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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

A COMPARATIVE STUDY ON MARITAL RAPE **UNDER IPC 1860 WITH BNS 2023**

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ABSTRACT

In general, marital rape means when a woman is forced by her husband to participate in sexual relations after marriage, where it is committed against her will and her consent is absent for such intercourse. It is said to be a compelling sexual intercourse by one partner upon the other partner. Marital rape does not have a separate section under IPC but it is given under section 376 under exception 2 which clearly states that sexual intercourse by a man with his partner who is not less than fifteen years of age, is not rape. There is a statistics that states about Fourteen % of the married women report that they are raped by their spouses. A national survey has found out that 10 percent of all sexual assault cases given by women involved a husband or ex-husband attacker. Section 69 of the Bharatiya Nyaya Sanhita (BNS) deals with the offence of Marital rape which states that Sexual intercourse by a man with his partner who is less than eighteen years of age, is not rape. My objectives is to examine the historical context and rationale behind the marital rape exemption in Section 375 of the IPC, to Analyze the potential legal challenges and arguments for criminalizing marital rape under existing laws or through legislative amendments, to evaluate the available statistics on sexual violence against women in India, acknowledging the limitations due to underreporting, and estimate the potential prevalence of marital rape within those figures & to study the changes in the age of consent for marital rape under IPC 1860 & BNS 2023. The author has collected 202 samples. The researcher has undertaken an empirical research method. The scope of having an separate & stringent laws on marital rape is purely in the hands of government & women to achieve the desired justice.

KEYWORDS

Marital Rape, Bhartiya Nyaya Sanhita, Indian Penal Code, Women, Sexual Intercourse.

INTRODUCTION

Let me start my research paper by saying a wonderful quote on marital rape “Marriage is not a license to rape consent is everything”. So from this quote we can understand that marriage allows a man to have sexual pleasure with women but her consent & participation is equally important. Marital Rape is defined as sexual contact by the husband with his wife without her consent & willingness to participate. Marital rape is not an offence under Indian Law. Under Indian Penal Code 1860, in Section 375 there is an exception given in clause 2 that “Sexual actions or intercourse by a man with his wife who is not being under fifteen years of age is not a rape”. But on the other hand in Bharatiya Nyaya Sanhita, Section 69 clearly states that “Sexual intercourse by a man with his own wife, the wife not being under eighteen years of age, is not rape”. So, the new law also only changed the age of consent for marital rape but it does not completely abolish marital rape. There are many reasons for occurrence of marital rape & no laws scenario for the same such as Patriarchal society, lack of awareness & education, cultural & religious beliefs & economic dependence along with its lack of laws includes historical legal framework, cultural resistance & gender bias in law-making. The historical background of marital rape in India & IPC is that in Manusmriti, marriage was considered a sacrament, and the roles of husband and wife were clearly defined. Women were expected to be subservient to their husbands, and the concept of marital consent was not recognized. Since, in IPC marital rape is not recognised because it was drafted by British men & it was influenced by British morals. The Government Initiatives are Criminal Law (Amendment) Act, 2013, Law Commission reports & National Commission for Women. Factors affecting marital rape in India are Social Stain & Shame, Honor & Family Reputation & Religious Faith. The current trends on marital rape in India are Introduction of BNS, Judicial Pronouncements & Support Services like the government has established support services for women affected by violence, including setting up One Stop Centres (OSCs) that provide comprehensive support to victims of sexual violence, including marital rape. The comparison between the countries with regard to marital rape is In USA the Marital rape is criminalized in all 50 states, although the specifics of the laws can vary. Some states had marital rape exceptions until the 1990s, but these have now been removed but in UK the marital rape was declared as a criminal act only in landmark case of R vs R in 1991, where the House of Lords decided by stating that non-consensual sex within marriage is rape.

AIM: The Aim of my research is to have a comparative study on marital rape under IPC 1860 with BNS 2023.

OBJECTIVES

- 1) To Examining the historical context and rationale behind the marital rape exemption in Section 375 of the IPC.
- 2) To Analyzing the potential legal challenges and arguments for criminalizing marital rape under existing laws or through legislative amendments.
- 3) To Evaluate the available statistics on sexual violence against women in India, acknowledging the limitations due to underreporting, and estimate the potential prevalence of marital rape within those figures.
- 4) To study the changes in the age of consent for marital rape under IPC 1860 & BNS 2023.

LITERATURE REVIEW

(NUJS Law Review) This article analyzes the constitutional and legal arguments for criminalizing marital rape in India, highlighting the limitations of the IPC exemption. **(Acad Publ)** This source examines the legal inadequacies regarding marital rape and the need for legislative reform. **(Aparna Chandra, 2014)**. This article, though not directly focusing on marital rape, provides valuable insights into the potential application of restorative justice programs in India. **(Flavia Agnes, 2016)**. This book explores the social stigma surrounding marital rape, its impact on victims, and the legal discourse surrounding the issue. **(IIPS and MoHFW, 2016)** This report by the National Crime Records Bureau (NCRB) provides national statistics on sexual violence against women, highlighting the limitations of data due to underreporting. **(Vrinda Grover, 2018)**. This article presents strong arguments for criminalizing marital rape based on women's rights and bodily autonomy. **(Shruti Shukla, 2013)**. This paper analyzes the legal arguments challenging the constitutionality of the marital rape exemption in the IPC. **(Susan Brownmiller, 2000)**. This book provides a historical perspective on how marital rape has been conceptualized and addressed globally. **(Amnesty International , 2016)**. This report explores the issue of marital rape exemptions in various countries and the progress towards criminalization. **(Renuka Singh, 2011)**. This research explores the experiences of victims of marital rape and the impact on their physical and mental well-being. **(Manjusha Mishra, 2015)**. This article examines marital rape as a violation of human rights and analyzes the arguments for criminalization in light of international legal frameworks. **(Vrinda Grover, 2018)**. This analysis delves into the

