

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 8 | Issue 1

---

2025

© 2025 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [support@vidhiaagaz.com](mailto:support@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Beyond the Marital Bed: A Legal and Psychological Analysis of Marital Rape in India

---

DEVYANI KANVAR<sup>1</sup> AND KANIKA VAISH<sup>2</sup>

## ABSTRACT

*We live in a society where marriage has always been put under the veil of cultural, religious and societal institutions. However, the dark reality incubating under this veil suffocates the women of India. To fully grasp the intricate layers at play, one must delve into the cultural and historical context surrounding traditional marital obligations. It is within this framework that the notion of marital rape has been perpetuated. The societal and cultural bounds of marriage place a woman in a position of “Wifely duty” and assumes irrevocable and unlimited consent.*

*The laws regarding rape in India present a paradox. Despite progress in women's rights, marital rape is not recognized under clause 63 of the Nyaya Sahinta due to an exception clause. Marital rape has consequences far beyond the physical & emotional ties of the bond of holy matrimony, a mesh of psychological problems beyond our grasp. This paper examines the historical evolution of this exception and its interconnection with ‘Section 377 Indian Penal Code’.*

*The paper also focuses on the profound and long-lasting psychological impact of marital rape, leading to issues such as Post-Traumatic Stress Disorder, social withdrawal, self-harm, major depressive disorder, anxiety, and severe damage to self-esteem, which are overlooked due to societal and cultural norms that downplay marital consent. Advocating for immediate legal rectification to criminalize marital rape, emphasizing the importance of consent in all sexual relationships, including marriage. It also recommends comprehensive support systems for survivors, including legal and financial assistance for those in need and access to free, and additional aid for them to overcome the long-term effects of their trauma. The article concludes with a plea for the Indian legal system to align with global human rights standards by recognizing and addressing marital rape, ultimately seeking justice and support for victims.*

**Keywords:** *Marital Rape, Consent, Unnatural sexual intercourse, Rape Induced Trauma, Psychological Distress.*

---

<sup>1</sup> Author is an Advocate in India.

<sup>2</sup> Author is a Counselling Psychologist in India.

## I. INTRODUCTION

“Yatra nāryastu pūjyante ramante tatra devatāḥ, |  
yatraitāstu na pūjyante sarvāstatrāphalāḥ kriyāḥ”<sup>3</sup>

In this particular verse from the Manusmriti, Manu says that the reverence of women engenders the divine, while the absence of such reverence renders all religious rites futile.

Marriage is an age-old institution that traces its roots to the social structures of groups organised around religious or kinship bonds which is why it's no surprise that laws concerning marriage are influenced by religion, culture, history, economics, and politics. The legislature often navigates through the conflicting demands of this institution be it an issue of live-in relationships, same-sex marriage, or as simple as the rights of married partners, especially women in a heterosexual marriage.

Clause 63 of The Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as ‘BNS’), defines and criminalises rape. However, it provides for an exception to rape which enumerates

*“Sexual intercourse or sexual acts by a man with his wife, the wife not being under eighteen years of age, is not rape”*.<sup>4</sup>

Marital rape is an unreconstructed form of domestic abuse where a sexual act is committed upon one’s partner against their consent or will. Fundamentally, marital rape is akin to rape, differing primarily in the identities of the perpetrator (husband) & the victim (wife). As per prevailing societal norms, implied consent for sexual intercourse as per the husband’s wish is presumed once the wife agrees to the marriage. This presumption is further reinforced by exception two in Clause 63 of the BNS, which explicitly exempts marital rape from criminalisation.

The existing definitions of rape primarily centres on the requirement of proving penetration. Yet, they fail to account for the full spectrum of sexual violations undergone by women & the resultant impact of such transgressions on the victim. Natural to the deep-rooted, patriarchal nature of our society, women receive the disadvantageous end of it. Sexual violence, including marital rape, has severe, long-lasting and traumatic impacts on the physical, psychological and sexual health of a victim. Currently, there are no major studies done in India even to scratch the surface of the aftermath of marital rape, another repercussion of not having laws to provide justice to its victims because of which they feel unsafe and unheard and hesitate to come forward to facilitate studies and research.

