



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL TEAM**

### **Raju Narayana Swamy (IAS ) Indian Administrative Service officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) ( with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a diploma in Public Procurement from the World Bank.

professional diploma in Public Procurement from the World Bank.

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.





## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi, Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

## **Dr. Rinu Saraswat**



Associate Professor at School of Law, Apex University, Jaipur,  
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

## **Dr. Nitesh Saraswat**

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



## **Subhrajit Chanda**

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.



## ***ABOUT US***

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

WHITE BLACK  
LEGAL

# **BREAKING THE SILENCE: UNDERSTANDING THE PREVALENCE AND CONSEQUENCES OF MARITAL RAPE**

AUTHORED BY- ANUSHKA SRIVASTAVA  
& VAISHNAVI SHARMA

## **Abstract:**

This study paper aims to examine the frequently silent and under-addressed subject of marital rape, with a particular emphasis on determining its prevalence, multiple ramifications, and legal issues surrounding this type of intimate partner violence. Marital rape, defined as any non-consensual sexual behaviour inside the bounds of marriage, is a widespread but often disregarded issue in society.

The study adopts a comprehensive literature review methodology to investigate the reasons that sustain the occurrence of marital rape, focusing on societal attitudes, power dynamics, and cultural influences that may contribute to the abuse's persistence. Through an in-depth examination of existing studies, the study intends to provide a comprehensive understanding of the significant physical, psychological, and emotional consequences faced by survivors of marital rape, emphasising the urgent need for a more holistic approach to tackling this issue.

In addition to investigating societal elements, the study critically assesses the current legislative structures in place to handle marital rape. The report examines existing legislation, landmark cases, and legal precedents to illustrate the limitations and problems that survivors confront while seeking justice through the legal system. The study also emphasises the need for legal reforms to close existing gaps and better protect persons from this type of domestic violence.

**Keywords:** *Marital rape, Domestic violence, Legal frameworks, Sexual consent, Victim advocacy, Legal reform, Intimate partner violence.*



Marital rape is a heinous kind of violence that has long been shrouded in secret and cultural apathy. It is defined as non-consensual sexual intercourse imposed by one spouse on the other. The traditional assumption that sexual violence within marriage is acceptable or goes unnoticed has been challenged by increased knowledge of the prevalence and gravity of marital rape in recent years. To shed light on the issue of marital rape in India, this research study will examine its ethical, social, and psychological dimensions.

India, an ethnically and culturally rich country, grapples with a diverse set of social standards, attitudes, and views about gender roles and sexuality. Despite significant advances in gender equality, patriarchal norms and behaviours that perpetuate women's subordination and victimisation persist in Indian society. In this context, marital rape is commonly unreported and ignored, locking many women in abusive and exploitative marriages.

In India, the legal system governing marital rape has been the subject of extensive inquiry and debate. Unlike many other countries, where marital rape is considered a crime, India has traditionally freed it of penalty. Non-consensual sexual acts in marital partnerships are specifically excluded from the exception under Section 375 of the Indian Penal Code, which defines rape. Due to this legal loophole, survivors of marital rape continue to face systematic injustice, indicating a failure on the part of the government to protect married women's physical autonomy and dignity.

### **Historia:**

Marital rape was not considered a crime in ancient societies such as Greece and Rome. Traditionally, women were considered the property of their husbands, and having sex while married was often considered a responsibility<sup>1</sup>. The concept of a woman's consent in marriage originated in Europe during the Enlightenment (17th-18th centuries). John Locke and Mary Wollstonecraft were philosophers who advocated for women's rights and questioned the notion that men have complete control over their wives.

The first significant legislative changes regarding marital rape occurred in the nineteenth century.

---

<sup>1</sup> scholarworks.sjsu.edu



Western nations' laws now recognise that marriage does not imply unrestricted sexual consent. However, social attitudes often limited legal protections, making it challenging to prosecute marital rape cases.

Changing Social Attitudes and Women's Movements: Feminist and women's suffrage movements, advocating for gender equality, gained popularity in the late nineteenth and early twentieth century. Emmeline Pankhurst, Susan B. Anthony, and Elizabeth Cady Stanton were among the campaigners who advocated for legal change and increased public knowledge of marital rape. Despite gradual shifts, society has yet to recognise marital rape as a significant issue. Stereotypes, patriarchal standards, and victim-blaming sometimes hindered growth.