recommendations of the Law Commission of India regarding marital rape and the ongoing legal debates around its criminalization. (**Aparna Chandra, 2020**). This source explores the role of Public Interest Litigation (PIL) in advocating for the criminalization of marital rape in India and the impact of landmark court decisions. (**Anjali Kumar, 2017**). This research explores the psychological and social consequences of marital rape on victims in India, highlighting the stigma and lack of support they face. (**Rekha Pandey, 2019**). This article examines the link between marital rape and mental health issues among victims, highlighting the need for mental health services tailored to this specific experience. (**Seema Misra, 2014**). This research analyzes the social and cultural norms that contribute to the acceptance of marital rape in some parts of India. (**Human Rights Watch, 2021**). This report provides a global overview of the movement to criminalize marital rape and highlights successful strategies from other countries. (**Amnesty International, 2016**). This analysis compares the legal frameworks surrounding marital rape in South Asian countries, including India, and explores the progress toward criminalization. (**National Institute of Social Defence, 2014**) This report provides a critical analysis of the New BNS Act, highlighting its strengths and limitations in addressing issues of juvenile delinquency. (**Centre for Criminology and Victimology, 2020**). This article explores the potential of restorative justice programs under the New BNS Act and the challenges of implementing them in the Indian context.

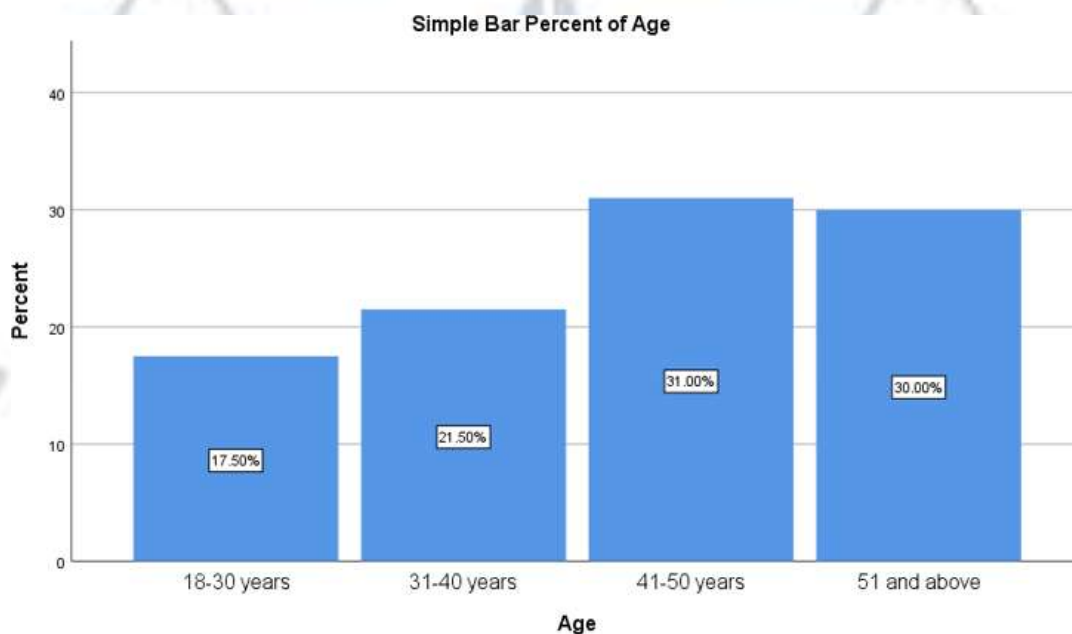
METHODOLOGY

The research method used here is the Empirical Research Method. A total of **200** responses are collected. A Questionnaire was prepared in the Google Forms & it was emailed to my Friends, Relatives & Families. They are requested by the researcher to forward the link to the closest ones. The responses were collected from the people living inside Tamil Nadu such as Poonamalle, Anna Nagar as well as from other parts of India. The Questions are Are you aware of new criminal laws regarding marital rape introduced by the Union Parliament, Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offences or not, In some countries, marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not characteristic of marital rape in India, Marital rape is a violation of human rights & should be a crime everywhere in BNS & Rate the Scale of 1 to 10, importance of addressing marital rape within the legal framework of IPC 1860 & considering any recent developments like BNS 2023. Their responses were collected by the researcher by using the SPSS Software. The Independent Variables are Gender, Age, Place of Residence, Educational

Qualification, Occupation & Marital Status & the Dependent Variables are Are you aware of new criminal laws regarding marital rape introduced by the Union Parliament, Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offences or not, In some countries, marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not characteristic of marital rape in India, Marital rape is a violation of human rights & should be a crime everywhere in BNS & Rate the Scale of 1 to 10, importance of addressing marital rape within the legal framework of IPC 1860 & considering any recent developments like BNS 2023. The tools used in this research are Simple Bar Graph, Clustered Bar Graph, One-Way Anova, Chi-Square, Means Plot & Independent Sample T-Test respectively.