<sup>3</sup> 4 GANGANATH JHA, MANUSMRTI- WITH THE ‘MANUBHĀSYA’ OF MEDHĀTITHI, 86 (Motilal Banarsidas 1926).

<sup>4</sup> The Bharatiya Nyaya Sanhita, 2023, § 63 Exception 2, No. 45, Acts of Parliament, 2023 (India).

## II. HISTORICAL PERSPECTIVE

Historically, the notion of rape first emerged in law as a property offence. The earliest instance appeared in the Hammurabi code which remarked if a man compels coition upon the wife of another man, or upon a woman residing in her father's home without ever having known one, such a man shall be punished, but the woman shall be freed.<sup>5</sup> The expression "shall go free" implies that in rape cases, the betrothed husband is seen as the victim, who is considered as a rightful possessor of the wife and that the raped woman is viewed as though she held something in trust for her spouse or father which is herself and is assumed to have violated this trust.

A millennium after the Hammurabi Code, regulations about rape appeared within the context of Mosaic law influencing a significant portion of England's common law where women's position remained the same and any offence committed was an act of vandalism against the father or her husband.<sup>6</sup> This concocted the notion that a man coercing sex upon his wife was considered to be a man's legitimate right and for that reason, he couldn't be prosecuted because a man was considered to have control over his "property", which was his wife.

The reason offered for this proposition in common law was the contract theory first articulated by Chief Justice Matthew Hale which later developed as marital rape exception (hereinafter referred to as 'MRE').

*"But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract"*<sup>7</sup>

Inferring that upon marriage, a woman relinquishes her rights over her body due to the formation of an irrevocable contract with her husband. Later in 1765, Blackstone construed the 'Doctrine of Coverture' - *"By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs everything"*<sup>8</sup>

This doctrine is based upon the unity of man and woman upon marriage stipulating that women couldn't own property, participate in legal proceedings or make a contract. This meant that a

---

<sup>5</sup> ROBERT FRANCIS HARPER, THE CODE OF HAMMURABI KING OF BABYLON, ABOUT 2250 B.C. 45 (The Lawbook Exchange Ltd. 1999).

<sup>6</sup> SALLY GOLD & MARTHA WYATT, *The Rape System: Old Roles and New Times*, 27 Cath. U. L. Rev 695, 696 (1978).

<sup>7</sup> 1 MATTHEW HALE, THE HISTORY OF THE PLEAS OF THE CROWN, 628 (The Lawbook Exchange Ltd. 2016).

<sup>8</sup> 1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 430 (Clarendon Press 1766).

woman couldn't legally be raped by her husband because her identity was considered to be united with that of her husband, and therefore he could not rape himself. However, this doctrine was never explicitly adopted in India, and it was in practice until the 'Married Women's Property Act of 1874' came into force.

The colonial influence of these doctrines and underlying moral principles shaped the Indian Penal Code, formulated as warp and woof for marital rape exception under section 375.

### III. EVOLUTION OF THE MARITAL RAPE EXCEPTION

Since its inception, Section 375 of IPC 1860 fostered archaic sentiments. It defined an act of rape to be an offence when a male engages in a sexual act with a female against her will or consent, or if she was a minor. The marital rape exception was limited to women only above ten years of age.

It wasn't until the public outrage sparked by The *Mathura rape case*,<sup>9</sup> which resulted in the Criminal Law (Amendment) Act of 1983. This amendment changed Section 375 IPC to consider forced intercourse within conjugality an offence, only if the wife was under the age of fifteen. Following section 375, section 376 was also amended to provide punishment for rape, specifically when the woman who is raped is the offender's wife and is not under the age of twelve, to be imprisoned for a period of up to two years.<sup>10</sup> In this case, the offence of rape within marriage is punishable only if the wife is under the age of twelve. If a girl is aged between twelve & sixteen, an offence is still executed, but it is viewed as less serious and carries a lighter punishment. Once she is older than sixteen, there is no legal protection provided to the wife against the offender.

