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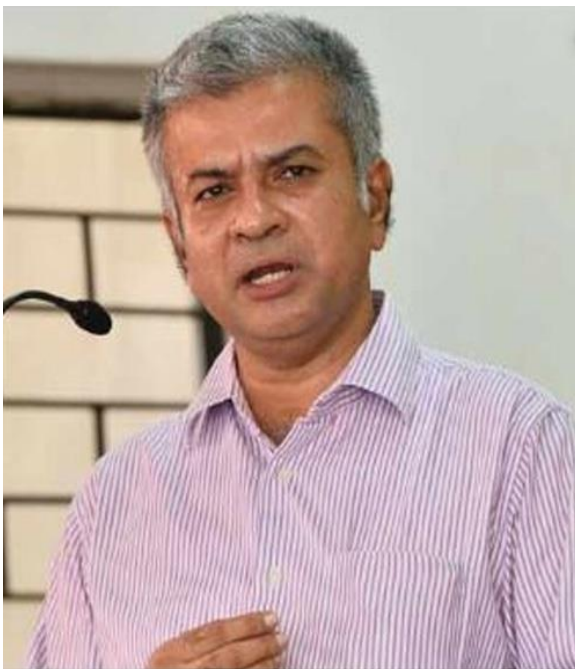
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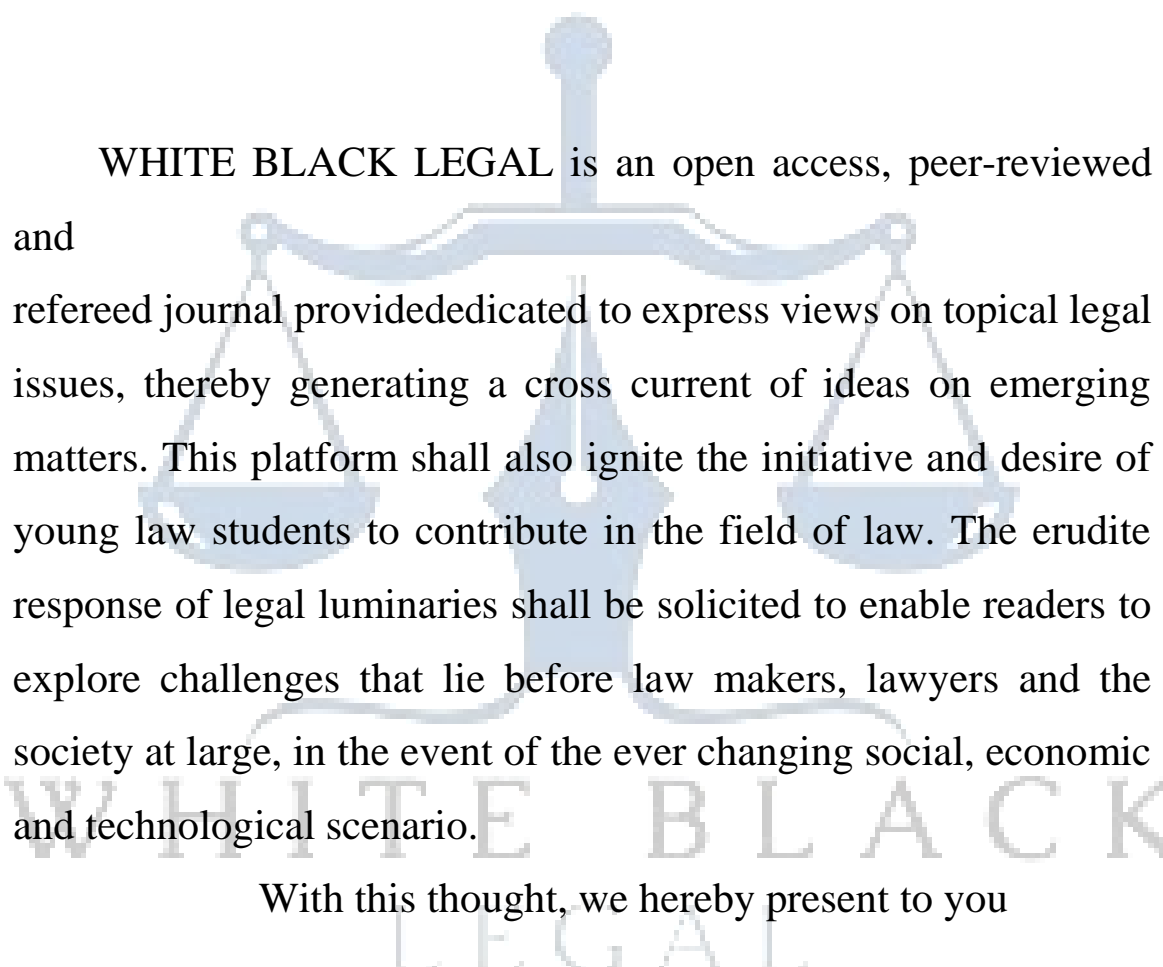


