RESTITUTION OF CONJUGAL RIGHTS AS STATE-SANCTIONED MARITAL RAPE

Ramnit Kaur, OP Jindal Global Law School

ABSTRACT

This paper intends to analyse the provision of restitution of conjugal rights, found under Section 9 of the Hindu Marriage Act and Section 22 of the Special Marriage Act. While the provision is presented as a gender-neutral remedy in law, the paper analyses, through judgements and the underlying provisions, how it is a remedy disproportionately utilised against women. Further, the paper uses various judgements on the provision, particularly *T. Sareetha v. T. Venkata Subbaiah* to connect the remedy of restitution in marriage to a sanctioning of marital rape. While acknowledging that marital rape is per se, legal in the Indian Law, the paper goes on to discuss the constitutionality of this remedy in light of landmark judgements on fundamental rights, and India's international law obligations.

Introduction

Restitution of conjugal rights (hereinafter, RCR) originated as a legal remedy in British statutes. Though originally a British remedy, it found a place in Indian law through litigation, and then via statutory provisions. In the case of *Moonshee Buzloor Ruheem v Shumssonissa Begum**[1]***, the court recognized the legality of restitution of conjugal rights as a remedy for both Hindus and Muslims in India, thus imposing the remedy on Indian personal laws. Today, this colonial remedy persists in family law statutes in India (Section 9[2] of the Hindu Marriage Act (hereinafter HMA), Section 22[3] of the Special Marriage Act(hereinafter SMA) and Section 32[4] of the Indian Divorce act,1862). These provisions essentially recognize "the right of married persons to conjugality and consortium"[5] by allowing a spouse aggrieved by the withdrawal from their society by their husband/wife (HMA) to file a plea for restitution of conjugal rights. According to *Kailash Vati v. Ayodhia Prakash*,[6] conjugal rights include the right to consortium (right to society, company, affection, and assistance of your spouse) and marital intercourse. While the Indian courts have clarified that the court cannot decree sexual intercourse[7], this paper argues that by having restitution of conjugal rights as a remedy under civil law, the law tacitly opens the possibility of marital rape for the women decreed under restitution.

Restitution is presented as a gender-neutral remedy in the Indian statutes. However, in practice, the remedy has greater consequences for women [8]. This is because cases of restitution are more likely to be brought against wives rather than husbands[9], and because marital rape is not a crime in India. Marital rape implies the rape of a person by their spouse in a marriage. The victim of such a rape, due to the social imbalance of power and gender roles in society, is more likely to be a woman. Personal autonomy and bodily integrity are both fundamental rights under the Indian Constitution, as per recent landmark judgements such as *Joseph Shine v. UOI**[10]***, and *K. S. Puttaswamy v. UOI**[11]***. Considering this, marital rape, and by extension – restitution of conjugal rights, should no longer be legalised in India.

This paper presents the case for the criminalisation of marital rape and removal of restitution of conjugal rights provisions under Indian law. This is done by firstly exploring the current status under law of RCR, and the current judicial debates/ decisions on the constitutionality of both marital rape and RCR. Then, it makes a case for the repeal of RCR (and, parallelly- criminalisation of marital rape) by presenting arguments about its unconstitutionality with respect to certain fundamental rights (right to equality and right to life)

guaranteed under the Indian Constitution, providing a comparative study of restitution and marital rape in present day- England, and by elaborating on India's international human rights obligation. The normative viewpoint upheld in the arguments of this paper is that the privacy, autonomy, and well-being of the individual should be placed at a higher pedestal than the privacy and purported sanctity of an institution (the institution of marriage).

Current legal and judicial status of Restitution of Conjugal Rights

Section 9[12] of the Hindu Marriage Act, 1955 enshrines the remedy of restitution under the HMA. It states that "When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly." Section 22[13] of the Special Marriage Act, 1954 contains a near identical provision. Over time, the provision for restitution came to apply to all religious communities in India, based on jurisprudence[14]. The consequences for not complying to a decree for restitution can be punitive for the offending party. Order 21, Rule 33[15] of the Criminal Procedure Code allows the Court to award civil imprisonment or even the attachment of properties of the offending parties in case of non-compliance of a decree.

