourse, victims

**OBJECTIVE OF THE PAPER**

1. To analyse the concept of marital rape.

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2. To critically overview the status of marital rape worldwide and in India.
3. To analyse the statutes hampering the dignity of women in context of marital relations.
4. To analyse the implementations and modifications of laws relating to marital rape.

### **OVERVIEW AND INTRODUCTION**

“A Murderer kills the body but a Rapist kills the soul” - was aptly quoted by Justice Krishna Iyer.

The word ‘Rape’ has been taken from “*rapio*” which is a Latin phrase that means ‘to seize’. Rape is a violation of woman’s individuality and loss of her personality accompanied with violence<sup>2</sup>. Now, when one hears about the term rape, it is generally assumed that, it is an act carried out by an unknown or a known person who does not share a conjugal relationship with a woman. However, in past few decades, there has been rising debates with respect to marital rapes. The term marital rape arises, when a man feels he has a right to have sexual intercourse with his wife without her will. It is a kind of sexual assault or more of rape in which one spouse, especially husband forces his wife into sexual acts against her choice.

Now the question arises that does marriage or any kind of relationship gives implied consent to husband to rape his own wife without her further consent ?

The suffering of victims has no authentication socially, legally, culturally and professionally, which results in serious consequences on the life of the victims. The momentous pleasure of a husband leads to the critical outcome for victims such as depression, mental distress, gynaecological problems, internal injury and other severe health issues, which directly impact their further lives in a negative manner.

It is a betrayal and humiliation of trust. Marital rape is not just an act of physical or sexual violence, there is emotional suffering and psychological intimation involved in it. Under the outfit of marriage, a husband is wrongfully allowed to do anything with his wife such as unnatural sex, sex during pregnancy or sex of a nature that the woman dislikes.

### **Historical background**

Historically, there were several legal loopholes in many countries and legal systems prevented marital rape from being criminalized. This was found on the assumption that marriage meant perpetual permission to sexual behavior between spouses. In India especially in Hindu

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<sup>2</sup>Phul Singh v. State of Haryana, 1980 AIR 249, 1980 SCR (1) 589, 1979 SCC (4) 413

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religion the idea of *Kanya dan* has led to the misinterpretation of treating women as personal property that results in further exploitation. Family is meant to be the most protected place and if there is any violence inside the family then it impacts drastically on other members too, especially children. The violence results in the demoralising status of women in the society and even violates her fundamental rights as a human. Hence, expecting a wife to have sexual intercourse without her consent should not be acceptable in civilised society.

Due to the male-dominated society, women were treated as objects after marriage and did not have their own significant rights. Therefore, any sexual relations between the spouse becomes the husband's property. It has long been believed that women are merely machines made to conceive, raise children, regardless of whether they want to do so or not.

So, Is considering women a chattel admissible in cultured society like India where we have numerous female ancient goddesses who are worshipped even today or do I say that we live in a hippocratic society of India where females are worshipped in temples and assaulted outside or even at their own houses ?

According to the non-governmental organization (NGO) Dilaasa's domestic violence data, 60% of married women report sexual violence, forced intercourse being its most common form.<sup>3</sup>

India registered 31,677 cases of rape in 2021 - an average 86 daily - while nearly 49 cases of crime against women were lodged every single hour, according to the latest government report on crimes in the country.<sup>4</sup>

### **Legality of marital rape worldwide**

There are several countries that prevent husbands as perpetrators of their wives. In countries like Ethiopia rape is defined under article 620 and whoever compels a women for forced sexual intercourse by violence or grave intimidation is punished with rigorous imprisonment of five to fifteen years. Several countries have criminalized marital rape too. Poland was the first among them in 1932 and Australia followed the same in 1976. And later on Israel, Ireland and South Africa joined in the late 1980. On the basis of Supreme Court emphasizing on constitutional violations as equal protection and right to privacy in Nepal, marital rape was criminalised in 2002.

<sup>3</sup> <http://southasiajournal.net/marital-rape-the-indian-issue/> (last visited on Dec.31, 2023).

