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# A Study on Marital Rape in India

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## ABSTRACT

*Sexual violence is defined as the act of exposing someone to a sexual behaviour without one's consent. It includes a large spectrum of behaviours from touching to raping. The majority of the victims are women. Rape is the act of having sexual intercourse with a person without his/her consent. The concept of marital rape has been overlooked for years because of the ideology that promotes men have the right to treat their wives as they wish and the wife must provide her husband with all his needs. Today with the changes and developments in the concepts of marriage, the increase in the awareness of the society and the understanding of the notion of violence against women; it has been understood that sexual intercourse should be mutually desired by both parties of the married couple. Otherwise it should be considered as sexual assault/violence. The aim of the article is to review the medical, social and legal aspects of marital rape, to present the current situation about marital rape both in Turkey and in the rest of the world, also to discuss how it could be prevented. Marital rape is more widely experienced by women, though not exclusively. Marital rape is often a chronic form of violence for the victim which takes place within abusive relations. It exists in a complex web of state governments, cultural practices, and societal ideologies which combine to influence each distinct instance and situation in varying ways. The reluctance to define non-consensual sex between married couples as a crime and to prosecute has been attributed to traditional views of marriage, interpretations of religious doctrines, ideas about male and female sexuality, and to cultural expectations of subordination of a wife to her husband—views which continue to be common in many parts of the world. These views of marriage and sexuality started to be challenged in most Western countries from the 1960s and 70s especially by second-wave feminism, leading to an acknowledgment of the woman's right to self-determination of all matters relating to her body, and the withdrawal of the exemption or defense of marital rape.*

**Keywords:** *Marital, Rape, Women, Section 375, Dowry, Harassment, Legality, Domestic violence.*

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## **I. INTRODUCTION**

For a long time, people believed that a woman's duty in her married life is to look after her husband, bear children, take care of household matters, cook and provide emotional and sexual needs to her husband. This was first noted in Manusmriti which is considered to be an ancient legal text and has been used to formulate the Hindu Law. The same text states that it is the duty of a man to protect his wife, even if he is physically weak. This kind of stigma has been created by society itself and men assume the role of dominance, sometimes taking it too far. The women were not given the status similar to that of their male counterparts and, before marriage, were considered the property of their fathers, and after their marriage, were considered the chattel of their husbands. The father could wed off his daughter to whomever he deemed fit. The woman had to provide her husband sexually with or without her consent to ensure progenies and continuation of the family line. This made the woman believe that being sexually available to her husband at all times was a necessity and her duty; she could never decline her husband's wishes. But these laws were written a long time ago when all of it was socially acceptable. Women were considered to be the slave of man and the ill practices like Sati and child marriages were prevalent in the country but the situation in the country changed after the movement of Raja Ram Mohan Roy. Even Mahatma Gandhi took a great initiative to improve the social conditions of the women because it was the first time in the Indian Independence Struggle that women participated in the same and were at par with their male counterparts. The outcome of these very movements was a Constitution which gave equality to the women and almost all the rights that are given to the men; be it Right to Vote or Right to contest elections. Post-Independence, there were improvements and advancements in almost all the fields and focus on the life being given to women could be made better. They were rather discriminated against on the basis of their gender.

### **(A) Objectives:**

- To study the concept of marital rape in India
- To understand and know the reason for commission of marital rape .
- To know whether marital rape is punishable in India.

### **(B) Review of literature:**

**Elaine K.Martin Et Al and others (2007)**("Website," n.d.) have analysed a review of marital rape. The author has used secondary data from aggression and violent behaviour vol no:12(3) doi no:10.003 pp no:329-347. Historically, marital rape has not been recognised as a criminal act; recently marital rape has become legal in all 50 states. Marital rape is a serious societal issue

that is experienced by 10% to 14% of all married women and 40% to 50% of battered women.

**Jennifer A. Bennice and Patricia A. Resick (2003)** (“Website,” n.d.) have analysed the Marital rape :History, Research, and Practice. The author has used secondary data from sage journal doi no:10.1177. The topic of marital rape has generated in the past 2 decades. The article focused on length history of legal, cultural, and professional invalidation of marital rape victims, and resulting the negative treatment implications.