Legal reforms in the twentieth century: Several countries enacted legislation to handle marital rape during the twentieth century.<sup>2</sup> Some countries have repealed the marital exception, which used to protect spouses from rape accusations. The speed and scope of legislative improvements differed between nations. The United States began tackling marital rape in the 1970s, whereas other European nations implemented laws later.

Globally, international organisations such as the United Nations have played a significant role in eradicating marital rape. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasises the need to criminalise marital rape and support survivors. However, many countries either lack or have weak legislation criminalising marital rape, resulting in global disparities.

### **Legal Perspectives and Challenges:**

In India, no explicit law criminalises marital rape. According to the Indian Penal Code (IPC), marital rape is not considered a separate offence<sup>3</sup>. Section 375(2) of the IPC states that a man's sexual relationship with his own wife over the age of 15 is not considered rape. This exception has sparked criticism and debate since it implies that married women may not have the same ability to decline sexual contact as unmarried women. It has been argued that this exception violates a number of

---

<sup>2</sup> in.search.yahoo.com

<sup>3</sup> www.researchgate.net

women's fundamental rights, including the right to bodily integrity and equality.

It is important to remember, however, that in India, the issue of marital rape has sparked continuous discussion and legal concerns. The courts have noted that the prohibition on rape in married marriages raises severe concerns and have urged the legislature to take action. In recent years, campaigners, women's rights organisations, and lawmakers have fought to criminalise marital rape and provide legal protection for married women. Modifying the legal framework for marital rape would require new legislation or updates to existing statutes. The Justice Verma committee proposed eliminating the loophole that treated marital rape differently than other types of rape under the law.

The Committee on Amendments to Criminal Law, led by Justice J.S. Verma (Retired), has issued an opinion on the specific <sup>4</sup>case of marital rape of a girl child between the ages of 15 and 18 under Exception 2 to Section 375 of the IPC. This opinion does not address the general issue of marital rape against an adult woman. According to the Report, the antiquated notion that a wife is nothing more than her husband's chattel has been abandoned in the United Kingdom. Furthermore, the outcome was reinforced by a European Commission of Human Rights decision, which declared that "a rapist remains a rapist regardless of his relationship with the victim."

### **Prevalence and Incidence Rates:**

Among married women aged 18-49 who have ever suffered sexual violence, 83% indicate their current husband, and 13% describe a prior husband as the culprit<sup>5</sup>.

According to the National Family Health Survey 5 (2019-21), "Among married women aged 18-49 who have ever experienced sexual violence, 83 percent report their current husband and 13 percent report a former husband as perpetrator."

The previous NFHS, which was released five years ago, reported similar results. The most recent poll also found that in most cases of sexual harassment, the attackers are people with whom the victims have an intimate relationship.

---

<sup>4</sup> <https://blog.iplleaders.in/marital-rape-india/>

<sup>5</sup> <https://docs.manupatra.in/newsline/articles/Upload/8787A55C-D93F-4589-8A68-A9A032AF0E.pdf>

## Psychological and Emotional Consequences:

**Trauma and PTSD (Post-Traumatic Stress Disorder):** Victims of marital rape frequently experience trauma, which can cause symptoms of PTSD. Flashbacks, nightmares, and intense anxiety may last long after the assault, impairing the victim's entire well-being.

**Depression:** Marital rape can lead to the development of depression. Feelings of humiliation, remorse, and impotence may overwhelm the victim, resulting in a general sense of melancholy and hopelessness.

Victims may feel increased anxiety, including panic attacks, as a result of their traumatic experience.<sup>6</sup> Fear of future abuse and an inability to trust others can both lead to chronic anxiety.

**Low Self-Esteem:** Marital rape can have a severe negative influence on a victim's self-esteem and worth. An intimate partner's betrayal may leave you feeling useless, ashamed, and guilty.

**Distrust and Fear of Intimacy:** Survivors of marital rape may struggle to trust others, especially in close relationships. Fear of vulnerability and the possibility of more injury might impede the ability to build healthy relationships.

**Guilt and Self-Blame:** Victims of marital rape may unfairly blame themselves for the assault, especially if societal or cultural standards encourage victim-blaming views. Internalised guilt might be a barrier to getting care.

**Social Isolation:** The humiliation associated with marital rape may cause survivors to avoid social relationships. Fear<sup>7</sup> of being judged, a lack of understanding, and concerns about confidentiality can all lead to social isolation.