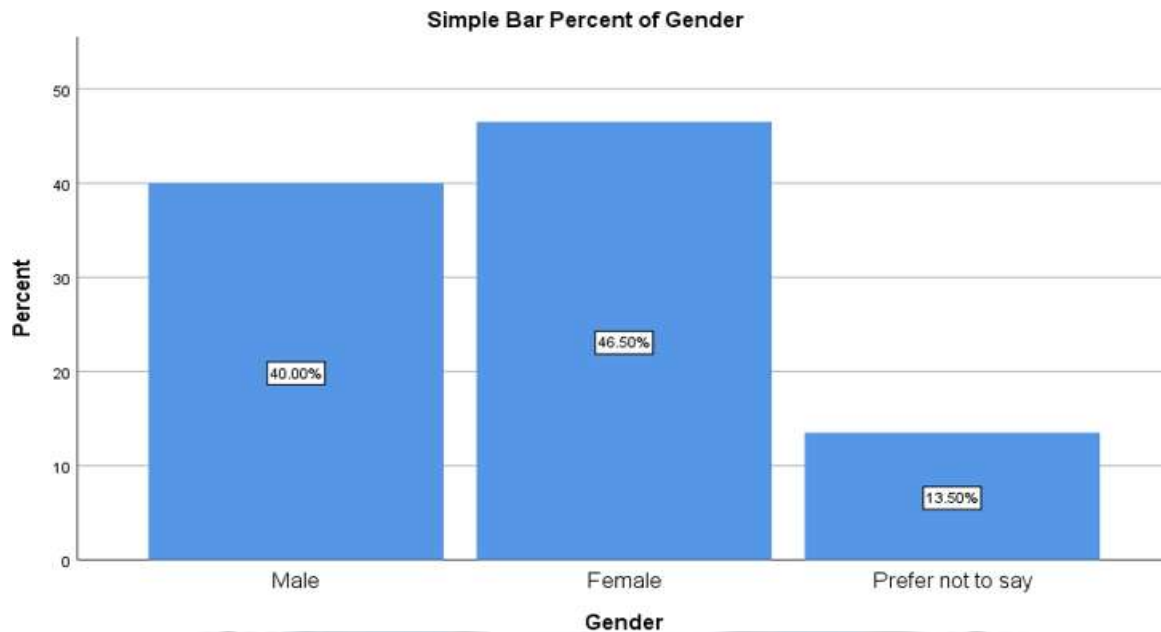
RESULTS & INTERPRETATIONS

SIMPLE BAR GRAPH FIG-1



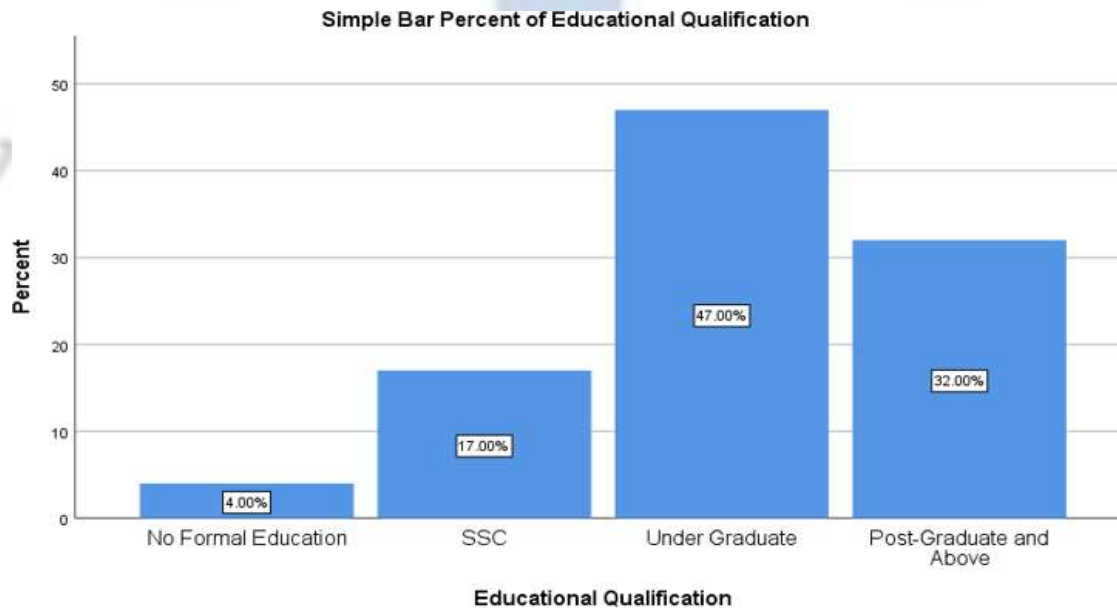
LEGEND: Fig 1 clearly shows about the % of people who have responded to the Questionnaire in relation to their respective age.

SIMPLE BAR GRAPH FIG-2



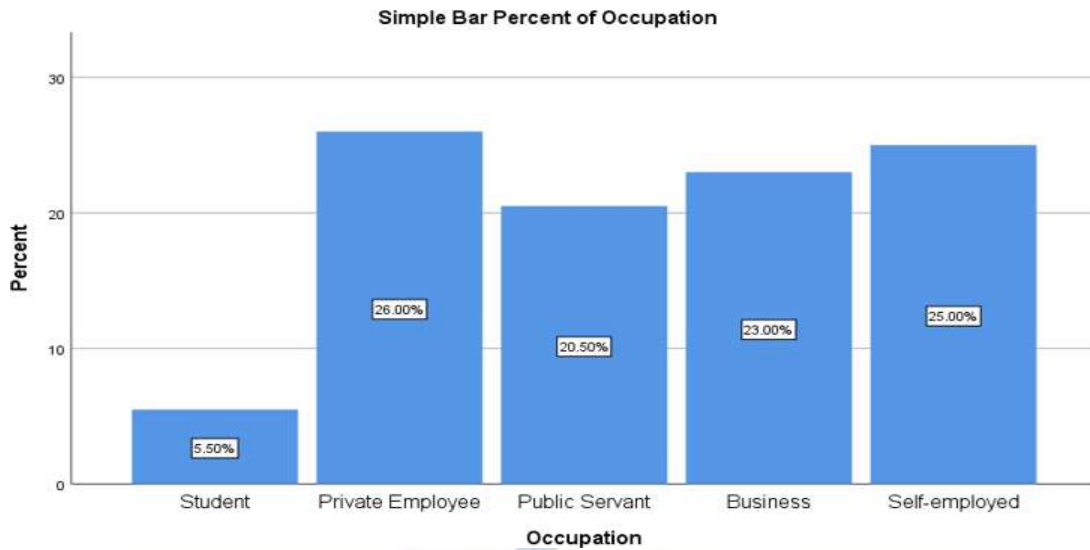
LEGEND: Fig 2 clearly shows about the % of people who have responded to the Questionnaire in relation to their respective gender.