**Irene Hanson Frieze(1983)** (“Website,” n.d.) has analysed the investigating the causes and consequences of marital rape. The author has used secondary data from journal of women in culture and society vol no:8(3). Marital rape is a concept that many find difficult to comprehend. Of related interest is the national learning house of marital rape, a library and a membership network.

**Raquel Kennedy Bergen (1999)** (“Website,” n.d.) has analysed the marital rape. The author has used secondary data from violence against women online resources. Rape in marriage is a serious and prevalent form of violence against women. Marital rape can be defined as any unwanted intercourse or penetration obtain by force ,threat of force ,or when the wife is unable to consent.

**Jacquelyn C. Campbell and Peggy Alford (1989)** (“Website,” n.d.) have analysed the dark consequences of Marital rape. The author has used secondary data from the American journal of nursing vol no:89(7) pp no:946-949 doi no:10.2307. Women also go through some problems due to marital rape like miscarriages ,infections infertility and also the chances Of diseases like HIV. Marriage Is a relationship Where things are better work when they are in mutual understanding and acceptance any deed which is with force or without consent is considered and for. Marital rape is one of the serious issues in all over the world.

**Whatley, Mark A (2005)** (“Website,” n.d.) has analysed for better or worse: The case of marital rape. The author has used secondary data from violence and victims vol no:8(1) doi no:10.1891. The small amount of literature on marital rape compared to the rather large amount of literature on stranger rape suggests that the former is viewed as a less serious crime. Marital rape is a pressing problem that tends to be minimized by society and researchers need to devote about the issues related to marital rape.

**Calif. L(2000)** (“Redirecting,” n.d.) has analysed the contest and consent: A legal history of Marital rape. The author has used secondary data from various sources online and websites. Marital rape is not a criminal offence under the IPC. Marital rape victims have to take recourse to the protection of women from domestic violence Act( 2005).

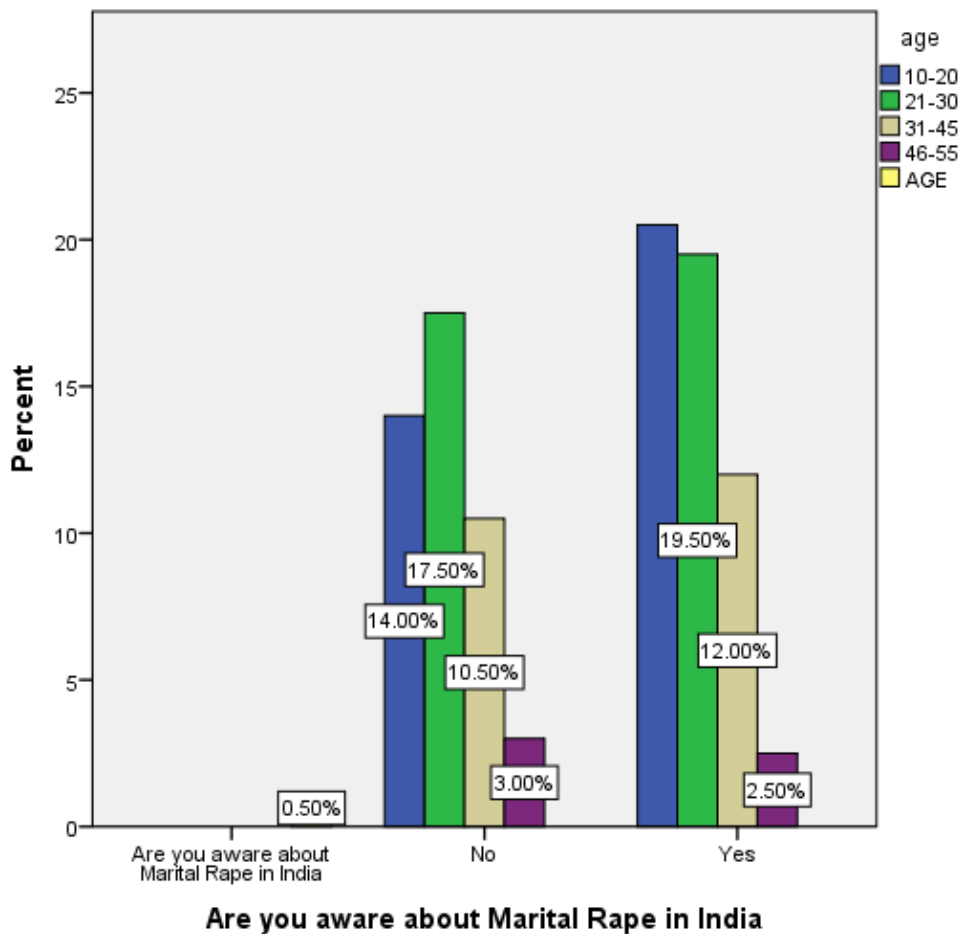
Still in many countries, marital rape remains outside the criminal law ,or is illegal but widely tolerated.