The rationale behind restitution lies in Section 23, sub clause 2[16] of the HMA. This section places an obligation on the court to attempt to bring about reconciliation between the parties of a marriage before granting any matrimonial relief. According to Mulla, the concept of restitution is based on the "fundamental rule of matrimonial law" that a spouse is entitled to the society and comfort of the other.[17] The Punjab and Haryana High court identified two aspects inherent in conjugal rights – consortium (including society, comfort, company, assistance, and affection) and marital intercourse.[18] A practical importance of a decree of restitution, however, is that it serves as a grounds for divorce under Section 13(1A) of the HMA. [19]

The Andhra Pradesh High Court in *T. Sareetha v. T. Venkata Subbaiah**[20]** held the provision of restitution to be unconstitutional as it was violative of Article 21 of the Indian Constitution. This judgement interpreted marital intercourse to be an essential part of RCR and held that the same went against the bodily autonomy of a woman and could even open her up

to pregnancy against her wishes. The *T. Sareetha* judgment's position is discussed in further portions of this paper. However, the Delhi High Court in the *Harvindar Kaur v. Harmandar Singh**[21]*** judgement said that "The Court does not and cannot enforce sexual intercourse". The Court was vehemently opposed to the interpretation of the *T. Sareetha* judgement and said that the provision for restitution only enforced cohabitation. The judgement interprets the provisions for restitution as being essential to the sanctity of the institution of marriage and says that the purpose of the same is to bring together the parties of a marriage so they can "live together in the matrimonial home in amity". The Supreme Court in 1985, overruled the *T. Sareetha* judgement in the case of *Smt. Saroj Rani Vs. Sudarshan Kumar Chadha**[22]*. The Court aligned with the *Harvinder Kaur* judgement in holding that the *T. Sareetha* judgement was based on an incorrect understanding of RCR. In 2019, the issue of constitutionality of restitution of conjugal rights was raised in a PIL filed in the Supreme Court [23]by a group of students from GNLU, India in 2019.

How the provision for Restitution of Conjugal Rights tacitly allows marital rape

A simplistic interpretation of *Harvinder Kaur**[24]*** would lead one to believe that as the court cannot decree sexual intercourse, a restitution decree would not open up the possibility of marital rape. Such an interpretation would be in great dissonance with the social context of India. The *T. Sareetha**[25]*** judgement had observed that cases of restitution are more likely to be brought against an offending wife, and not husbands. While no evidence backing the same was presented in the judgement (which was the reason the *Harvinder Kaur**[26]*** judgement opposed this observation), Saumya Uma draws upon "the immense familial, social and financial obstacles"[27] sociologically barring Indian women from seeking the remedy of restitution. This is also supported by the *Gurdev Kaur v. Sarwan Singh**[28]*** judgement. Given the power imbalance caused by the patriarchal nature of most marriages, women are placed at a higher degree of risk if cohabitation with their husband is enforced on them.

Even if the court itself does not decree sexual intercourse, it cannot be forgotten that marital rape is legal in India. Exception 2 of Section 375[29] of the IPC excludes any act falling into the definition of "rape" provided in the Section, if it is done by a husband to his wife (provided she is above 15 years of age). As the current aim of restitution is to enforce cohabitation between a married couple, once such cohabitation is enforced, the husband can also enforce sex upon his wife. The *Kailashwati**[30]*** judgement recognises marital intercourse as an element of conjugal rights, and as the couple is married, such enforced intercourse would

not qualify as rape. So, it is evident that the provision of RCR tacitly opens the door for the occurrence of marital rape. There is also a public- private dichotomy[31] in India. This postures the institution of marriage as sacrosanct and poses the marital relationship as a unit of privacy in itself [32]. The Indian Courts have a tendency to protect the institution of marriage, a tendency that is statutorily backed by provisions such as Section 23, sub-section 2[33] of the HMA. The social reality of India is, undeniably, patriarchal. It is not an exaggeration to say that a provision allowing for enforcement of "conjugal rights", can in effect mean subjecting a wife to marital rape. Hence, Restitution of Conjugal Rights can easily be construed as state-sanctioned marital rape.