SIMPLE BAR GRAPH FIG-3



LEGEND: Fig 3 clearly shows about the % of people who have responded to the questionnaire in relation to their respective educational qualification.

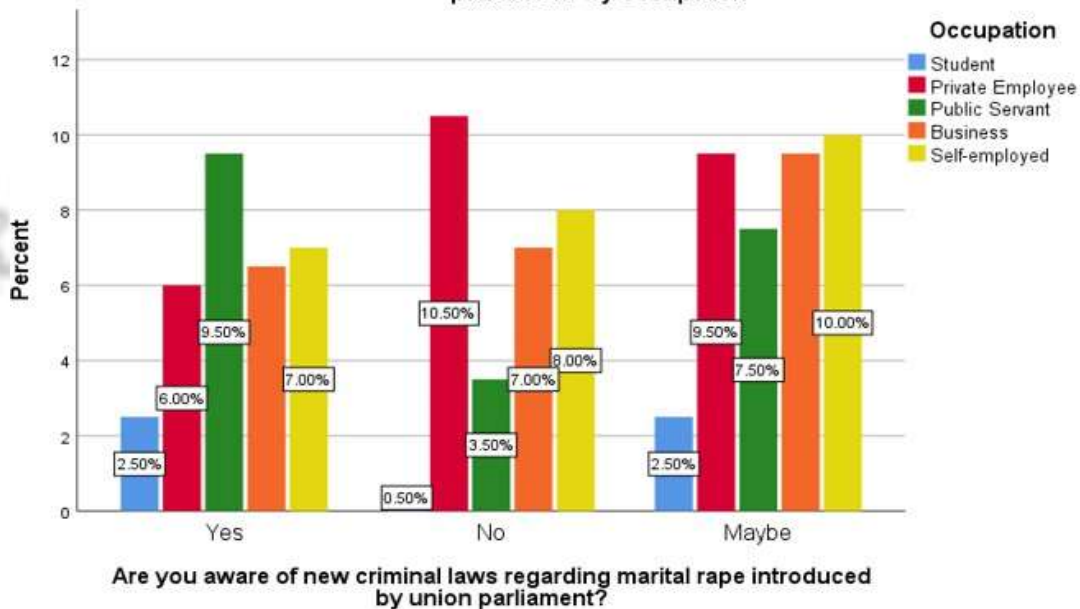
SIMPLE BAR GRAPH FIG-4



LEGEND: Fig 4 clearly shows about the % of people who have responded to the questionnaire in relation to their respective occupation.

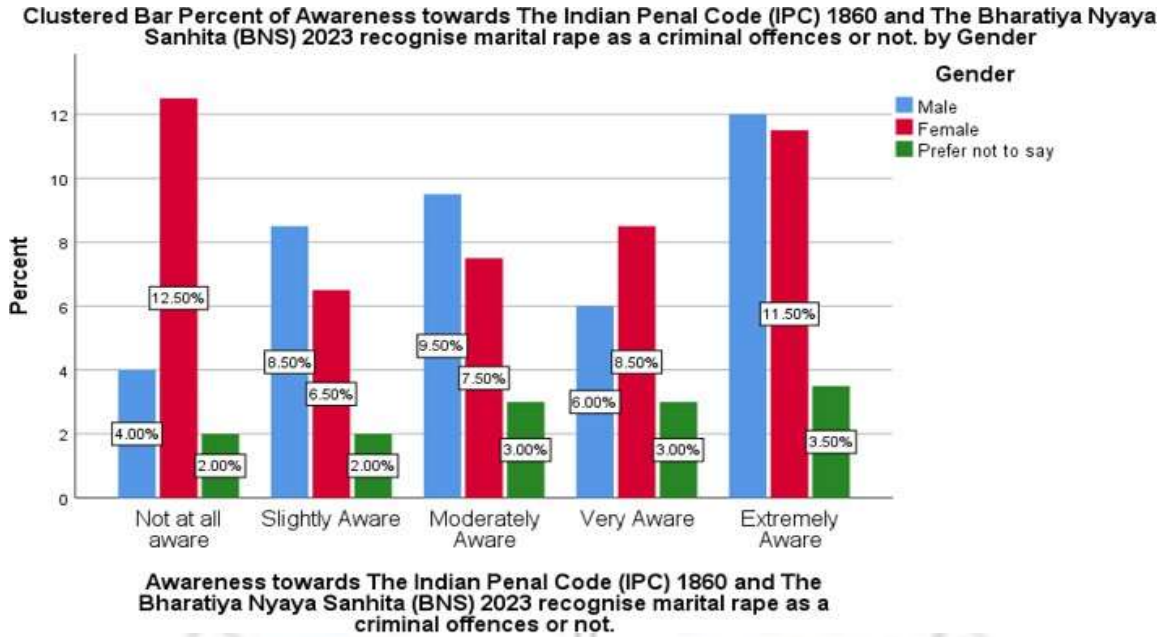
CLUSTERED BAR GRAPH FIG-5

Clustered Bar Percent of Are you aware of new criminal laws regarding marital rape introduced by union parliament? by Occupation



LEGEND: Fig 5 clearly shows about the % of people who have responded to the question of Are you aware of new criminal laws regarding marital rape introduced by the union parliament in relation to their respective Occupation.