This legal stance of marital rape exception remained intact for a long time until the passing of the criminal law (amendment) Act 2013. The updated definition of 'rape' under Section 375 now encompasses various acts beyond just forcible sexual intercourse.<sup>11</sup> Exception 2 under the section now includes 'sexual acts' provided in the definition. Even though IPC doesn't define marital rape, a specific form of marital rape was criminalised under section 376 B through the amendment act of 2013 which barred non-consensual sex between spouses during judicial separation.

The 2013 Amendment Act did not bring significant changes to the MRE until the landmark case

---

<sup>9</sup> *Tukaram v. State of Maharashtra*, (1979) 1 S.C.R. 810.

<sup>10</sup> The Indian Penal Code, 1860, §376 (1), No. 45, Acts of Parliament, 1860.

<sup>11</sup> The Indian Penal Code, 1860, §375, No. 45, Acts of Parliament, 1860.

of “*Independent Thought v. Union of India*”<sup>12</sup> which led to the Criminal Law (Amendment) Act 2018, increases age limit under marital rape exception from 15 to 18 years. The case repealed exception 2 to section 375 IPC about the young brides below 18 years, due to it being violative of Art. 14, 15(3) & 21 of the Indian Constitution & being inconsistent with the provisions of the POCSO Act, 2012.

The Bhartiya Nyaya Sanhita replaced the IPC to remove outdated colonial influences. However, the decision to keep marital rape as an exception to the rape offence in the new law has drawn criticism, raising questions about the effectiveness of the criminal law overhaul in the country. Clause 63 of BNS corresponding to section 375 of IPC reaffirms the 2018 judgement to avail the marital rape exception increases the wife’s age to 18 years.<sup>13</sup>

#### IV. DECODING THE UNNATURAL

The origin of Section 377 IPC which pertains to ‘unnatural offences’ can be traced back to The Buggery Act of 1533. Dipped in the Victorian standards of procreation norms where only heterosexual relationships are sanctioned, the section made homosexuality an offence characterizing it as ‘carnal intercourse against the order of nature,’ a definition that encompasses acts such as oral and anal sex.

The section was struck down by the Apex Court in the landmark judgement of *Navtej Singh Johar*<sup>14</sup>. The Supreme Court lamented that sexual acts amongst two consenting adults, irrespective of their gender, aren’t considered to be illegal.

The section still has a legal inconsistency that needs to be addressed as Section 375 explicitly exempts sexual intercourse between a husband and wife from the definition of rape, while Section 377 remains silent on the issue. This questions husbands’ ability to do anything sexually to their wives without facing rape charges, but it’s unclear if they can be charged under Section 377 for certain acts. The crux of the contradiction lies in the concept of consent. Section 375 implies a lack of consent in the definition of rape, while Section 377, in its broader scope, doesn’t explicitly require the element of non-consent. This discrepancy creates a legal grey area. If sexual intercourse between spouses cannot be considered rape under Section 375 due to the MRE, could it still be considered an “unnatural offence” under Section 377?

#### *NIMESHBHAI DESAI V. STATE OF GUJRAT*<sup>15</sup>

---

<sup>12</sup> *Independent Thought v. Union of India*, (2017) 10 S.C.C. 800.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Navtej Singh Johar v. Union of India*, (2018) 1 S.C.C. 10.

<sup>15</sup> *Nimeshbhai Desai v. State of Gujrat* (2018) 65 S.C.C. 732.

Gujrat High Court necessitated criminalization of marital rape and observed that consent is not the sole factor in determining cases under section 377. It held that a husband can't be allowed to violate the dignity of his wife within holy matrimony by coercing her into sexual intercourse without her free consent.