Basis for unconstitutionality: The *T. Sareetha* judgment

In 1987, a petition of restitution of conjugal rights filed by a husband against his wife, was contended on the grounds that the provision for restitution found in Section 9 of the HMA is constitutionally void as per Article 14, 19 and 21 of the Indian constitution.[34] The Andhra Pradesh High Court read the right to privacy into Article 21(right to life, which entails a life of dignity of the Indian Constitution)[35], relying on American jurisprudence. The Court held that right to privacy entails bodily autonomy. The judgement interpreted that a decree of restitution could have the effect of coercing "an unwilling party to have sex against that person's consent and freewill with the decree-holder"[36]. This would go against the right to privacy of the offending party (who is presumed to be the wife) as such sexual intercourse could open a woman up to pregnancy. The court felt that this, especially, would be gravely violative of individual autonomy and privacy as it may make her body an unwilling "vehicle for procreation of another human being"[37]. Importantly, it held that the right to privacy was a right of an individual, whether married or unmarried. [38] The Court held that the provision for restitution of conjugal rights was constitutionally void as being violative of Part III of the Constitution.

Though the *T. Sareetha* judgement was overruled in the *Saroj Rani*[39] case by the SC it forms a strong basis for a case for the unconstitutionality of Section 9 of the HMA. The ratio of this judgement acquires a new significance after the *K.S. Puttaswamy v. UOI*[40] judgement.

Unconstitutionality of Restitution of Conjugal Rights and marital rape as per landmark judgements on fundamental rights

The *Joseph Shine v. Union of India* judgement states that "Sexual autonomy is

something every woman possesses as a necessary condition of her existence."[41] Exception 2 to Section 375 [42]of the IPC, that excludes marital rape from the ambit of criminalized rape from the ambit of criminalized rape is in direct contravention to this rationale. This section of the paper parallelly examines the unconstitutionality of marital rape and the provision for restitution of conjugal rights by examining their dissonance with the fundamental right to equality and the right to life.

Legalization of marital rape is in direct contravention to Article 14 [43]of the Indian Constitution, which guarantees every citizen of India "equality before law" and "equal protection of the law"[44]. Exceptions to this fundamental right can be made based on reasonable classification[45] of a certain group that differentiates them from other members of society. This classification, as per *Budhan Choudhry v. The State of Bihar**[46]*** must be made on the basis of "intelligible differentia" between the group differentiated against. In this case, the differentia is to be established between married women and unmarried women, as married women are excluded from legally seeking remedy for rape committed on them by their husbands. The Delhi HC, in January 2022, also posed the question of whether there is any legal ground for differentiating between the legal rights of married and unmarried women to the State[47] (in a case concerning the constitutionality of marital rape filed by RIT Foundation). However, the final decision in the case resulted in a split decision of the two-judge bench, with Justice Hari Shankar holding that the marriage exception in Section 375 was based on "intelligible differentia", while Justice Rajiv Shakdher opined otherwise.[48] As per the Supreme Court's opinion in the *Joseph Shine**[49]*** judgment, every woman (whether married or unmarried) is guaranteed sexual autonomy. Hence, the case for the unconstitutionality of marital rape is supported by Supreme Court precedent.

The *T. Sareetha* judgement lays the basis for arguments regarding the unconstitutionality of the provision for restitution as violative of the right to privacy. The *K.S. Puttaswamy**[50]*** judgement cemented the right to privacy as a part of the right to life (Article 21)[51] of the Constitution. The judgement also clarifies that any interference in an individual's right to privacy as per exceptions to Article 21, must ensure that "the extent of such interference must be proportionate to the need for such interference"[52]. The need for the interference to an individual's autonomy (by forcing them to cohabit with their spouse) lies in the obligation of the courts to attempt a reconciliation between the parties of the marriage[53]. This is in keeping with the idea of upholding the sanctity of the institution of marriage, which forms the