<sup>4</sup> <https://www.thehindu.com/news/national/india-lodged-average-86-rapes-daily-49-offences-against-women-per-hour-in-2021-government-data/article65833488.ece/amp/> (last visited on Jan 4, 2023)

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Marital rape under Section 262 of California Penal Code was criminalised in 1979<sup>5</sup>.

Article 1 of CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) defines "Discrimination of Women" as "any distinction made based on sex which has the effect of impairing or nullifying the recognition exercised by women, irrespective of their marital status on the basis of equality, human rights and fundamental freedoms in the social, cultural, civil or any other field"<sup>6</sup>.

Out of 185 countries in the world, nearly 77 have laws that have clearly criminalised marital rape while there are 34 countries that explicitly decriminalise marital rape, or in essence, prevent men who do the offence of rape against their wives.

India, is one of the 34 countries that has still not criminalised marital rape.<sup>7</sup>

## **Status of marital rape in India**

In India the term rape is defined under section 375 of the Indian Penal Code that states 375<sup>8</sup>. Rape.-- A man is said to commit "rape" if he--

- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- (b) 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
- (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
- (d) 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 falls under the descriptions as :

First: Against her will.

Secondly: Without her consent.

Exception clause 2 to Section 375 states that 'if a man engages in sexual intercourse

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<sup>5</sup>Leslie Francis, *Date Rape: Feminism, Philosophy, and the Law* (Penn State Press 2010).

<sup>6</sup>[http://archive.ipu.org/PDF/publications/cedaw\\_en.pdf](http://archive.ipu.org/PDF/publications/cedaw_en.pdf) (last visited on Jan 4, 2024)

<sup>7</sup><https://www.drishtias.com/daily-updates/daily-news-analysis/marital-rape-in-india-1> (last visited on Jan 4, 2024).

<sup>8</sup>Subs. by Act 13 of 2013, s. 9, for sections 375, 376, 376A, 376B, 376C and 376D (w.e.f. 03-02-2013).

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with his wife who is not below 15 years then it is not rape’.

Therefore , the exception in clause 2 does not consider the scope of marital rape at all. However, the Indian Penal Code defines ‘rape,’ as sexual intercourse and sexual penetration without the consent of a woman. But sadly, a woman is not allowed to approach the court under the ambit of criminal law if she is forced to indulge into sexual intercourse without her consent by her own husband as it does not recognize any such act as an offence.

The question arises here why is forceful sexual intercourse between husband and wife not included in the provision and definition of rape?.

In India , marital rape is not considered a crime and forced sexual intercourse with wife is allowed and law itself permits this .It is ironic to say that people talk about protecting women outside in malls, streets and everywhere else, except home and they don’t even consider it necessary to talk about it . but an offence is an offence, even if it is happening with women inside homes, it can’t and should not be ignored. Even if, domestic violence Act 2005 brought provisions to protect women from several domestic violence and remedies against various household crimes but it wasn’t able to add marital rape in it.

**Doctrine of Coverture:** Section 497 of the IPC (Indian Penal Code) relies over the Doctrine of Coverture. This doctrine, not recognised by the Constitution, holds that a woman loses her identity and legal right with marriage, is violative of her fundamental rights.<sup>9</sup>

Because of the patriarchal mind-set existing from ancient times in society, once a woman marries, she impliedly consents to her husband's sex interactions. The reason behind marital exception in the Penal Code is Implied Consent Theory, or Hale’s Theory (1736), which states that a husband cannot be guilty of raping his legitimate wife as long as the wife provides her implied consent during marriage, which she cannot retract.<sup>10</sup>

Certain countries, that inherited the 1860 Indian Penal Code (for example, Singapore, India), expressly protects husband from prosecution, declaring that sexual intercourse between a man and his wife is not considered as rape.<sup>11</sup> United Nation Population Fund(UNPF), reported that

<sup>9</sup> <https://www.clearias.com/marital-rape>(last visited on Jan 4, 2024) .