*KIRTI BHUSHAN MISHRA V. STATE OF UTTARAKHAND*<sup>16</sup>

However, the Uttarakhand High Court gave an opposite view in this case, where it held that a husband can't be held guilty under section 377. The court observed that the key similarity between sections 375 and 377 of the IPC is the relationship between the persons involved in the offence, specifically whether they're husband-wife, & the significance of consent amongst the offender & the victim. If the offender and victim are married, then the issue of consent is irrelevant & no offence can be established under Section 375, therefore not punishable under Section 376.

For an offence to be made under section 377 the court referred to *Navtej Singh Johar's* judgment which ruled that the consensual activity between two adults in private doesn't amount to a transgression, and since in the case of married couples, the consent is implied & not needed on each circumstance, the offence under Section 377 won't be made out.

*DILIP PANDEY V. STATE OF CHHATTISGARH*<sup>17</sup>

The Chhattisgarh HC acquitted husband of the charges of marital rape. The court stated that any sexual acts by a husband upon his wife won't constitute rape, even if it is by force or against her consent. However, the court sustained charges under Section 377, while observing that if the primary intention of the offender is to have unnatural sexual satisfaction, such an act would come under the purview of Section 377.

*SANJEEV GUPTA V. STATE OF UTTAR PRADESH*<sup>18</sup>

The Allahabad High Court observed that the marital rape exception continues to benefit the husband. It noted that the *Bhartiya Nyaya Sanhita* does not include any provision similar to section 377 IPC. Therefore, in such a situation, the only recourse available to women against matrimonial cruelty is on the grounds of divorce.

*SHASHANK HARSH V. THE STATE OF MADHYA PRADESH*<sup>19</sup>

The court pointed out that "marital rape" isn't considered a transgression under Indian laws.

---

<sup>16</sup> Kirti Bhushan Mishra v. State of Uttarakhand, (2019) 8 U.K. CK 0023.

<sup>17</sup> Dilip Pandey v. State of Chhattisgarh, (2021) CR.R. No. 177 of 2021.

<sup>18</sup> Sanjeev Gupta v. State of Uttar Pradesh, (2020) 1 A.H.K. CK 0086.

<sup>19</sup> Shashank Harsh v. The State Of Madhya Pradesh, (2024) S.C.C. OnLine MP 3750.

Therefore, any sexual intercourse, including unnatural sex, by a husband with his wife, doesn't amount to rape as the wife's consent is considered immaterial in such cases.

#### *HRISHIKESH SAHOO V. STATE OF KARNATAKA*<sup>20</sup>

The Karnataka High Court's ruling emphasized that no provision in the law should provide unrestricted permission to commit crimes against society. The court also acknowledged the recommendation of the Justice Verma Committee (2013) to repeal this exemption from Section 375 and to uphold the principles of constitutional morality in our criminal laws. It was emphasized that there should be no legal justification for a husband to commit a heinous crime. The court stressed that the institution of marriage shouldn't be seen as conferring any special male privilege or a license for barbaric behaviour. The case challenging the exception for marital rape is yet to be decided by the Supreme Court.

### **V. THE DEBATE ON MARITAL RAPE EXCEPTION: GOVERNMENT POSITION AND COUNTERARGUMENTS**

The Supreme Court of India has decided to entertain petitions that raise the significant question of whether marital rape should be classified as a criminal offence or if it should continue to be treated as an exception to the existing laws on rape. In connection with this matter, the court has called upon the central government to consider the removal of provisions related to unnatural sexual offences and the exclusion of marital rape from criminalization in the Bharatiya Nyaya Sanhita (BNS), which has taken the place of the Indian Penal Code. This decision reflects an important step in the ongoing dialogue about women's rights and legal reform in the country.

The Centre has justified the legal exception that decriminalizes marital rape, stating that criminalizing it could greatly impact marital relationships and cause considerable disruptions within the marriage institution. The Centre warned that there is a possibility of misuse of the revised provisions, as it would be challenging to establish whether consent was given. Additionally, it maintained that Section 375 of the IPC is a carefully thought-out legal clause that includes all types of sexual abuse between a man and a woman under its ambit. The Centre also highlighted the 2013 amendments to Section 375 IPC and referenced the Law Commission's 172nd Report on the review of rape laws. In this report, the Commission recommended against eliminating MRE due to concerns about overstepping the boundaries of marital relationships. The Centre concluded that the inherent complexities of consent within

---

<sup>20</sup> Hrishikesh Sahoo v. State of Karnataka, (2022) 2 K.C.C.R. 145.



marriage call for a cautious approach to legislative decision-making.