basis of the understanding of the marital union in India. However, the extent of the interference extends to exposing a woman who has complied with a decree of restitution to the possibility of rape by her husband in the course of cohabitation. Hence, the ultimate question to be raised is whether the need to protect the institution of marriage is so urgent that an individual's bodily autonomy can be compromised for it. The question of whether the courts decide to hold the provision for restitution and marital rape unconstitutional lies in whether they perceive of the privacy of the individual as greater than the privacy of the institution of marriage (or vice versa). With the *K.S. Puttaswamy* judgement as the law of the land, decisional autonomy is qualified as a fundamental right of every individual, which "comprehends intimate personal choices"[54]. Hence, the privacy of the individual in making choices regarding intimate intercourse is inalienable. It should follow from the ratio of the aforementioned judgement[55] that this right to privacy cannot be compromised regardless of whether the violation is in the context of a married couple.

Other arguments regarding the illegality of RCR and marital rape

The case for the criminalization of marital rape and the removal of RCR as a remedy becomes even stronger when viewed in consonance with India's international human rights obligations. UN Convention on Elimination of Discrimination Against Women (CEDAW)[56], ratified by India in 1993 adopts a substantive model of equality that identifies the institutions of marriage and family as sites of discrimination against women.[57] Hence, it prohibits discrimination against women on the basis of marital status; and advocates for equal rights within marriage and with regard to matrimonial rights, women's right to reproductive health within marriage and eliminating gender stereotypes.[58]However, India had made two exceptions while ratifying the CEDAW, with respect to Article 5(a) and 16(1), saying that the provisions for elimination of stereotypes and promoting equal relations in marriage would be subject to the principle of non-interference in personal laws.[59]This exception speaks to the Indian state's paternalistic attitude towards individual married women, and its desire to protect the institution of marriage . It is evident that the provision regarding RCR, and marital rape, is highly violative of international human rights standards. It is especially interesting to notice that RCR as a remedy has gained such paramountcy in the eyes of Indian courts, when it had never been a part of Indian laws until the colonial state introduced it.

As has been discussed above, RCR is not a remedy original to India's religious personal laws. Similar to restitution, the exemption of marital rape, too, originated in England. This

concept was initially developed by Sir Mathew Hale, a British jurist who opined that after the solemnisation of a marriage, a wife had by mutual consent "given herself in this kind unto her husband" and the consent to sexual intercourse in a marriage could not be retracted. [60] A comparative lens to the current legal status of RCR and marital rape in India and England would be insightful, given that both these remedies were introduced in India by the British. RCR was abolished in the UK by Section 20 of the Matrimonial Proceedings and Property Act, 1970. [61] This abolition was preceded by intense pressure from the Women's Rights Movement. A report by the UK Law Commission[62] released in 1969 justified the removal of RCR as a remedy by recognising that "a court order directing adults to live together is hardly an appropriate method of effecting a reconciliation"[63]. In the case of *R v R* [64] , in 1990, the UK Supreme Court criminalised marital rape in England and said that sexual intercourse forced upon a wife by her husband was also punishable as rape. However, both these colonial laws remain in force in India.

The way forward

The Supreme Court is currently hearing a case regarding the unconstitutionality of Restitution of Conjugal Rights. *Ojaswa Pathak v. Union of India**[65]*** was filed as a writ petition in 2019 by law students from Gujarat National Law University. The petitioners seek the declaration of Section 9 of the HMA, Section 21 of the HMA and Order 21, Rule 33 of the Criminal Procedure Code as unconstitutional under Articles 15 (Right to equality and non-discrimination) and Article 21 of the Indian Constitution. The case is yet to be listed for the final hearing and judgement.

On May 11, 2022, the Delhi High Court pronounced a split verdict[66] on a case regarding the unconstitutionality of marital rape under the right to equality and right to life (particularly the rights to privacy, dignity and self-expression)[67] guaranteed in the Indian Constitution. Leave for appeal to the Supreme Court has been given for the case as it concerns "substantive questions of law"[68] . The Senior Advocate appearing for the petitioners has confirmed that the case will be appealed in the SC.[69] It is to be hoped that the Supreme Court will look favorably on the cases for the unconstitutionality of both RCR and marital rape and rule the same to be unconstitutional under the Indian Constitution. Legislatively, the Central Government had started a "consultative process with all stakeholders involved" during the pendency of the writ petition regarding marital rape. [70] However, hopes for legislative steps towards criminalization of RCR look pragmatically bleak, due to the Centre's track record of

prioritizing the institution of marriage and its repeated arguments about the possibility of "floodgates of false cases"[71] if marital rape were criminalized.