**Sexual Dysfunction:** Trauma may cause survivors to develop sexual dysfunction. Common symptoms include pain during intercourse, loss of desire, and trouble developing good connections with sexual

---

<sup>6</sup> in.search.yahoo.com

<sup>7</sup> scholarworks.sjsu.edu

intimacy.

**Suicidal Thoughts:** The psychological and emotional ramifications of marital rape can combine to cause severe emotional suffering and, in extreme circumstances, contribute to suicidal ideation.

**Suicidal Thoughts:** The psychological and emotional ramifications of marital rape can combine to cause severe emotional suffering and, in extreme circumstances, contribute to suicidal ideation.

**Difficulty Establishing Boundaries:** Victims of marital rape may struggle to establish and maintain boundaries in relationships due to the erosion of trust and personal autonomy.

It is critical that survivors of marital rape seek help from mental health specialists, counsellors, or support groups. Therapy can assist survivors in navigating the complex emotional consequences, rebuilding self-esteem, and developing coping mechanisms for recovery. Legal assistance and activism are also required to address the larger societal context and achieve justice for victims of marital rape.

## **HEALTH IMPACTS ON SURVIVORS:**

Marital rape produces physical, psychological, and mental health concerns for the female victim, affecting both her emotional and physical well-being in the long run. This section is broadly<sup>8</sup> divided into psychological and health difficulties that a woman may face during or following rape.

### **Psychological Effects**

Women who have undergone marital rape have reported feelings of despair, post-traumatic stress disorder, fear, low self-esteem, rape trauma syndrome, and sexual instability, inaccessibility, or dysfunction. A woman is expected to meet her husband's sexual desires as soon as they marry. For any female experiencing this for the first time, the notion that anything like this might be required without her agreement must be unsettling. Any subsequent occurrences must appear frightening yet irrelevant to her, but she understands that protesting or defying her friend is pointless. The woman is

---

<sup>8</sup> <https://www.legalserviceindia.com/legal/article-9414-marital-rape-a-harsh-reality-behind-closed-doors.html>



concerned that her family's reputation may be tarnished. As a result, she feels pressured to provide for her family members.

### Health issues

Most women suffer from chronic agony as a result of repeated rapes. This ultimately leads to black eyes, cracked ribs, knife wounds, and body marks from the assault. These are just a few examples of what women can go through. The majority of victims reported suffering pain and vaginal bleeding. Bleeding is caused by an intense vaginal rupture. Anal sex inmates may experience bleeding, pain, and anger.

If the abuse incident is brought back to mind, they may feel ill. Unwanted pregnancies are also possible at this time, increasing the victim's mental and emotional stress. Those compelled to have anal sex may experience blood, pain, and irritation. They may experience nausea if they are reminded of an abusive episode. Amidst this, an unexpected pregnancy might occur, adding to the victim's mental and psychological stress.

Particularly if the victim is an adolescent or young adult. This may entail a preterm delivery, which would be detrimental to the baby. Vaginal rupture can also cause infertility, which may prevent the individual from ever having <sup>9</sup>children. If the victim ever wishes to start family planning, this might seriously jeopardise their future.

They may have lifelong scars. This may encourage the victims to commit suicide. Because of the victim's ideas about marital rape and her inability to report the abuse, she may conclude that suicide is her only option.

hey may have lifelong scars. This may encourage the victims to commit suicide. The victim may assume that suicide is the only option because of the victim's ideas about marital rape and the victim's incapacity to report the abuse.

Marital rape's mental health effects Survivors of sexual assault may experience major changes in how

---

<sup>9</sup> <https://www.legalserviceindia.com/legal/article-9414-marital-rape-a-harsh-reality-behind-closed-doors.html>

they perceive themselves, others, and the world.

Marital rape, and sexual abuse in general, may shape how you view sex, love, and relationships. "It's a type of trauma," Cassell asserts. There is no one-size-fits-all approach to dealing with sexual assault by an intimate partner, just like any other trauma. You're doing your best with the resources you have. Because of the nature of this strike, you may experience: Depression Anxiety Post-traumatic stress disorder (PTSD) After enduring marital rape, it is not uncommon to feel lonely or consider self-harm.