<sup>10</sup> [https://www.legalserviceindia.com/legal/article-7872-marital-rape-laws-an-international-over view.html](https://www.legalserviceindia.com/legal/article-7872-marital-rape-laws-an-international-over-view.html)  
(last visited on Jan 5, 2024)

<sup>11</sup> <https://voiceofbarristers.com/marital-rape-in-indian-jurisprudence/>(last visited on Jan 8, 2024)

more than two-third of the married women, between 15 to 20 years of age, is subjected to crimes such as forced sexual intercourse, torture, beaten up along with the demand for dowry. Women in rural areas are more likely to face spousal violence (34%) than women in urban areas (27%), the reason being – lack of education, awareness, social customs, and belief that husbands own their wives as personal property. Statistics and oral evidents depicted a horrifying image of the status of marital rape in India. 94% of rapes in India are stated to be committed by someone the victim knows. A UN Women study of 2011 stated that one in every 10 women has suffered sexual assault by her husband and one in three has faced physical violence by her husband or intimate partner. The 2015–16 National Health and Family Survey (NFHS-4) data shows that 11.5% women have reported ,facing some form of sexual violence or rape by their husbands. Different research studies repeatedly highlight the prevalence and high incidents of marital rape in India.<sup>12</sup>

Exception clause 2 to section 375 was somewhat altered in the judgement in a recent case, Independent Thought v. Union of India,(W.P.Civil 382 of 2013)<sup>13</sup> altered some part of this section to bring it along with the Constitution of India , child marriage and child sex abuse related laws -the new reading of this section being: ‘sexual intercourse by a man with his wife, the wife not being under eighteen years of age, is NOT rape.’

In case, where the age bar was increased, the Central Government told the Supreme Court bench that it does not consider marital rape a crime.

Therefore, a big question arises that would changing the age bar could help the wrong or the offence happening to the women? Or does the age bar have anything to do with “rape”? The answer is clear- ‘NO’.

Under Section 376-A added in 1983 in the IPC, rape of judicially separated wife was criminalized. It was an amendment based on the recommendations made jointly by the Amendment Bill of Indian Penal Code,1972 and the Law Commission of India.

Therefore, a husband can be charged and imprisoned up to 2 years, if , there is sexual intercourse with his wife,without her consent while she is living separately from her husband .Otherwise, a husband is not liable for any sexual act that he forcefully performs on his wife, unless they are living separately under a decree of judicial separation.

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<sup>12</sup><https://medium.com/@vanditamorarka/marital-rape-in-india-4ee0e132eeb5#:~:text=The%202015%E2%80%9316%20National%20Health,of%20marital%20rape%20in%20India> (last visited on Jan 8, 2024)

<sup>13</sup>[https://www.ohchr.org/sites/default/files/documents/issues/women/cfi-adverse-impact-forced-marriage/csos/submission\\_forcedmarriage-cso-Independent%20Thought.docx](https://www.ohchr.org/sites/default/files/documents/issues/women/cfi-adverse-impact-forced-marriage/csos/submission_forcedmarriage-cso-Independent%20Thought.docx) (last visited 9 Jan,2024)

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Crime against women is crime against society as a whole. Millions of women all over the country are the worst victims of crime, but only a small number of cases are filed. Unfortunately, this situation is taking humanity to a dense graveyard. JUSTICE Rajiv Shadhekar in a preceding sentence wisely said - " it would be tragic if a married woman calls for justice even after 162 years , since the enactment of IPC". He stated there were "no reason not to intercede in the matter of marital rape if, otherwise, I am convinced that MRE (marital rape exception) violates the married women's fundamental rights under Articles 14,15,19(1)(a) and 21 of the Constitution." Citing the Supreme Court's intervention in an IPC Section 377 case, the judge said that the legislature not intervening is a "neutral fact" that can't prevent the examination by the court as to the Constitutional validity of MRE.<sup>14</sup>

According to National Crime Record Bureau report of 2020, almost all rape committers in India (approx.95.5%) are people who are known to the victim. Out of 20,046 reported cases ,approx 3,000 cases were committed by family members and 82% of the married husbands were sexually violent to their wives.

NFHS has published its data on spousal sexual violence, has only been recorded from 2005 in 5 sets from 1992 to 2021. The PIL has cited NFHS-4 to counter the argument of the Men's Welfare Trust (MWT)- who have interrupted in this petition against the criminalisation of marital rape, stating that it will lead to the filing of false cases. The amicus of the case cited to state "that there will be a deluge of false cases against offending husbands does not appear to be correct. If the NFHS data is taken into consideration, it establishes that 9.9 out of 10 cases of sexual assault in India go unreported<sup>15</sup>.