It is important to note that criminalization of marital rape is parallel to the unconstitutionality of RCR, as both provisions of the law are closely connected in their effects on the bodily autonomy of women. If marital rape is criminalized and the court recognizes the inviolability of a woman's dignity and autonomy within the marital unit, the rationale behind RCR will also fail the constitutional tests. This is because both RCR and marital rape rest on the principle of prioritizing the privacy provided to the institution of marriage above an individual's privacy and autonomy. Similarly, if RCR is declared unconstitutional by the Supreme Court, it shall imply the unconstitutionality of marital rape, as the major problem identified with RCR is its tendency to open up an unwilling party to forced sexual intercourse with her spouse in the course of court-decreed cohabitation.

Conclusion

This paper has argued that Restitution of Conjugal Rights, a colonial remedy that still subsists in a post-colonial India, is a remedy that opens up married women to the possibility of marital rape. It has discussed how the remedy of RCR legitimizes marital rape, in light of landmark judgements regarding restitution. It has then gone on to argue for the unconstitutionality of both RCR and marital rape, as per the ratios of various landmark judgements of the Supreme Court, such as *K.S.Puttaswamy v. Union of India**[72]*** and *Joseph Shine V. Union of India**[73]***. India's standpoint on women's autonomy with respect to these provisions have been contrasted to the obligations under CEDAW, which India has ratified. It has been pointed out that both the remedy of RCR and the legality of marital rape are concepts that are socio-legally British in origin and were imported to India during the colonial rule. Ironically, Indian law keeps sanctifying both these provisions as indispensable to the protection of the marital union, Britain- the originator of these provisions- has since long declared both violative of human dignity, and criminalized marital rape and delegitimized RCR.

Currently, the Supreme Court is hearing a case on the constitutionality of RCR, and the Delhi HC's decision on marital rape is soon to be appealed in front of the Apex Court. It is to be hoped that these cases shall be favorable to individual autonomy. Reconciliation of marriage, as an obligation of the Courts, is often presented as a factor supporting the remedy of restitution of conjugal rights. However, as per the *K.S. Puttaswamy* decision the privacy of an individual,

especially with respect to intimate personal choices, is inviolate.[74] In my opinion, forcing cohabitation and allowing for rape within marriage are vile infringements on individual autonomy. Socially, women are more likely to be affected by marital rape, and in extension-RCR. In furtherance of the ratio of the relatively recent stronghold provided to the Right to Privacy by the Supreme Court's interpretation of the Right to Life, it is high time the courts recognize that the reification of marriage as an institution in India cannot, and should not, translate to gross violations of individual autonomy. The marital institution can very well remain an important institution under the law, without placing it on such a high pedestal that it infringes upon an individual's privacy and autonomy.

ENDNOTES:

[1] *Moonshee Buzloor Ruheem v. Luteefutoon-Nissa* , (1861) 8 Moo Ind App 379.

[2] The Hindu Marriage Act, 1955, § 9.

[3] The Special Marriage Act, 1954, § 22.

[4] Indian Divorce Act, 1869, § 32.

[5] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 1, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[6] *Kailash Vati v Ayodhia Prakash*, (1977) 79 PLR 216.

[7] *Harvinder Kaur v. Harmander Singh* AIR 1984 Del 66.

[8] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 8, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[9] *Kailash Vati v Ayodhia Prakash*, (1977) 79 PLR 216.

[10] *Joseph Shine v. Union of India*, (2018) 2 SCC 189.

[11] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[12] The Hindu Marriage Act, 1955, § 9.

[13] The Special Marriage Act, 1954, § 22.

[14] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 8, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[15] The Criminal Procedure Code, 1974.

[16] The Hindu Marriage Act, 1955, § 23(ii).

[17] Mulla, Mulla: Hindu Law, 1344 (Satyajeet A. Desai, 21st ed.2013).