**(C) Methodology**

This study has used secondary data which has been collected from 200 respondents with some convenient sampling. The variable such as independent variable and dependent variable is also used. The inform at includes age, gender, qualification, occupation and their review regarding the marital rape in India.

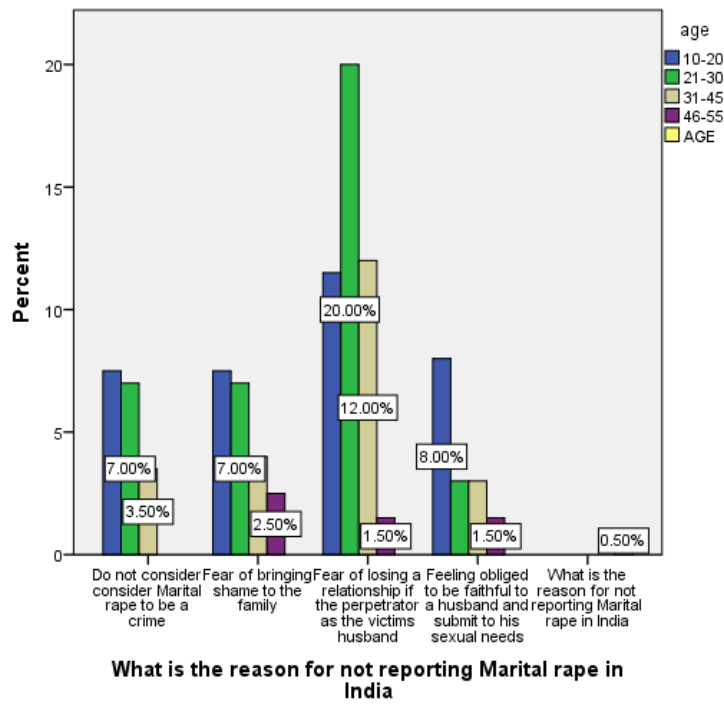
**II. INTERPRETATION AND DATA ANALYSIS**

**FIGURE 1:**



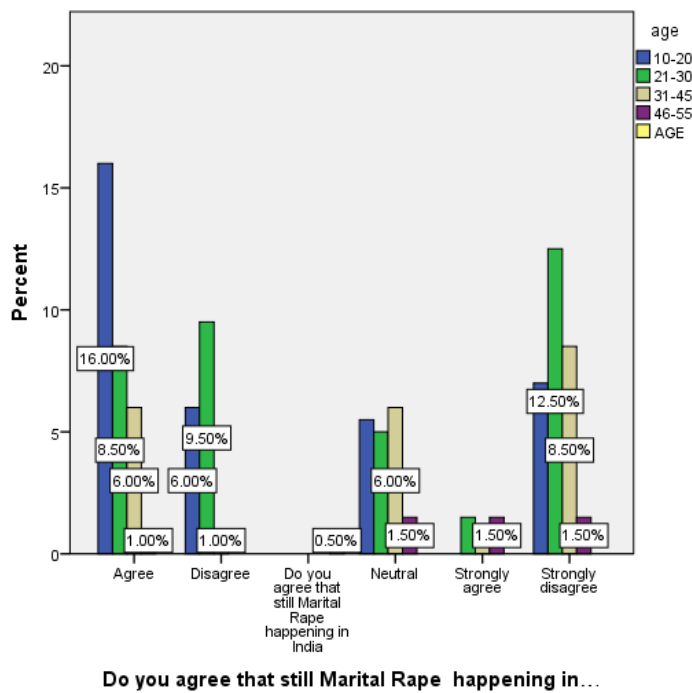
**LEGEND:** Fig.1 shows their age and their opinion about marital rape in India.