## **CONSTITUTIONALITY OF MARITAL RAPE**

The petition filed in Delhi High Court , RIT Foundation v. UNION OF INDIA, contended data from the National Family Health Survey 2015-16 (NFHS-4) lightened up the cases of marital sexual violence. NFHS-4 revealed that sexual violence is in close association with physical violence in a marital relationship. The offence of physical violence, whether it is slapping, punching, beating, thrashing, pushing, etc. do not happen in isolation, rather, it

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<sup>14</sup>[https://timesofindia.indiatimes.com/city/delhi/marital-rape-2-judges-2-different-interpretations-of-role-of-courts/amp\\_articles/91526513.cms](https://timesofindia.indiatimes.com/city/delhi/marital-rape-2-judges-2-different-interpretations-of-role-of-courts/amp_articles/91526513.cms) (last visited on Jan 11, 2024)

<sup>15</sup><https://www.womensweb.in/2023/03/recent-nfhs-data-on-marital-rape-in-india-mar23wk3sr/> ( last visited on jan 12, 2024)

happens as a result if the wife refuses to have sex. This highlights the amount of marital control a husband possesses over his wife. Delhi high court on May 2022, gave a split verdict on marital rape. Justice Rajiv Shakhder held exception 2 of section 375 IPC unconstitutional and stated–

“A married woman's right to bring the offending husband to justice needs to be recognised and considered.” Relationship between the perpetrator or victim should not be a valid defence against the crimes of rape or sexual violation”.

In 2000, law commission report, the argument on marital rape illustrated that there was no reason for rape alone to be shielded when other circumstances that included violence by a husband were criminalised. It considered the fact that criminalisation of spousal rape would lead to “excessive interference with the institution of marital relationship”.

In spite of several challenges to laws and reports by various bodies recommending the elimination of marital rape as an exception to the crime, such as the Justice Verma Report, the government continues protection of rape in a marriage under the misguided concept of protecting ‘Indian families culture, norms and traditions’. Therefore, in the name of family norms, is it valid to leave the dignity of women deteriorated ?.

The committee even though recommended the criminalisation of marital rape but it was rejected on three grounds - first, that marital rape could not be criminalised because this act may destabilise the institution of marriage and could be used to harass husbands. Secondly, Burden of proof i.e. proving the defendant's innocence in the court and lastly, marriage is considered to be an implied consent by a woman for sexual intercourse.

I would like to raise a question here too that are these reasons justified enough to not amend the rape laws in India?

The 42nd law commission report recommended that criminal liability should be fastened to the sexual intercourse of man with his minor wife. However, the Committee refused this recommendation and stated that a husband cannot be found guilty of forcing his wife to have sexual intercourse of whatever age since sex is a “parcel” of marriage. Later in 1983 Section 376A IPC was added and rape of judicially separated wife was criminalized.

A married woman can only obtain protection against marital rape under the Protection of Women from Domestic Violence Act 2005, which is a civil legislation, disallow in the remedies it can provide, only if the wife does not live with her husband judicially.

The Criminal Law (Amendment) Bill, 2012, drafted in the after effect of the justice Verma Commission report, did not have any provision to criminalise marital rape. The Parliamentary

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Standing Committee that examined the bill rejected any suggestion of criminalising marital rape. Reason being that the “entire family system will be under greater stress and the committee may perhaps be doing more injustice.” Additionally, it felt that sufficient remedies already existed, including Section 498A of the Indian Penal Code, the Protection of Women from Domestic Violence Act, 2005 (PWDVA, 2005), and various other personal laws dealing with marriage and divorce<sup>16</sup>.

In case Nimeshbhai Bharatbhai v. State of Gujarat, noted that marital rape is an objectionable and indefensible offence, but it did not struck down the exception clause of section 375 of Indian Penal Code or did not even suggest the state to do so.

Therefore, Is there strong enforcement ?And if there is, why is there no decline in cases?