They may have scars that may last a lifetime. This may encourage the individual to commit suicide, because of the victim's thinking about marital rape and her inability to report the abuse, she may conclude that suicide is her only option.

There is no one way to manage a sexual assault by an intimate partner. You do your best with the resources you have.

Depending on the type of the attack, you can encounter:

Depression and anxiety.

Post-traumatic stress disorder (PTSD).

It is also uncommon to feel lonely or ponder self-harm after surviving marital rape. Being, assaulted by someone you care about can be confusing, and you may experience a wide range of feelings.

Whatever you're feeling is natural. You are not broken, and you deserve a safe place to process your experience and seek help.

Other symptoms:

Headaches and insomnia

Panic attacks.

gastrointestinal troubles

hypervigilance

Intrusive thoughts and ruminations

You may or may not encounter any of the following symptoms. You may also experience other symptoms that are not included here.

In *Bodhisattwa Gautam v. Subhra Chakraborty* 2015 SCC 490 The right to life, which is protected by Article 21 of the Constitution, was cited by the Supreme Court as evidence that rape is a crime against fundamental human rights. However, by ignoring marital rape, it undermines this same assertion<sup>10</sup>.

Because of the broad marriage rape exemption in Section 375 of the Indian Penal Code, 1860, women who encounter and need to report sexual assault from their spouses are currently denied state protection .

### **Statistics on marital rape**

Marital rape and intimate partner sexual violence affect people of all genders, races, nationalities, and socioeconomic backgrounds. Sexual violence can be experienced and inflicted by individual of any gender.

According to a 2014, Trusted Source survey, around 19.3% of female and 1.7% of male in the United States had experienced rape. Approximately 45.4% of females and 20% of males had intimate partners who were perpetrators, participants, or facilitators of rapes.

In general, 8.8% of women and 0.5% of males have been raped by their intimate partners. Among women who were raped by an intimate partner, 11.4% were mixed, 9.6% were non-Hispanic white, 8.8% were non-Hispanic Black, and 6.2% Hispanic.

Approximately 71.1% of women and 58.2% of males had suffered intimate relationship abuse before the age of two.

### **Barriers**

1. **Social Stigma:** Society frequently stigmatises marital rape, seeing it as a private affair or even denying its existence entirely. Survivors may be afraid of being judged, accused, or ostracised if they share their experiences. This stigma can cause feelings of shame and isolation, inhibiting survivors from getting help or reporting the abuse.

Example: In India, the case of *Independent Thought v. Union of India* (2017) underlined the

---

<sup>10</sup> *Bodhisattwa Gautam v. Subhra Chakraborty* 2015 SCC 490

social stigma and the need for legal recognition of marital rape. <sup>11</sup>The court emphasised the importance of physical autonomy and declared marital rape a violation of fundamental rights.

2. **Cultural Norms and ideas:** Cultural norms and ideas about marriage, gender roles, and sexuality might reinforce the notion that a spouse has the right to sex without consent. These attitudes may cause survivors to question whether their experiences constitute rape or whether they have the right to decline sexual activity while married. Furthermore, cultural expectations of maintaining family harmony or protecting the family's reputation may discourage survivors from speaking forward.

In some conservative communities, such as the Middle East, cultural norms and interpretations of religious texts may prevent survivors from reporting marital rape and seeking treatment.

3. **Legal Barriers:** In many jurisdictions, legislation prohibiting marital rape may be insufficient or non-existent. Some legal systems may not consider marital rape a criminal offence, or they may have narrower definitions or shorter statutes of limitations than other types of sexual violence. This absence of legal protection may prevent survivors from disclosing their experiences or pursuing legal action.

Example: Until recently, in the United Kingdom, marital rape was not specifically criminalised in the same way that rape outside of marriage. <sup>12</sup>However, key cases such as *R v. R* (1991) challenged this concept, prompting legal revisions.

4. **Financial Dependence:** Survivors who are financially reliant on their spouses may be concerned about the economic ramifications of reporting marital rape, such as a loss of financial support, housing, or childcare. Economic reliance can imprison victims in abusive situations, making it harder for them to escape or seek treatment.
5. **Fear of Retaliation:** Survivors who disclose marital rape may fear retaliation from their

---

<sup>11</sup> *Independent Thought v. Union of India* (2017)

<sup>12</sup> *R v. R* (1991)



abusers, particularly if the abuser has previously threatened violence or coercion. Fear of additional violence to themselves or their children can deter survivors from speaking up or seeking help.