**FIGURE 2:**



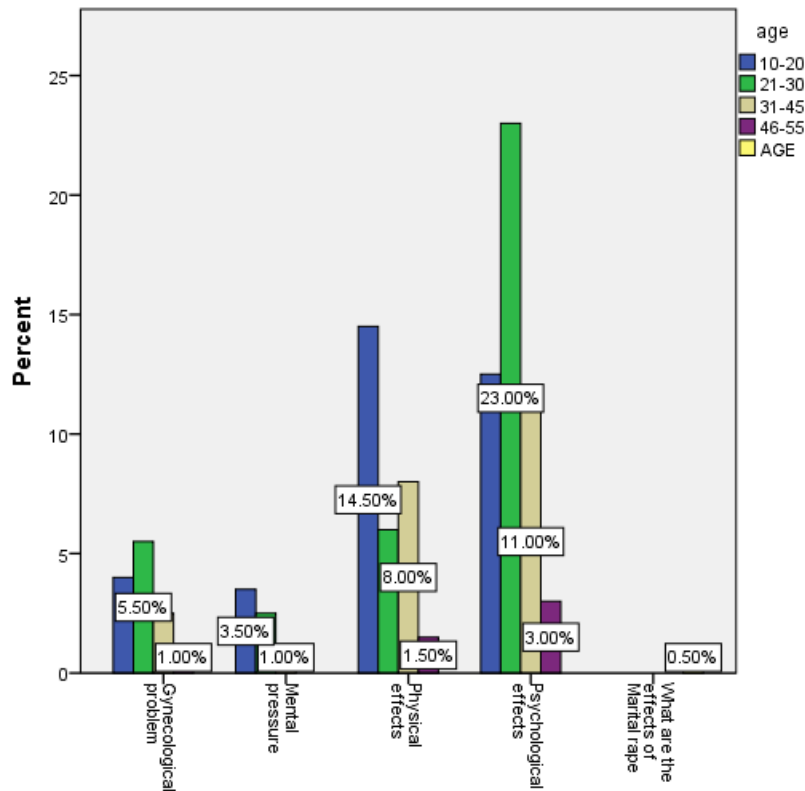
**LEGEND:** Fig 2 shows the age and their opinion on the reason for not reporting marital rape in India.

**FIGURE 3:**



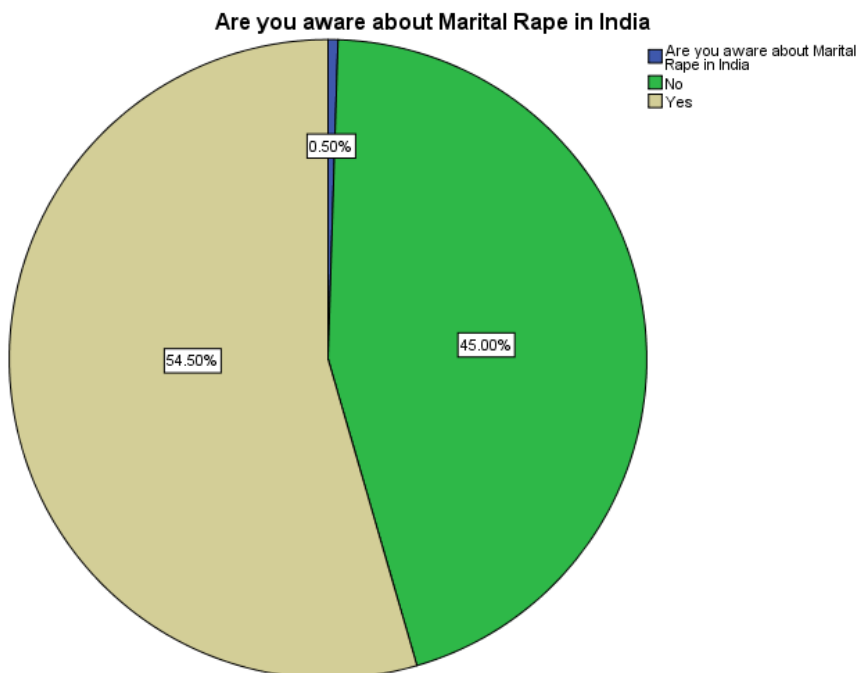
**LEGEND:** Fig 3 shows the age and their opinion whether they agree that still marital rape is happening in India.