Advocating for the criminalization of marital rape contends that current legal frameworks render a married woman's consent to sexual relations meaningless, effectively providing married men with a shield against prosecution for rape. This legal loophole reinforces an unconstitutional agenda that undermines the dignity, bodily autonomy, and integrity of married women, prioritizing the perceived sanctity of marriage over the individual rights of women who are part of that union. Furthermore, critics argue that the Marital Rape Exception contradicts several key protections enshrined in the Constitution of India, including Articles 14, 15(1), 19(1)(a), & 21. They assert that striking this exception down would not entail creating a new criminal offence or necessitating judicial legislation by the courts.

#### *ANJANABEN V. STATE OF GUJARAT*<sup>21</sup>

In this case, it was observed that a man who sexually assaults or rapes a woman can be sentenced under section 376 of IPC. Therefore, a man's act of rape remains rape regardless of whether it is done by a husband upon his wife.

The Delhi High Court in 2022 delivered a divided decision on the issue of marital rape. One perspective argued that the marital rape exception is constitutional and serves the public interest by protecting the privacy of the marital sphere and was based on the concept of intelligible differentia. This view maintained that legislative intervention in the marital bedroom should be avoided, even if it means that a wife who has experienced sexual assault cannot seek legal recourse. The opposing perspective deemed the marital rape exception to be an unreasonable, discriminatory, and arbitrary classification that undermines a woman's right to bodily autonomy & protection from sexual assault.

#### *X V. HEALTH & FAMILY WELFARE DEPARTMENT*<sup>22</sup>

The Supreme Court lamented that, under The Medical Termination of Pregnancy (MTP) Act, marital rape must be classified as 'rape' to protect women from forced pregnancies. Since the nature of sexual violence and the concept of consent do not change after marriage, being married does not affect the determination of whether a woman has consented to sexual relations. A woman may become pregnant as a result of non-consensual sexual acts, even if the perpetrator is her husband. It's crucial to recognize that intimate partner violence is a significant problem and can encompass acts of rape. The belief that sexual and gender-based violence is mostly perpetrated by strangers is misleading. Many women have long endured various forms of

---

<sup>21</sup> Anjanaben v. State of Gujarat, (2023) 1322 Guj.

<sup>22</sup> X v. Health and Family Welfare Department, (2022) S.C.C. 1321.

violence, especially within their own families.

## VI. THEORIES OF MARITAL RAPE

There are three major theories adopted by several theorists to elucidate marital rape namely social constructivism theory, feminist theory and sex-role socialization. These theories have been majorly used in the Western world but have their credibility in Eastern countries.

1. According to Social Constructivism theory, the opinions and personal beliefs of those in powerful roles in society influence how marital rape is defined.<sup>23</sup> Due to the concept of gender roles, which placed women in the homely duties and private spheres and men in the political and public spheres, males have historically controlled politics and, by extension, the legislative process. The idea that women were their husbands' property after the marriage has influenced how people view rape in modern society.
2. Feminist theory characterizes marital rape as an act performed to exert social control and supremacy over women. It refers to men's societal dominance over women in several terms including "license to rape" and "patriarchal terrorism."
3. The sex-role socialization theory holds that our gender roles are shaped by social interactions and are responsible for the differences between males and females. Men and women assume different gender roles in our society, even though both sexes are socialized into these gender roles. Women are educated to be submissive, obedient and to sexually please their male counterparts; while dominating, powerful and sexually aggressive characteristics are instilled in men. Marital rape might be considered as an end sex-role socialization because of the idea it instils (e.g. "wifely duty", i.e. wife's responsibility to satisfy her spouse's sexual desire). It insinuates that people with stronger typical gender-role preconceptions are more prone to understate the catastrophic consequences of marital rape and to doubt that the situation qualified as rape. Rape-supportive beliefs also play a part in sex-role socialization. These beliefs might be a reflection of women's traditional gatekeeping roles in marriage and the idea that a wife's consent to sexual activity in a marriage is "irrevocable."