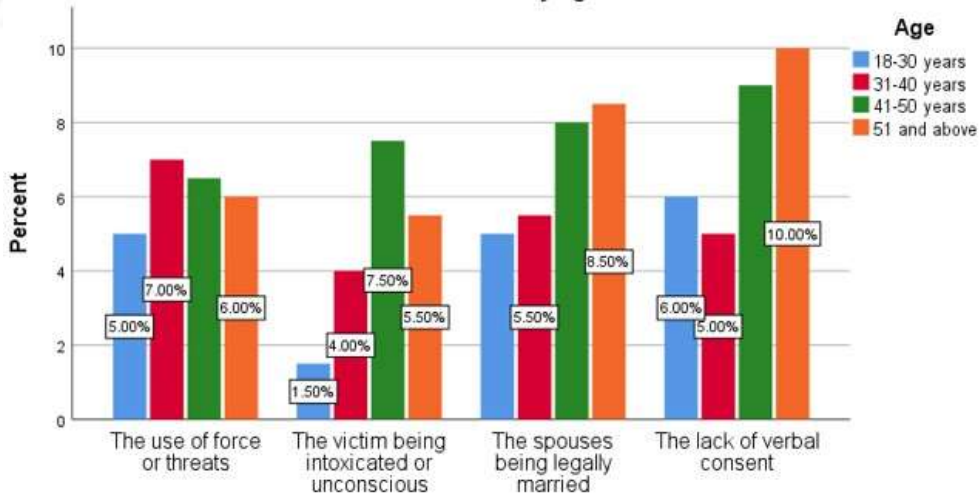
CLUSTERED BAR GRAPH FIG-6



LEGEND: Fig 6 clearly shows about the % of people who have responded to the question of Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offence or not in relation to their respective gender.

CLUSTERED BAR GRAPH FIG-7

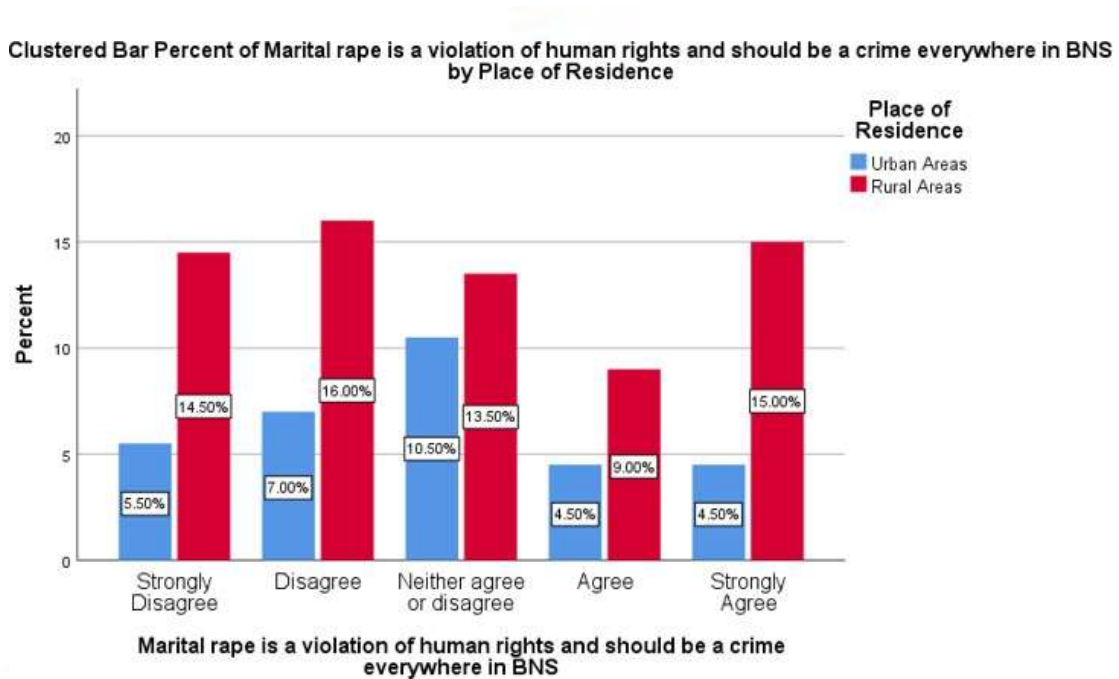
Clustered Bar Percent of In some countries, marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not characteristic of marital rape in India. by Age



In some countries, marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not characteristic of marital rape in India.

LEGEND: Fig 7 clearly shows about the % of people who have responded to the question of In some countries, marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not the characteristics of marital rape in India in relation to their respective age.

CLUSTERED BAR GRAPH FIG-8



LEGEND: Fig 8 clearly shows about the % of people who have responded to the question of Marital rape is a violation of human rights & should be a crime everywhere in Bharatiya Nyaya Sanhita.

CHI-SQUARE TESTS FIG-9

Are you aware of new criminal laws regarding marital rape introduced by union parliament? * Gender Crosstabulation

Count

		Gender			Total
		Male	Female	Prefer not to say	
Are you aware of new criminal laws regarding marital rape introduced by union parliament?	Yes	25	29	9	63
	No	21	31	7	59
	Maybe	34	33	11	78
Total		80	93	27	200

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	1.467 ^a	4	.832
Likelihood Ratio	1.466	4	.833
Linear-by-Linear Association	.140	1	.708
N of Valid Cases	200		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 7.97.