**FIGURE 4:**



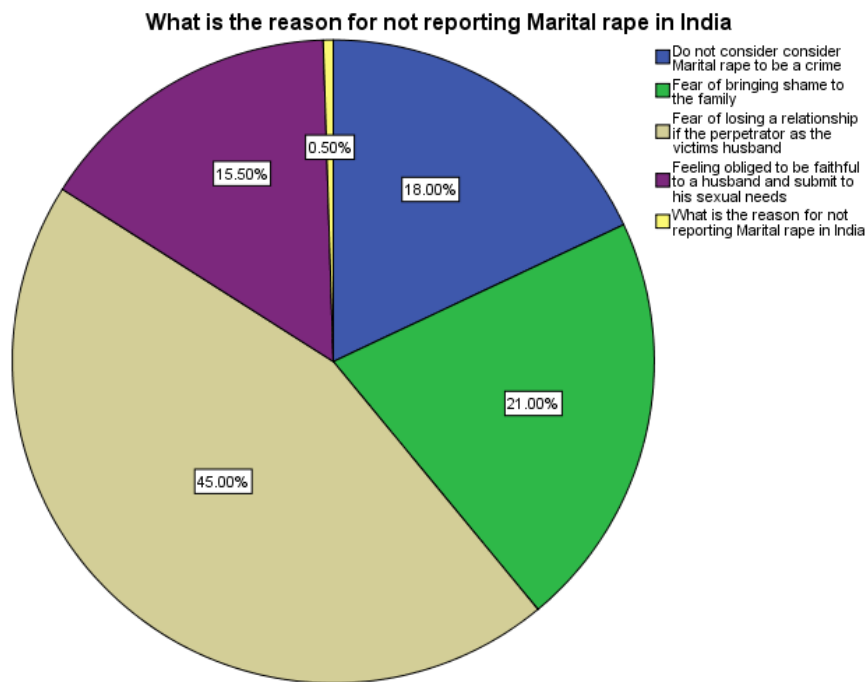
**LEGEND:** Fig .4 shows the age and their opinion on the effects of marital rape in India.

**FIGURE 5:**



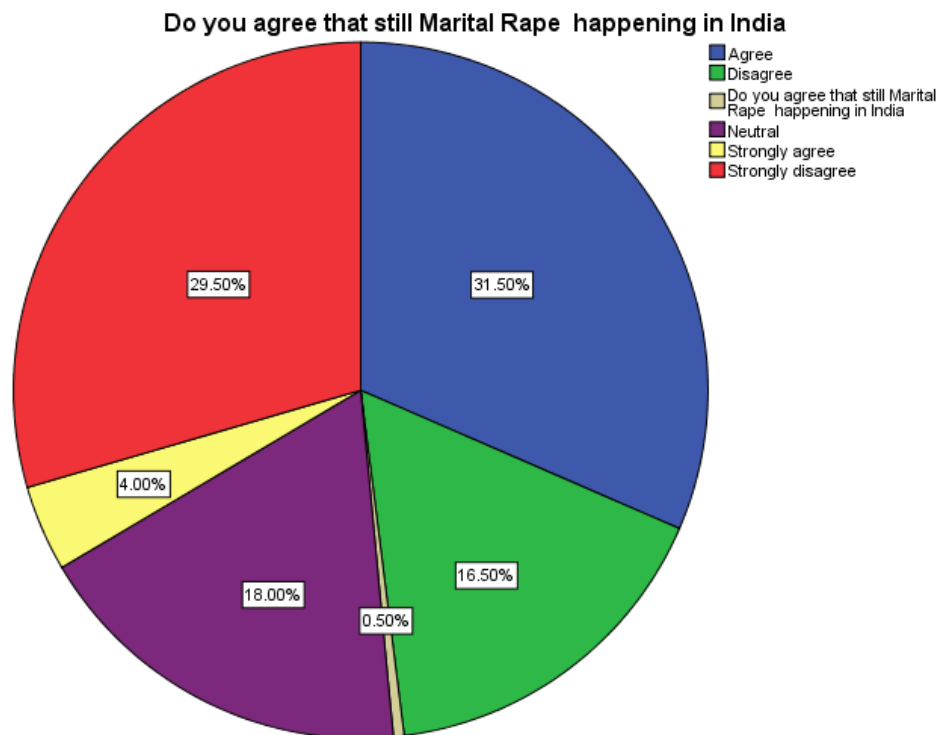
**LEGEND:** Fig.5 shows the percentage and opinion on whether they are aware of marital rape in India.