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

MARITAL RAPE AND THE MARGINALIZED: EXAMINING VULNERABLE GROUPS THROUGH THE LENSES OF CASTE, CULTURE, AND CLASS

AUTHORED BY - PALLAVI KUMARI¹

Abstract

Marital rape remains one of the most under-discussed yet pervasive forms of gender-based violence in India. While legal and societal discourses primarily focus on the general implications of marital rape, they often neglect its disproportionate impact on marginalized communities. This paper critically examines how caste, culture, and class shape the experiences of marital rape survivors from vulnerable groups. Using an inter-sectional feminist approach, it highlights how structural inequalities exacerbate the barriers to justice for Dalit women, tribal women, religious minorities, and economically disadvantaged groups. The study draws on legal frameworks, feminist legal theory, and empirical data to argue for an inclusive legal reform that addresses these layered oppression.

Introduction

Marital rape remains decriminalized in India, reflecting a systemic failure to recognize the autonomy and consent of married women. However, the discourse surrounding marital rape largely ignores its differentiated impact on marginalized communities, particularly Dalit women, Adivasi women, and women from lower socioeconomic backgrounds. These groups face heightened vulnerabilities due to the intersection of gender-based violence, caste oppression, and economic deprivation. This paper aims to fill this gap by analyzing the legal, cultural, and socioeconomic barriers that hinder access to justice for these survivors. Additionally, it explores the role of patriarchal institutions, societal conditioning, and legal loopholes that continue to deny justice to marginalized women.

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Caste and Marital Rape: The Dalit and Adivasi Experience

Structural Violence and Caste-based Oppression

Dalit and Adivasi women experience gendered violence differently from upper-caste women due to the entrenched system of caste hierarchy. Studies have shown that Dalit women are disproportionately subjected to sexual violence, including marital rape, as a form of caste-based subjugation.² This is compounded by the reluctance of law enforcement authorities to register complaints against dominant caste men, reinforcing the impunity surrounding marital rape.³

A case that highlights the caste-based dimension of marital rape is that of *Laxmi v. State of Uttar Pradesh (2007)*, where a Dalit woman faced repeated sexual violence within marriage but was unable to seek justice due to police inaction and societal indifference.⁴ This case illustrates how caste-based discrimination intersects with gender violence, preventing Dalit women from accessing justice.

Another notable case is *Bhanwari Devi Case (1992)*, where a Dalit woman working as a grassroots activist was gang-raped by dominant caste men in retaliation for her efforts to prevent child marriage.⁵ Although not a case of marital rape, it exemplifies the impunity surrounding sexual violence against Dalit women and the institutional failures in ensuring justice.

In *State of Karnataka v. Krishnappa (2000)*, the Supreme Court recognized the importance of consent in sexual relationships and ruled that lack of consent constitutes rape, reinforcing the need to recognize marital rape as a crime.⁶

This case also underscores the vulnerabilities of Dalit women when challenging upper-caste dominance.

Legal Blind Spots and Barriers to Justice

While laws such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, provide protections against caste-based violence, they do not specifically address marital

² Rege, Sharmila, *Against the Madness of Manu: B. R. Ambedkar's Writings on Brahmanical Patriarchy* (Navayana Publishing 2013) 142.

³ Kannabiran, Kalpana, *Tools of Justice: Non-Discrimination and the Indian Constitution* (Routledge 2012) 198.

⁴ *Laxmi v. State of Uttar Pradesh (2007)* SCC 115.

⁵ Bhanwari Devi case

⁶ *State of Karnataka v. Krishnappa (2000)*

rape. The legal non-recognition of marital rape further marginalizes Dalit and Adivasi women, who already face multiple layers of discrimination.⁷

Additionally, fear of societal backlash and economic dependence on their husbands further dissuade them from seeking legal action. There is a pressing need for legal reforms that explicitly recognize the intersection of caste and gender violence to ensure better legal protections for Dalit and Adivasi women.

Culture and Marital Rape: Religious and Traditional Norms

The Role of Religious Texts and Cultural Practices

Cultural and religious norms often reinforce the idea of female submission within marriage, making it difficult for survivors to report marital rape. In several communities, particularly among conservative Hindu, Muslim, and Christian groups, women are socialized into accepting marital intercourse as a duty.⁸ This cultural conditioning serves as a significant barrier to recognizing marital rape as a crime.