Null Hypothesis (H₀): There is a significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament.

Alternate Hypothesis (H₁): There is no significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament.

ONE-WAY ANOVA FIG-10

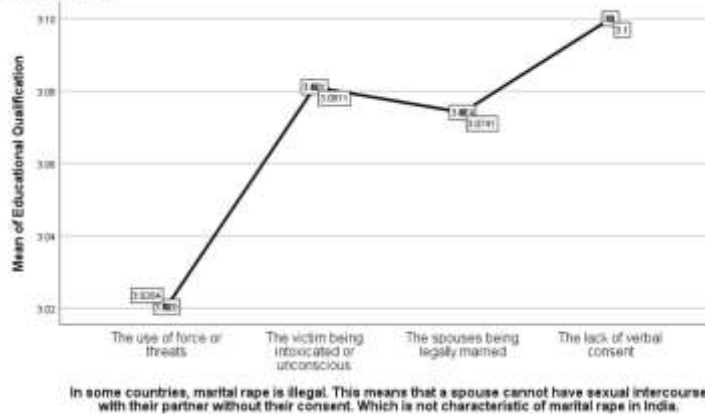
ANOVA

Awareness towards The Indian Penal Code (IPC) 1860 and The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offence

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	5.899	4	1.475	.683	.604
Within Groups	420.976	195	2.159		
Total	426.875	199			

MEANS PLOT

FIGURE 13



INFERENCES: The Null Hypothesis is Rejected. So, there is a difference between the question of Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offence & Educational Qualification. So, there is a significant relationship between the two variables.

RESULTS

In **Fig 1**, From the Above Simple Bar Graph, We can understand that people who are in between the age group of 41-50 years have responded to the Questionnaire in more numbers than people belonging to other age groups. Since, the % of people who are 18-30 years is 17.50%, % of people who are in between 31-40 years is 21.50%, % of people who are in between 41-50 years is 31.00% & % of people who are 51 & above years is 30.00% respectively. In **Fig 2**, From the Above Simple Bar Graph, we can understand that females have responded to the Questionnaire in more numbers than people belonging to other genders. Since the % of people who are males are 40.00%, % of people who are females are 46.50% & % of people who are prefer not to say are 13.50% respectively. In **Fig 3**, From the Above Simple Bar Graph, we can understand that People who are studying UG have responded to the Questionnaire in more numbers than people who are studying in other categories of educational qualification. Since, % of people who are in no formal education are 4.00%, % of people whose educational qualification is SSC are 17.00%, % of people whose educational qualification is UG are 47.00% & % of people whose educational qualification is PG & Above are 32.00% respectively. In **Fig 4**, From the Above Simple Bar Graph, we can understand that people working as private employee

have responded more to the Questionnaire than people who are having or working in other occupations. Since, the % of people who are students is 5.50%, % of people who are working as private employee is 26.00%, % of people who are working as public servant is 20.50%, % of people whose occupation is business is 23.00% & % of people who are self-employed is 25.00% respectively. In **Fig 5**, From the Above Clustered Bar Graph, we can understand that many people have shared their opinion regarding the question of Are you aware of new criminal laws regarding marital rape introduced by the union parliament as maybe than other opinions. The % for option yes as people who is student are 2.50%, % for option yes as people who are working as private employee are 6.00%, % for option yes as people who are working as public servant are 9.50%, % for option yes as people whose occupation is business are 9.00% & % for option yes as people who is self-employed are 7.00% respectively & % for option no as people who is student are 0.50%, % for option no as people who are private employee are 10.50%, % for option no as people who are public servant are 3.50%, % for option no as people who does business are 7.00% & % for option no as people who are self-employed are 8.00% respectively. The % for option maybe as the people who are students is 2.50%, % for option maybe as the people who are private employee is 9.50%, % for option maybe as the people whose occupation are public servant is 7.50%, % for option maybe as people whose occupation is business are 9.00% & % for option as people who are self-employed are 10.00% respectively. In **Fig 6**, From the Above Clustered Bar Graph, we can understand that many people have responded to the question of Awareness towards the IPC 1860 & The BNS 2023 recognize marital rape as a criminal offences or not by stating a strongly aware opinion than other opinions. Since, the % of people who said not at all aware as far as male gender are 4.00%, % of people who said not at all aware as far as female gender are 12.50% & % of people who said not at all aware as far as prefer not to say gender are 2.00% respectively. The % of people who said slightly aware as far as male gender are 8.50%, % of people who said slightly aware as far as female gender are 6.50% & % of people who said slightly agree as far as prefer not to say gender are 2.00% respectively. The % of people who said moderately aware as far as male gender are 8.50%, % of people who said moderately aware as far as female gender are 7.50%, % of people who said moderately aware as far as prefer not to say are 3.00% respectively. The % of people who said they were very aware as far as male gender are 6.00%, The % of people who said they are very aware as far as female gender are 8.50% & The % of people who said they were very aware as far as prefer not to say gender are 3.00% respectively. The % of people who said that they were extremely aware as far as male gender are 12.00%, The % of people who said that they were extremely aware as far as female gender are 11.50% & The % of people who said that