FIGURE 6:



LEGEND: Fig.6 shows the percentage and the reason for not supporting marital rape in India.

FIGURE 7:



LEGEND: Fig.7 shows the percentage and do they agree that still marital rape is happening in India.



### III. RESULT

From figure it is found that people at the age of 10-20 have answered yes and they are aware of marital rape in India. From figure 2 it is found that the people at the age of 21-30 have answered the reason for not reporting marital rape in India is because of fear of losing a relationship if the perpetrator as the victims husband. From figure 3 it is found that the people at the age of 10-20 have agreed that they agree still Marital rape is still happening in India. From figure 4 it is found that the people at the age of 21-30 have answered that psychological effects causes marital rape in India. From figure 5 it is found that 54.50% of the people have answered yes and they are aware of marital rape in India. From figure 6 it is found that the reason for not supporting marital rape in India is because of fear of losing a relationship if the perpetrator as the victims husband. From figure 7 it is found that majority of the respondents have agreed about the marital rape happening in India.

### IV. DISCUSSION

Marital rape is a serious issue in India and the respondents nearly 19.50% at the age of 10-20 have answered yes and they are aware about the marital rape in India and also the same answer was given by the people at the age of 21-30(Figure 1).

In today's society the marital rape is not reported by many of the women and the reason behind this is the fear of losing relationship if the perpetrator as the victims husband and 20% of the the people at the age of 21-30 have agreed for the above statement (Figure 2).

Marital rape is still happening in India and nearly 16% that is majority of the respondents at the age of 10-20 have strongly agreed that marital rape is still prevailing in India (Figure 3).

Marital rape has many effects in India such as physical effects, mentally pressure etc. Majority of the respondents that is 23% at the age of 21-30 have answered that psychological effects is the major effects of marital rape in India (Figure 4).

Today many of them are aware of marital rape and nearly 54% of the respondents have answered that yes that they are aware of marital rape happening in India and also 45% of the respondents have answered no that they are not aware of the marital rape happening in India (Figure 5).

The people who are not supporting the marital rape is becau that they have a fear of losing relationship if the perpetrator as the victims husband and 56% of the people have agreed to the statement (Figure 6).

This marital rape is considered as the serious offence and also a problem to human health and 31.50% of them have answered that they are aware of the happening of marita rape in India .

## V. SUGGESTION

There is no major provision for Marital Rape. Even Though it is a ground for divorce under Hindu Marriage Act the people are afraid to expose in public. There is no strict provisions for Marital Rape. Government should take necessary steps to stop the happening of Marital Rape.

## VI. CONCLUSION

The Indian government in order to protect women enacted/amended any laws as time passed. But it slows itself in enacting the laws against the horrible crime against the women by their own husbands known as marital rape. Indian till the present era holds its position at the top in protecting and practising its culture. Though the Indian culture holds the position of a married woman under their husband's will, on the other hand, the same said Indian culture also gives its voice in respecting the dignity of women and their consent in all necessary issues which involve them. Marriage not only involves men but also includes women on the other side to balance the religious ceremony "Marriage". Thus, we can conclude that India recognizes marital rape as a crime but it refuses itself to enact a proper law and to codify the crime. Marital rape is not fully criminalized in India. It definitely is a serious form of crime against women and worthy of government's attention. It is a fact that women who are raped by their husbands are more prone to multiple assaults and often suffer long-term physical and emotional problems. In this context, marital rape is even more traumatic for a woman because she has to stay with her assailant everyday. As the consequences of marital rape are really high, there is clearly an urgent need for criminalization of the offence of marital rape. Positive legal change for women in general is happening in India, but further steps are necessary so that both legal and social change takes place, which would culminate in criminalizing marital rape and changing the attitude about women in marriage. There are many loopholes in Protection of Women from Domestic Violence Act, as the Act does not openly speak against marital rape. On the brighter side enactment of a specific legislation against domestic violence has opened the door for a legislation criminalizing marital rape. This clearly indicates a shift in attitude of the state which earlier believed in non-intervention in the family sphere.

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