In the United States, the case of *Deborah M. v. Superior Court of Los Angeles County* (1981) emphasised the fear of reprisal and the significance of providing assistance and safety to survivors who come forward<sup>13</sup>.

6. **Lack of Support Services:** Survivors may struggle to get help and resources if they do not have access to support services such as counselling, shelters, or legal aid. Survivors may feel alone and discouraged from getting help if support services are unavailable, inadequate, or culturally inappropriate in their community. In South Africa, the case of *Dawood v. Minister of Home Affairs* (2000) emphasised the need of providing survivors with extensive support services, such as shelter and counselling.<sup>14</sup>
7. **Trauma and Psychological Factors:** Survivors of marital rape may develop trauma-related symptoms such as depression, anxiety, or post-traumatic stress disorder (PTSD), limiting their capacity to seek care or make decisions about reporting. Shame, shame, and self-blame are frequent psychological reactions that might hinder survivors from sharing their experiences or seeking help.

## **INTERNATIONAL APPROACHES AND COMPARISON:**

Marital rape, or sexual intercourse with a spouse without their consent, is a significant violation of human rights and dignity. Different countries have distinct legal frameworks and approaches to this issue. Here's a full analysis of international approaches to the issue in India.

### **Legality:**

In many countries, marital rape is a criminal offence regardless of whether the couple is legally married or not. Examples include the United States, Canada, the United Kingdom, Australia, and most

---

<sup>13</sup> *Deborah M. v. Superior Court of Los Angeles County* (1981)

<sup>14</sup> *Dawood v. Minister of Home Affairs* (2000)

European nations.

However, in certain nations, there are legal exceptions or marital rape is not expressly prohibited. This could be for cultural, religious, or legal grounds. Examples include Afghanistan, Iran, Saudi Arabia, and sections of Nigeria.

#### Legal Framework:

Countries that have criminalised marital rape usually have laws that treat it the same as other types of rape, with punishments ranging from imprisonment to fines.

Some countries have separate laws against marital rape, while others incorporate it into existing sexual assault legislation.

#### Reporting & Prosecution

The reporting and prosecution of marital rape varies greatly by jurisdiction. Social stigma, cultural norms, and legal hurdles can all have an impact on survivors' willingness to report and the likelihood of successful prosecution.

Reporting and prosecution rates may be higher in countries with robust legal frameworks and survivor support networks than in those with less developed systems.

#### Awareness and Advocacy:<sup>15</sup>

International agencies, non-governmental organisations (NGOs), and advocacy groups all play important roles in raising awareness about marital rape, advocating for legal reforms, and providing survivors with support.

Efforts aimed at preventing marital rape typically involve educational initiatives, training for law enforcement and judiciary personnel, as well as the creation of support hotlines and shelters for victims.

---

<sup>15</sup> <https://www.mondaq.com/india/crime/691482/law-on-marital-rape--a-much-needed-reform-in-our-legal-system>

India's approach:

Legality:

Marital rape is not officially defined as a criminal offence in Indian law. The exception to rape within marriage is stated in Section 375 of the Indian Penal Code (IPC), which stipulates that sexual intercourse between a man and his own wife, where the wife is not under the age of fifteen, is not rape.

Despite suggestions from numerous agencies, including the Justice Verma Committee, there has been resistance to criminalising marital rape<sup>16</sup> due to concerns about safeguarding the institution of marriage and societal attitudes towards women's rights.

Legal Framework

India has laws against sexual violence, including rape, however they do not specifically criminalise marital rape.

The Protection of Women from Domestic Violence Act (PWDVA) of 2005 gives some protection to women against marital rape, however law largely concentrates on civil remedies and does not criminalise the act.

Reporting and Prosecution:

In India, marital rape is rarely reported due to social stigma, cultural standards, and fear of repercussions.

Prosecution rates for incidents of marital rape are similarly modest due to legal difficulties and the lack of acknowledgment of marital rape as a crime.

Awareness and Advocacy:

In India, there is increased awareness and advocacy for marital rape, with NGOs, activists, and civil society organisations calling for legal reform and more support for survivors.

---

<sup>16</sup> <https://www.legalserviceindia.com/legal/article-9414-marital-rape-a-harsh-reality-behind-closed-doors.html>

Awareness-raising activities, legal activism, and survivors' support services are all part of efforts to combat marital rape.