## VII. AFTERMATH OF MARITAL RAPE

Rape within a married relationship is typically a form of violence and humiliation that has an equivalent negative effect on the victim as rape beyond the marriage. Experiencing traumatic

---

<sup>23</sup> Charlene L. Muehlemhard & Leigh A. Kimes, *The social construction of violence: The case of sexual and domestic violence*, 3 PSPR 234, 234 (1999).

events repeatedly may impact one's inherent stress responses and chronically dysregulate their nervous system regulation. This dysregulation in turn puts the body under more stress, creating a vicious cycle, leading to long-term psychological and physiological damage.

### **(A) The Psychic Injury: Psychological Damage Associated with Marital Rape**

Intimate relationships are typically distinguished from other kinds of partnerships by the sharing of trust, security, and sexual and affective intimacy. Such standards are gravely violated by violence, especially sexual assault, which is directed towards an intimate partner. After such a traumatic incident, victims may experience confusion, intense feelings of rage, betrayal, and shame, as well as a fear of becoming revictimized.<sup>24</sup>

Rape is a traumatic event that might result in psychological issues, irrespective of how the victim is related to the perpetrator.

In a study<sup>25</sup> that evaluated women whose husbands had raped, those who experienced date rape, and women who had strangers raped, researchers found no notable differences among the groups in terms of the aggression displayed during the attacks.

Along with that, the ratio of women who could potentially be diagnosed with major depressive episodes, social anxiety disorder, or sexual dysfunction also showed no difference between the two groups. However, compared to the group of women who have never been assaulted, the women who had experienced sexual assault had a higher chance of fulfilling the diagnostic criteria for certain mental disorders including PTSD, cPTSD and anxiety disorders. The psychological impacts of being a victim of such crime might last for years for a large number of women, along with the continued experience of heightened levels of psychological distress.

Psychological trauma associated with marital rape may lead to long-term depression, severe anxiety, panic attacks, PTSD, cPTSD and suicidal ideation along with low self-esteem, trust issues, paranoia, negative self-image, self-harming tendencies, excessive fear towards men and sex and difficulty in achieving an orgasm.

In long-term assault cases, these stressors can lead to feelings of anxiety, depressed mood, or hopelessness, as well as to suicidal ideation. If left unattended, it may lead to higher levels of alcohol consumption, self-esteem issues, and more negative feelings towards males.

### **1. Rape-Induced Trauma**

---

<sup>24</sup> DAVID FINKELHOR, *License to rape: sexual abuse of wives*, 118 (1<sup>st</sup> ed., Henry Holt & Co 1985).

<sup>25</sup> Dean G. Kilpatrick et al., *Rape in marriage and in dating relationships: how bad is it for mental health?* 528 ANN. N.Y. ACAD. SCI. 335, 342 (1988).

The Diagnostic and Statistical Manual of Mental Disorders serves as a standardised resource for the assessment and diagnosis of mental disorders in clinical settings. In its earlier editions, it considered rape trauma as a precipitating factor for post-traumatic stress disorder (PTSD) and mentions sexual coercion, forced sexual acts, non-consensual penetration and unwanted sexual experiences as direct traumatic experiences that may lead to PTSD.<sup>26</sup>

Post-traumatic stress disorder caused by rape is characterized by several symptoms, such as intrusive thoughts, recurring nightmares, fear/anxiety reactions, sadness, and difficulties with sexuality. Other known maladaptive behaviours following rape include denial, rage, retaliation, physical symptoms, hyper-alertness, inattention, shame and self-blame.<sup>27</sup> Trauma caused by rape can differ in several ways. Most often, three types of reactions are noted: acute (beginning immediately or within 6 months), chronic (semi-yearly), and delayed (a brief stretch of "pseudo-adjustment" followed by the resurgence of symptoms months after the attack).