they were extremely aware as far as prefer not to say gender are 3.50% respectively. In **Fig 7**, From the Above Clustered Bar Graph, we can understand that many people have responded to the question of In some countries marital rape is illegal. This means that a spouse cannot have sexual intercourse with their partner without their consent. Which is not a characteristics of marital rape in India by stating their opinion as the lack of verbal consent than other opinions. Since, % of people who are in between 18-30 years & said the use of force or threats as a opinion are 5.00%, % of people who are in between 31-40 years & said the use of force or threats as a opinion are 7.00%, % of people who are in between 41-50 years & said the use of force or threats as a opinion are 6.12% & % of people who are 51 & above years & said the use of force or threats as a opinion are 6.00% respectively. The % of people who are in between 18-30 years & said the victim being intoxicated or unconscious are 1.50%, % of people who are in between 31-40 years & said the victim being intoxicated or unconscious are 4.00%, % of people who are in between 41-50 years & said the victim being intoxicated or unconscious are 7.50%, % of people who are above 51 & above & said the victim being intoxicated or unconscious are 5.50% respectively. The % of people who are in between 18-30 years & said the spouses being legally married are 5.00%, % of people who are in between 31-40 years & said the spouses being legally married are 5.50%, % of people who are in between 41-50 years & said the spouses being legally married are 8.00% & % of people who are 51 & above & said the spouses being legally married are 8.50% respectively. The % of people who are in between 18-30 years & the lack of verbal consent are 6.00%, % of people who are in between 31-40 years & the lack of verbal consent are 5.00%, % of people who are in between 41-50 years & the lack of verbal consent are 9.50% & % of people who are 51 & above & the lack of verbal consent are 10.00% respectively. In **Fig 8**, From the Above Clustered Bar Graph, we can understand that many people have responded to the question of marital rape is a violation of human rights & should be a crime everywhere in BNS by stating a neither agree or disagree as a opinion than other opinions. Since, % of people who live in urban areas & said strongly disagree are 5.50%, % of people who live in rural areas & said strongly disagree are 14.50% respectively. The % of people who live in urban areas & said disagree are 7.00% & % of people who live in rural areas & said disagree are 16.00% respectively. The % of people living in urban areas & said Neither agree or disagree are 10.50% & % of people who live in rural areas & said Neither agree or disagree are 13.50% respectively. The % of people who live in urban areas & said agree are 4.50% & % of people who live in rural areas & said agree are 9.00% respectively. The % of people who live in urban areas & said strongly agree are 4.50% & % of people who live in rural areas & said strongly agree are 15.00% respectively. In **Fig 9, Null Hypothesis (H0):** There is a

significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament. **Alternate Hypothesis (H1):** There is no significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament. In **Fig 10**, The Null Hypothesis is Rejected. So, there is a difference between the question of Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offence & Educational Qualification. So, there is a significant relationship between the two variables.

DISCUSSIONS

In **Fig 1**, The people who are between 41-50 years have responded to the questionnaire in more numbers than the other age group people. This is because the people who are between 41-50 years have more knowledge about the IPC & BNS provisions as they tend to read more newspapers & magazines on a daily basis to know & understand the current happenings in a simple manner but the people who are between 18-30 years have more commitments & burdens on their shoulders which won't allow them to know new things as the day passes by. As people who are 18 years are quite busy with their schooling, college & other stuff which make them less aware of current affairs of the country except the competitive examination students. People who are in their 30s are often burdened with jobs, EMI's & family pressure etc which makes them search for a better solution to earn more in the job as this is a typical mindset of all the middle-class people. As, the kids are required to be given proper attention by men & women for their proper growth which will give very less time to know these laws & changes. Apart from the above scenario, the people who are 51 years & above have a bright knowledge second to people belonging to 41-50 years as these people after their retirement will have time to know & appreciate the changes brought forward by the BNS & IPC with regard to marital rape. In **Fig 2**, As a surprising outcome, females have responded to the questionnaire in more numbers as women started to live an independent life by working as of today there is no restrictions placed on women with regard to job accessibility either by her husband or family as the marital rape concept is solely a female-based concept which many women are not aware of & the females are also aware of BNS provisions in relation to marital rape a unknown violence on all women. Male members have responded somewhat equal to the number of women as they are under a necessity to know these things to lead a better life both personally & occupationally as laws are required to be known by everyone as ignorance of law is not an excuse. But on the other hand as usual prefer not to say they will not be knowing these laws as they are till now struggling to make their community as an acceptable one in

the society as they are not being given enough privileges than others do even after various supreme court judgments in favour of them. In **Fig 3**, The people who are studying UG will definitely have a considerable knowledge & idea about these laws as they tend to get an opportunity to study & practise it in case of law students but other UG students may understand the new laws for gaining an overall knowledge outside of their subject or field arena. The people who don't have formal education may not completely know these as it requires a basic knowledge which happens when you are educated. The SSC students are always under the pressure from their parents to score marks & get into 12th standard & in good stream since, these students will be busy in studying their subject all the time which may curtail their knowledge regarding the outside world which is practically true in the case of CBSE & the PG & above students will have a deeper knowledge on these new laws & marital rape due to their extensive research on the subject. In **Fig 4**, The people whose occupation is private employee have responded to the questionnaire in more numbers than others. Since, Students are quite busy in their studies which is inclusive of both school & college & other technologies as according to them knowing other things like Artificial Intelligence & other things which would have the power to amaze them. The private employee will have more time in his hands to know these changes as they have fixed working hours but this is not the same in the case of public servants they tend to have a busy schedule which make them unaware of these laws' existence & the same remains with people who do business & who are self-employed. In **Fig 5**, Most people have responded to the question that maybe they are aware of new criminal laws since, many people are saying that marital rape as the new laws in place does not have any changes in new apart from age of consent which was previously not being 15 years & in BNS it is 18 years. Many people have many confusions whether this new criminal law has any impact over various big shots of the country. In **Fig 6**, Most people have responded to the question that they are extremely aware of marital rape in IPC & in BNS is a criminal offence but unfortunately there is no complete deletion of the crime in the society since, in this new act also it is given as exception in Section 69 of the Act. So, there is still a need for stringent penal provisions to throw his domestic rape from the lives of many married women. Since, it is still an unspoken offence which is said to be in existence in the bedroom. In **Fig 7**, Most people have responded to the question that the most important characteristic of marital rape occurrence is due to the lack of verbal consent as this option was chosen by majority because many of the married men does have an intercourse with his wife without her consent or willingness to participate as women tend to achieve many things via their husband as they think after the marriage & many women are also facing many health issues which restrict them from giving their consent to the sexual intercourse but men wanted their wife to