## MARITAL RAPE IN CONTEXT OF INDIAN JURISPRUDENCE

In the last decades feminist jurisprudence has welcomed the protection of women's rights and ensured them for a dignified life .In Maneka Gandhi v. Union of India, the Supreme court passed a verdict that “the right to live is not merely a physical right, but includes within its ambit the right to live with human dignity”<sup>17</sup>. This statement of living with dignity was concluded irrespective of gender. On one hand judiciary promises to provide right to equality and liberty as mentioned in Article 14 and Article 21 of the Constitution of India, on the other hand,exception 2 of Section 375 of Indian Penal Code infringes the right to live with dignity of the married woman by allowing non-consensual sexual intercourse by her husband.

Isn't this clause directly violating the right to life and liberty of a woman ?

In case , Bodhisattwa Gautam v. Subhra Chakraborty ,the Supreme Court said that "rape is a crime against basic human rights and a violation of the victim's right to life under Article 21 of the Constitution of India In my opinion, as Article 21 of the Indian constitution provides "protection of life and personal liberty" to everyone without any discrimination, making distinction between the act of rape committed by one's spouse and a stranger is unfair and unjust, as well as a violation of the above mentioned Article<sup>18</sup>. “Although it was truly illustrated, the subject matter needs to be real time implementation . Before being a wife,She is a woman and rape is rape even if it is initiated by a husband, within the four walls. The

<sup>16</sup><https://www.theindiaforum.in/law/criminalising-marital-rape-india> ( last visited on Jan 12, 2024)

<sup>17</sup>Maneka Gandhi v. Union of India AIR 1978 SC 597

<sup>18</sup>Bodhisattwa Gautam v. Subhra Chakraborty (1996) 1 SCC 490

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institution of marriage in any case should not permit any male to perform any unlawful act towards his wife. Even if rape laws are not amended there is still provisions that women can use against unlawful act– first , 489A-that includes any kind of cruelty whether it is emotional, physical or sexual. Secondly , the domestic violence act which provides remedy only in case of rape committed against the wife while she is judicially separated from her husband and was also brought up in case Bishnu Dayal V. State of Bihar.

In case Jaideep Bhanu Shankar v. UOI , the Gujarat high court laid down that “Marital rape is supposed to be a crime and not just a concept”.

In the landmark judgement of the case, Hrishikesh Sahoo v. State of Karnataka, Justice M. Nagaprasanna, stated in own words, that, if the husband sexually assaults his wife, then he can't always take the defence of exception 2 of section 375 as the exemption is not absolute . The karnataka high court stated, "A marital or other relationship between the perpetrator or victim is not a valid defence against the crimes of rape or sexual violation"<sup>19</sup>.

Four petitions were filed under the case.,RIT Foundation v. Union of India in 2015.. In this case, husband was accused of raping his wife, who was not under 18 years of age. Justice Rajiv Shakhder constituted that "the exemption to the husband from the offence of marital rape is unconstitutional and violates articles 14, 19, and 21 of the Constitution of India and Justice Hari Shankar constituted that the Indian constitution assures safeguard to the weaker sections of society. Article 15 of the Indian constitution stated that "Nothing in this Article shall prevent the State from making any special provision for women as well as children". After all these cases in the High court, the Public Interest Litigation was filed before the Supreme Court. The four matters includes- Delhi High Court Spilt verdict, challenging the judgement of Karnataka High Court, third , PILs filed against the marital rape exception clause, and lastly , intruding applications. The apex court heard the plea on 9<sup>th</sup> of may, 2023. The list of petitions were noted before a division bench comprising Chief Justice DY Chandrachud, Justice JB Pardiwala and Justice PS Narasimha<sup>20</sup>.

Hence, the given facts clearly states that sexual violence is clear violation of women's dignity as said in case, State of Karnataka v. Krishnappa, the SC held that “sexual violence is intrusion of the right to privacy and sanctity of a female<sup>21</sup>.

<sup>19</sup>[89-hrishikesh-sahoo-v-state-of-karnataka-23-mar-2022-412964.pdf \(livelaw.in\)](#) (last visited JAN.14 ,2024)

<sup>20</sup>[Marital Rape | Supreme Court To Hear Pleas Seeking To Criminalize Marital Rape On May 9, 2023 \(livelaw.in\)](#) ( last visited on Jan 14, 2024)

<sup>21</sup> The State Of Karnataka vs Krishnappaon 30 March, 2000.