[18] *Kailash Vati v Ayodhia Prakash*, (1977) 79 PLR 216.

[19] Mulla, Mulla: Hindu Law, 1344 (Satyajeet A. Desai, 21st ed.2013).

[20]*T. Sareetha v. T.Venkata Subbaih* AIR 1983 AP 356.

[21] *Harvinder Kaur v. Harmander Singh* AIR 1984 Del 66.

[22] *Saroj Rani v. Sudershan Kumar* AIR 1984 SC 1562.

[23] *Ojaswa Pathak v. Union of India* W.P.(C) No. 250/2019 PIL-W.

[24] *Harvinder Kaur v. Harmander Singh* AIR 1984 Del 66.

[25] *T. Sareetha v. T.Venkata Subbaih* AIR 1983 AP 356.

[26] *Harvinder Kaur v. Harmander Singh* AIR 1984 Del 66.

[27]Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 8, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[28] *Gurdev Kaur v. Sarwan Singh* AIR 1959 P H 162.

[29] Indian Penal Code, 1860, § 375.

[30] *Kailash Vati v Ayodhia Prakash*, (1977) 79 PLR 216.

[31] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 14, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[32]Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts, 284 (HarperCollins, 2019).

[33] The Hindu Marriage Act, 1955, § 23(ii).

[34] *T. Sareetha v. T.Venkata Subbaih* AIR 1983 AP 356.

[35] Indian Const. art. 21.

[36] *T. Sareetha v. T.Venkata Subbaih AIR 1983 AP 356.*

[37] *T. Sareetha v. T.Venkata Subbaih* AIR 1983 AP 356.

[38] *T. Sareetha v. T.Venkata Subbaih* AIR 1983 AP 356.

[39] *Saroj Rani v. Sudershan Kumar* AIR 1984 SC 1562.

[40] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[41] *Joseph Shine v. Union of India*, (2018) 2 SCC 189.

[42] Indian Penal Code, 1860, § 375.

[43] Indian Const. art. 14.

[44] *Id.*

[45]*Budhan Choudhry v. State of Bihar*, (1955) 1 SCR 1045.

[46] *Budhan Choudhry v. State of Bihar*, (1955) 1 SCR 1045.

[47] Marital rape: Delhi HC says married parties have right to expect sexual relationship, unlike unmarried couples, Financial Express (January 12, 2022).

https://www.financialexpress.com/india-news/marital-rape-delhi-hc-says-married-parties-have-right-to-expect-sexual-relationship-unlike-unmarried-couples/2404472/

[48] *RIT Foundation v. Union of India* W.P.(C) No. 284/2015 PIL-W.

[49] *Joseph Shine v. Union of India*, (2018) 2 SCC 189.

[50] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[51] Indian Const. art.21.

[52] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[53] The Hindu Marriage Act, 1955, § 23(ii).

[54] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[55] *Id.*

[56] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 15, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[57] *Id.*

[58] *Id.*

[59] *Id.*

[60] Tan Cheng Han, *MARITAL RAPE – REMOVING THE HUSBAND'S LEGAL IMMUNITY,* in *Malaya Law Review* 31, no. 1 (1989). 112–28. http://www.jstor.org/stable/24865602.

[61] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 17, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[62] 'Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights', UK Law Commission Report No. 23, 1969.

[63] Saumya Uma, Wedlock or Wed-Lockup? A Case for Abolishing Restitution of Conjugal Rights in India, 17, International Journal of Law, Policy and The Family, Volume 35, Issue 1, 2021).

[64] *R v R* [1992] 1 AC 599.

[65] *Ojaswa Pathak v. Union of India* W.P.(C) No. 250/2019 PIL-W.

[66] *RIT Foundation v. Union of India* W.P.(C) No. 284/2015 PIL-W.

[67] Delhi High Court passes split verdict on criminalisation of marital rape, Scroll.in (May 11, 2022).

https://scroll.in/latest/1023690/delhi-high-court-passes-split-verdict-on-criminalisation-of-marital-rape

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

[72] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

[73] *Joseph Shine v. Union of India*, (2018) 2 SCC 189.

[74] *K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.