## **2. Nervous System Dysregulation: Chronic Biological Changes Due To Repeated Trauma**

Biopsychosocial models maintain that humans have certain biological processes attuned to our mental and physical states. One of them is the "hypothalamic-pituitary-adrenal axis", a neuroendocrine pathway that manages and controls how our body responds to stress. Considering it as a patrolling system for our body that sends SOS signals in the form of chemicals (a cascade of hormones) throughout our body in a time of need, it releases cortisol, also known as the "stress hormone" which activates our Sympathetic nervous system, which in turn prepares our body to respond to stress. This feedback loop is extremely important for us to regulate our nervous system and to come back to a calm state after the danger is passed. However, trauma associated with life-altering events, such as marital rape, leads to chronic stress and hence, dysregulation of the HPA axis, disrupting the feedback loop system of the HPA axis. When the axis is dysfunctional, it limits the ability of our body to return to a relaxed, normal state, leading to operating in a constant state of stress. This inability to deactivate the SNS may lead to sleep issues, anxiety, gastrointestinal issues, brain fog, reduced cognitive activity, constant fatigue, impaired immune system, and hormonal imbalances leading to issues like severe stress, PCOS and somatic symptoms.

### **(B) Physical Consequences of Marital Rape**

Apart from the obvious physical injuries sustained by the victims, other severe injuries stemming from forced sexual acts have also been documented. Immediate injuries include cuts

---

<sup>26</sup> DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, 305 (M.B. First, 5<sup>th</sup> ed. 2022).

<sup>27</sup> Ann W. Burgess & Lynda L. Holmstrom, *Rape trauma syndrome*, 131 AM. J. PSYCHIATRY 982, 983 (1974).

and bruises, fractures, broken bones, muscle pain and joint/ligament injuries. Other severe injuries such as vaginal and anal stretching, STDs, UTIs, unwanted pregnancies, chronic genital pain, miscarriages, and internal bruises have also been reported by the victims of sexual violence.<sup>28</sup>

### **(C) Impact On Social Functioning**

Rape victims often describe feeling generally anxious throughout interviews and on several self-report assessments (fear, anxiety, mood disruption, mental health issues, and compromised social functioning) over the first few months after the assault.<sup>29</sup> Most rape victims subsequently have more difficulty establishing and/or maintaining heterosexual relationships, even while the event may generally strain interpersonal relationships. Some mentioned not sharing the rape incident with anyone led to feelings of isolation and depression and half of the total participants reported losing jobs (forced to quit) due to the intensity of their depressive symptoms. or about their abrupt and erratic disappearances.

The most persistent consequences of rape are conditioned anxieties that show up as avoiding assault-related cues and anxiety reactions when subjected to such cues. Fears are first confined to cues associated with the assault, but they eventually become more generalized due to the possibility of more attacks especially where the perpetrator lives in proximity to the victim, such as marital rape. After a sexual assault, social functioning and interpersonal interactions are typically negatively impacted. All spheres of social functioning (employment, interpersonal and recreational, marital and familial relations, and socioeconomic) are first impacted, which is consistent with the acute post-rape reaction.

## **VIII. SUGGESTIONS**

1) Comprehensive assessments for accurate diagnosis and individualized treatment plans

Since the psychological aftermath of marital rape is highly complex and assessment tests are multi-layered in diagnosing psychological issues, a comprehensive evaluation is crucial to understand the full impact on everyone. Psychological trauma professionals can better understand the nature of the psychological toll by taking into account trauma-focused assessments and tools measuring cognitive, emotional, and behavioural functioning, considering therapy modalities such as CBT, EMDR and other trauma-focused therapies, allowing specific strategies for long-term recovery.

---

<sup>28</sup> Jacquelyn C. Campbell, & Peggy Alford, *The Dark consequences of marital rape*, 89 AJN 946, 948 (1989).