For example, in the *Mohammedan Law case of Imrana (2005)*, a woman who was raped by her father-in-law was advised by religious leaders to treat him as her new husband instead of seeking justice.⁹ This case underscores how religious interpretations can suppress a woman's agency and reinforce marital subjugation.

Another case demonstrating the interplay between culture and marital rape is *Saroj Rani v. Sudarshan Kumar Chadha (1984)*, where the Supreme Court upheld the husband's conjugal rights, reinforcing the notion that marital intercourse is an obligation.¹⁰ This ruling further legitimized the idea of 'implied consent' within marriage, leaving married women with little legal recourse against marital rape.

⁷ Agnes, Flavia, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 2001) 87.

⁸ Menon, Nivedita, *Seeing Like a Feminist* (Penguin Books 2012) 112.

⁹ Patel, Vibhuti, 'Economic Dependence and Gender-Based Violence in India' (2020) 35 *Journal of Gender Studies* 77.

¹⁰ *Saroj Rani v. Sudarshan Kumar Chadha*

In *Independent Thought v. Union of India* (2017), the Supreme Court criminalized marital rape for minor wives under 18 years of age, recognizing the importance of consent and paving the way for future legal reforms.¹¹

The Fear of Social Ostracization

Women from marginalized religious communities, such as Muslims and Christians, often fear ostracization if they report marital rape.¹² The intersection of religious identity and patriarchal norms places these women in a precarious position where speaking out may result in familial and community backlash.

Additionally, women from these backgrounds are often pressured to maintain family honor and refrain from filing legal complaints. This further discourages them from seeking justice and exacerbates the silence around marital rape within religious communities.

Class and Economic Vulnerabilities

Economic Dependence and Marital Rape

Women from lower socio-economic backgrounds are particularly vulnerable to marital rape due to financial dependence on their spouses.¹³ The lack of economic autonomy prevents them from seeking legal recourse or leaving abusive marriages. Furthermore, the criminal justice system often prioritizes cases of physical violence over sexual violence within marriage, rendering marital rape an invisible crime.¹⁴

In the landmark case of *Tukaram v. State of Maharashtra* (1979), also known as the Mathura rape case, a tribal girl was raped, and her consent was deemed immaterial due to her 'low socio-economic status.'¹⁵ While this case did not deal with marital rape directly, it set a precedent for ignoring consent in cases involving marginalized women. This legal attitude continues to impact poor women trapped in abusive marriages.

¹¹ *Independent Thought v. Union of India* (2017),

¹² Renzetti, Claire M, *Economic Stress and Domestic Violence* (SAGE Publications 2011) 56.

¹³ National Crime Records Bureau, 'Crime in India 2021' (Ministry of Home Affairs, Government of India, 2022) <https://ncrb.gov.in> accessed 15 January 2025.

¹⁴ *Laxmi v. State of Uttar Pradesh* (2007) SCC 115

¹⁵ *Tukaram v. State of Maharashtra* (1979) 2 SCC 143.

Similarly, in the *Rameeza Bee Case (1978)*, a poor Muslim woman was raped by police officials, yet justice was denied due to institutional apathy.¹⁶ This reflects the deep-seated discrimination that women from lower socio-economic backgrounds face, further deterring them from reporting sexual violence, including marital rape.

In *Tara Shahdeo Case (2014)*, a woman from Jharkhand was forced into marriage under false pretenses and subjected to continuous sexual violence, highlighting how socio-economic vulnerability exacerbates marital rape.¹⁷

Lack of Access to Legal Resources

Marginalized women, particularly those in rural areas, face additional barriers such as lack of awareness about legal rights, absence of legal aid, and geographical inaccessibility of courts.¹⁸ These structural impediments contribute to the continued victimization of poor women within the institution of marriage.

Conclusion and Recommendations

Marital rape is not a monolithic issue; it affects different groups in varying ways depending on caste, culture, and class. The failure to recognize this intersectionality results in the continued marginalization of vulnerable women. Legal reform must adopt an intersectional approach that explicitly criminalizes marital rape while also addressing the structural barriers faced by Dalit, Adivasi, and economically disadvantaged women.

Additionally, judicial accountability must be strengthened to ensure cases of marital rape are taken seriously, especially for women from marginalized backgrounds. Awareness campaigns and community-based interventions are essential to challenging the deep-seated cultural norms that perpetuate marital rape. Only through a holistic legal and social reform can India ensure justice for all survivors of marital rape.

¹⁶ Rameeza Bee

¹⁷ *Tara Shahdeo Case (2014)*,

¹⁸ *Mohammedan Law Case of Imrana (2005) SCC 98.*