#### Data

Data on marital rape in India is restricted due to underreporting and a lack of explicit laws criminalising the offence.

According to the National Family Health Survey (NFHS-4) conducted in 2015-16, approximately 5.6% of Indian women have reported experiencing spousal sexual assault, which may include marital rape<sup>17</sup>.

Experts believe the prevalence of marital rape may be higher than recorded estimates due to fear, humiliation, and lack of awareness.

## **LEGISLATIVE MEASURES AND GAPS**

#### Current Legal Framework:

Section 375 of the Indian Penal Code (IPC) defines rape and has an exception clause that states that sexual intercourse by a man with his own wife is not rape<sup>18</sup> if she is under the age of fifteen. This exclusion essentially legalises marital rape in India.

The Protection of Women from Domestic Violence Act of 2005 While this statute provides legal remedies for different sorts of abuse against women, including sexual assault inside marriage, it does not specifically criminalise marital rape.

#### **Gaps in the Legal Framework:**

The most noticeable gap is the lack of a particular legislation criminalising marital rape. This exception under the IPC reinforces the view that a wife's agreement is assumed and unimportant in the institution of marriage.

---

<sup>17</sup> scholarworks.sjsu.edu

<sup>18</sup> <https://blog.ipleaders.in/marital-rape-india/>



The current legal framework does not recognise lack of consent as a defining requirement for rape inside marriage. <sup>19</sup>This undermines married women's autonomy and bodily integrity.

Social stigma and underreporting: Victims of marital rape frequently refrain from reporting the crime, resulting in severe underreporting and a lack of solid data on its incidence.

Example:

The landmark case of *Independent Thought v. Union of India* (2017) exemplifies the flaws in India's legal framework regarding marital rape. The Supreme Court of India overturned the exemption clause in Section 375 of the IPC, which criminalises sexual intercourse with a minor wife. However, the court did not address the larger issue of marital rape among adult women, emphasising the ongoing legal ambiguity and inadequacies.

### **Data and Statistics:**

According to the National Family Health Survey (NFHS) 2015-16, barely 1% of ever-married women in India reported experiencing sexual violence from their spouse in the year preceding the survey<sup>20</sup>. However, experts believe that this statistic significantly underestimates the true prevalence due to underreporting.

According to research published in the *International Journal of Medical Science and Public Health*, 31% of surveyed married women have experienced marital rape at least once in their lifetime.

The legislative measures and loopholes around marital rape in India underscore the critical need for legal reforms to recognise and criminalise this kind of abuse against women. Addressing these deficiencies requires a multifaceted approach that includes legal reforms, public awareness initiatives, and victim support programmes. India must work together to eliminate marital rape and protect women's rights in marriage.

---

<sup>19</sup> <https://blog.ipleaders.in/marital-rape-india/>

<sup>20</sup> <https://psychcentral.com/lib/marital-rape#why-marital-rape-happens>

## **Conclusion:**

To summarise, marital rape in India is a serious violation of human rights and dignity, but it remains largely neglected due to legal, social, and cultural impediments. Marital rape is a horrific kind of violence that deprives women of autonomy, dignity, and physical well-being within the context of marriage. Despite great progress in gender equality, patriarchal practices and attitudes continue to promote the acceptance and concealment of marital rape in Indian culture.

The legal framework in India provides substantial obstacles in dealing with marital rape, with the exception clause in Section 375 of the Indian Penal Code effectively legalising non-consensual sexual actions within marriage. While there have been calls for change and the criminalization of marital rape, progress has been gradual, and survivors continue to confront systematic unfairness and a lack of legal protection.

Social stigma, cultural norms, fear of reprisal, and a lack of support services all worsen survivors' predicament, resulting in underreporting and low conviction rates. Despite growing awareness and advocacy efforts, including landmark court decisions that challenge legal loopholes, the prevalence of marital rape is still underreported and underestimated.

Comprehensive legislative reforms, public awareness efforts, and victim support programmes are critical for effectively combating marital rape in India. This includes making marital rape illegal, offering accessible and culturally relevant support services, and changing societal attitudes that perpetuate violence against women. It is critical that India take decisive steps to end marital rape and protect the rights and dignity of all individuals in marriage. Only by concerted efforts can we establish a society in which marital rape is recognised, condemned, and effectively dealt with.