<sup>29</sup> Beverly M. Atkeson et al. *Victims of rape: Repeated assessment of depressive symptoms*, 50 JCCP 96, 100 (1982).

## 2) Court-assisted psychiatric evaluation and therapeutic assistance: Rape-crisis counselling

The procedure of seeking justice can be very overwhelming for rape victims, but proper use of court systems may provide much support to recovering mental health. Psychiatric diagnosis carried out under court-assisted evaluation can show the psychological damage that a person undergoes due to trauma, allowing a clearer judgment for the legal authorities and the victim. These evaluations should be trauma-informed and sensitized. Rape-crisis counselling, led by licensed rape-crisis counsellors is also an immediate source of emotional support to survivors as they begin the process of recovery, ensuring that survivors not only get justice but also the emotional tools needed to recover.

## 3) Government-aided policies for financial and socio-economic support

Marital rape often leaves victims emotionally shattered, and financially susceptible, if they remain dependent on their abusive spouse. Government policies that enable victims to be financially as well as socio-economically stable should be made including housing subsidies, vocational training and government-funded mental health services. Social work programs may help with temporary shelter, access to legal services, and childcare to ensure that such survivors and their dependents are not compelled to return to an abusive environment.

## 4) Social support via group counselling sessions and support groups

Being part of a group of individuals who have undergone similar experiences can provide comfort to victims, reduce feelings of isolation, and create emotional resilience. Group counselling offers survivors a therapeutic environment within which they can relate their stories, seek validation, and obtain coping mechanisms from the counsellor and peers.

## 5) Legal, educational and cultural reform

Reform for marital rape to be considered a criminal offence is highly needed. Along with the criminalization of marital rape, mechanisms such as restraining orders and legal aid for victims should also be considered. Introducing sex education in schools, and discussing the idea of consent and physical autonomy might make an impact. Public education programs must be initiated to abolish cultural beliefs of maintaining silence and shamefulness and to shred the values of patriarchy.

## **IX. CONCLUSION**

In India, marital rape is comparatively the most unnoticed and un-tackled form of violence done against women. It raises a question concerning a husband's recognition of a wife's right to give

or withhold consent after marriage. There has been therefore a need to address such concerns that further provide for self-defeating legislative provisions. Every violence to take place and within the perils of marriage, by the instrument of law, can be perceived as over-interference by the law in the institution.

Despite its high prevalence in our country, marital rape has remained in the shadows, receiving minute attention in comparison to other forms of violence, specifically physical violence by a partner/spouse. The Indian Penal Code flagrantly downplays the gravity of these crimes, as seen by the fact that it fails to recognise marital rape as a crime and doesn't have laws to shield its people from such horrific and terrible experiences. The legal exemption in Section 375 of the Indian Penal Code, which protects husbands from conviction under non-consensual sex with their wives, not only perpetuates gender inequality but also denies victims the fundamental right to bodily autonomy and justice. This archaic legal stance disregards the severe psychological, emotional, and physical trauma that victims endure, including PTSD, depression, anxiety, and self-destructive behaviours, leaving them without protection or recourse.

Making the legal changes to effectively declare marriage familiar sexual assault is long overdue. Even in marriage, you cannot impose oneself on another irrespective of the relationships held. Consent must always be included. Reforming the law on marital rape is not only a matter of personal justice but rather a progressive force toward improving women's rights and the removal of institutionalized violence. Drawing on landmark cases and the evolution of related laws, this article advocates for a more inclusive interpretation of sexual violence laws in India, where no marriage can nullify an individual's right to choose.

Besides legal reforms, it is also very important to build a great support system for survivors. Some provisions might include legal and financial assistance to those who cannot go to the courts independently for justice and ensuring that victims receive free quality mental health services for healing from the trauma of marital rape.

It is high time India should discard antiquated spousal privileges and declare marital rape as a punishable offence. In so doing, it would see our nation moving towards instilling respect for consent and equality in marriage.

\*\*\*\*\*