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In the period of legal revolutions and legal reforms ,it is important to take a step against marital rape.

### **REFORMATIVE MEASURES**

**Police reforms-** These reforms including establishment of state security, have been waiting to be implemented since the 1980s. Police need to be efficient and better investigation methods should be there to find out the nature and fact of the case. Sensitising police on issues of women as they should evaluate cases with sensitiveness and empathy. Complaining women should not be looked down on with scepticism.

**Criminalising marital rape-** A rapist is a rapist whether he is known or unknown person .Therefore, marital rape needs to be criminalised and there should be a gender-neutral laws in order to provide justice in the country. It is believed that criminalising marital rape will affect the sancity of marriage but it must be noted that if wife has accused her husband of forceful sexual intercourse against her will, the basic foundation of marriage is already weak. Hence, marital rape must be recognised as an offence in the text of law.

**National survey-** Data collected under the spectrum of marital rape is not effective and there has been no implementation on rape laws. Therefore, there is a need of independent survey by the government that estimates the nature of the sexual violence and there should be more efficacious solutions to it.

**Care centres for survivors-** There should be a physical destination for survivors to seek help. Such centres should be established to provide legal , emotional and financial support to the victims. The services for mental and physical healthcare should be provided on a pro bono basis.

**Amending rape laws-**Indian rape laws needs a modification. Importantly, the marital rape must be treated as a valid ground for divorce under personal laws. These changes need to be operative and justiciable.

**Social audits -**These should be conducted and held by women societies and should receive regular feedback from women about any misconduct in society.

Rape is barabric act and is the worst form of violation. Therefore, to tackle the most problematic issue of the society, these measures need to be efficiently worked upon and there should be a legal reform that ensure the design of law that must be against marital rape.

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## **CONCLUSION**

Marital rape is the most heinous crime against the women and society as well. It has already been criminalised in most of the countries. In India, marriage is considered as a sacramental act that allows two like minded people to live under a marital relationship but this should not give an implied permission to the husband to treat their wives as personal property. The condition of women is degrading day by day due to increasing number of crime and there is no genuine record of the crimes which debarred women from seeking remedy.

Now, it's high time and this subject matter holds superficial impact over any civilised society and seeks immediate attention. Our constitution needs to come up with better nostrum for victims and better provision regarding rape laws. Justice should be provided until its too late, as we know JUSTICE DELAYED IS JUSTICE DENIED.

## **REFERENCES–**

### **BOOKS-**

- Bare Act –The Indian Penal code (45 of 1860) as amended by The Jammu and Kashmir Reorganisation act,2019(34 of 2019) (w.e.f.31-10-2019).
- Prof. S.N. Mishra Indian Penal Code ,twenty third edition,central law publication.
- PSA Pillai's CRIMINAL LAW, 14th Edition, K I Vbhute,LexisNexis.
- Prof. N.V. Paranjape , Indian Penal Code , central law publication.

### **ARTICLES-**

- Case laws from- <https://www.sconline.com> (sexual violence, rape, marital rape)
- <https://www.sconline.com/blog/post/2022/11/05/rape-and-marriage-jurisprudence-a-study-of-recent-judicial-trends-pertaining-to-marriage-post-rape/>
- [Marital Rape | Supreme Court To Hear Pleas Seeking To Criminalize Marital Rape On May 9, 2023 \(livelaw.in\)](#) .
- <https://www.theindiaforum.in/law/criminalising-marital-rape-india>
- [89-hrshikesh-sahoo-v-state-of-karnataka-23-mar-2022-412964.pdf \(livelaw.in\)](#)
- <https://prsindia.org/policy/report-summaries/justice-verma-committee-report-summary>
- <http://southasiajournal.net/marital-rape-the-indian-issue/>

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- [https://m.timesofindia.com/india/nearly-1-in-3-women-have-suffered-spousal-sexual-physical-violence-family-health-survey/amp\\_articleshow/91491367.cms](https://m.timesofindia.com/india/nearly-1-in-3-women-have-suffered-spousal-sexual-physical-violence-family-health-survey/amp_articleshow/91491367.cms)



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