give sexual pleasure as he desires without leaving it in hands of married women. As men's think that the sole purpose of marriage is just to offer sexual pleasure. In **Fig 8**, Most people have responded to the question that they are neither agree or disagree as many of the people are not aware of the fact that marital rape is a violation of human rights as it is simply a crime against the married women by men. So, it is necessary to understand the trauma of married women & give them justice. In **Fig 9**, **Null Hypothesis (H0)**: There is a significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament. **Alternate Hypothesis (H1)**: There is no significant association between the Gender & Are you aware of new criminal laws regarding marital rape introduced by union parliament. In **Fig 10**, The Null Hypothesis is Rejected. So, there is a difference between the question of Awareness towards the Indian Penal Code (IPC) 1860 & The Bharatiya Nyaya Sanhita (BNS) 2023 recognise marital rape as a criminal offence & Educational Qualification. So, there is a significant relationship between the two variables.

LIMITATIONS

One of the Limitations of this survey is its size of 200 responses which is not enough to draw conclusions for the entire population of 1,30 Crores in the country & since their total population count differs drastically & in that survey 50% of the population are of young age & middle-aged people which makes it even more difficult for the researcher for extrapolation. The limitations that can also be found in Bharatiya Nyaya Sanhita is that the age of consent is a major limitation since the BNS retains an exception for marital rape if the wife age is above 18 years. This means that non-consensual sex by a husband with his wife is not considered rape if she is 18 or older, effectively permitting marital rape for adult women & other two limitations are due to the marital rape exception, adult women do not have any legal recourse under the rape laws for non-consensual sex by their husbands. This leaves them alone without sufficient legal protection against sexual violence that happens within marriage & the last limitation is that The exception for marital rape under the BNS creates a legal disparity between married and unmarried women with regard to their protection from sexual violence, thereby blocking the valuable efforts towards achieving gender equality goals. As there is also a possibility that unmarried women may also get raped by some man. So, it is necessary to provide equal protection.

CRITICISMS

Both BNS & IPC have a criticism that there is a lack of legal recognition that it maintains the exception for marital rape if the wife is above 18 years of age, effectively legalizing non-consensual sex within marriage for adult women. Likewise in IPC section 375 includes an exception stating that sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape. This was amended to eighteen years in subsequent judicial pronouncements and proposals, but the exception still remains. There is another criticism that both the codes fail to acknowledge a woman's right to bodily autonomy and sexual consent within marriage. This negation is seen as a big violation of women's rights & personal dignity. There is a criticism placed that both laws are blamed for not aligning with international human rights standards, such as those outlined by the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These standards call for the criminalization of marital rape and the protection of women's rights.

SUGGESTIONS

As far as this research is concerned it speaks about the need to address the problem of marital rape that is taking place on a day-to-day basis. Since, the laws with regard to marital rape are nil which creates a huge problem to married women in the Indian society as this problem is not largely discussed or spoken by women in public. As the marital rape is given as exception in clause 2 of Section-375 which clearly states that sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape. So, it is very clear that marital rape is not considered as a normal rape & the same thing persists in new Bharatiya Nyaya Sanhita under Section 69 of the Act which states that meaning that non-consensual sex by a husband with his wife is not criminalized if the wife is above 18 years of age. The following are the suggestions from the researcher side is that amend both the IPC and BNS to remove the marital rape exception entirely, thereby criminalizing non-consensual sex within marriage regardless of the wife's age, provide a clear definition of marital rape in legal texts to avoid ambiguity and ensure comprehensive legal protection, establish and announce support services for survivors of marital rape, including counseling, legal aid, medical care, and safe shelters & launch nationwide campaigns to raise awareness about marital rape and promote a culture of consent.

CONCLUSIONS

As a conclusion, Marital Rape has to be considered as a criminal offence by Indian laws like other countries do since, Sex is something each & everyone is desired to perform to fulfill their sexual needs & wants. But in marital rape it is not seen as there is a pure dominance of men over married men at the time of sex as their consent for the said act is not taken prior to sex as it is a known fact that there is always an implied consent from wife side. Since, both in Indian Penal Code 1860 & Bharatiya Nyaya Sanhita 2023 treats marital rape as a exception only as major importance is not given to it. One of the major reasons is that the psychological aspect of men & the society goes like that marriage is performed to enjoy sexual pleasure & the traditions also say the same thing. There is a need to protect married women from this evil. There are various reasons as to why we have to stop marital rape is that we are still living in a society which is patriarchal one where in the case of marriage often viewed as granting husbands certain rights over their wives, including sexual rights. This cultural norm makes it difficult for women to recognize and report non-consensual sex within marriage as rape, Victims of marital rape often face serious social stigma and shame. They may fear being attacked by their families and communities, leading to reluctance in reporting the crime & Many women and men may not be aware that non-consensual sex within marriage constitutes rape. This lack of awareness prohibits victims from knowing their experiences as criminal acts and seeking justice. So, as a closing note since, the women have achieved an equal status in all the fields & are doing wonders. So, As a man it is our responsibility to give equal space to our wife before or at the time of sex enough decision-making ability & consent, As each & every human being has to be respected equally & their priorities should be given preference in the first place. Since, their consent is also important to have a pleasurable sex & life at the same time.

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