
CONSENT IN MARRIAGE: A LEGAL FICTION OR REALITY IN INDIAN CRIMINAL LAW?

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ABSTRACT

marital rape is one of the most contentious and sensitive topic in current criminal jurisprudence and gender justice discourse in India. The notion contradicts the conventional view that marriage means perpetual permission to sexual relations and raises deep problems about physical integrity, dignity, equality and freedom. This article focuses about the Concept and meaning of marital rape and theory of consent which forms the basis of lawful sexual relations. It further examines the features and reasons of marital rape. It points out the social, cultural and patriarchal institutions that help it to continue within the community.

This article also discusses the history of marital rape and the development of the marital rape exception from conventional common law to present constitutional viewpoint. It also covers major landmark judgements and judicial interpretations that have changed the legal concept of consent, privacy and women's rights in India.

The article also finds that the non-criminalization of marital rape violates the values of equality and dignity afforded to women. It stresses the need for legislative change, public awareness and gender sensitization to ensure that marriage is seen as a partnership based on mutual respect and free agreement rather than compulsion or domination.

Keywords: Marital rape, Consent, Gender Equality, male autonomy, sexual violence, Human Dignity.

- **Introduction**

Under the common law of covertures, once a wife got married, she gave her husband permission to have sexual contract with her whenever he wanted. This permission could not be taken back. These ideas are criticized by feminist legal theories i.e. Catharine MacKinnon¹ who argues that the law has always been based on male perspectives, which limits women's freedom. Mackinnon also stated that the legal system allows sexual activity during marriage without taking into account the rights and interests of women. In the same way, Robin L. West² also criticizes how liberal law practices have ignored the physical and emotional facts of women's lives, especially when they are in close relationships. Because of this framework, they are weak in formals like weddings. These criticisms are very helpful because they show how ideas like covertures and marriage protection from rape support the male legal system. Sir Matthew Hale firmly³ stated that, "The husband cannot be held accountable for rape perpetrated by himself upon his lawful wife, as through their mutual matrimonial consent and contract, the wife has surrendered herself in this manner to her husband, a surrender that she cannot rescind". Thus, legal view solidified the idea that once a women got married, she lost the right to avoid sexual contact. It reinforced an old and unfair view of how marriage works.

- **Meaning**

Marriage is the beginning of a new family; it is more than just a physical connection it is also an emotional tie between the couples. Marriage, whether voluntary or contractual is the state of staying joined with another person, conferring with the title of husband and wife. Marriage confers legal rights and duties on both parties. Sexual intercourse is also seen as a right of couples. Because of this privilege, the husband occasionally exerts power over the relationship, forcing the wife to engage in sexual intercourse against her choice and permission.

Marital rape also known as spousal rape, refers to when a spouse is obligated to engage in non-consensual sexual actions within their marriage. It is when one partner coerces or forces the other partner into sexual activity without their permission. This kind of sexual abuse is strongly based in the absence of consent and autonomy in a married relationship.

¹ Catharine A. MacKinnon & Toward a Feminist Theory of the State 237–239 (Harv. Univ. Press 1989)

² Robin L. West, *Jurisprudence and Gender*, 55 UCLR 1, 8–12 (1988)

³ Matthew Hale, *The History of the Pleas of the Crown* 628 (1st ed. 1736)

It is also essential to critically understand the concept of rape when it comes to the concept of marital rape, which means that, A man is said to commit “rape” of a woman if he commits sexual intercourse with a woman under any of the following circumstances: -

- a) Against her will
- b) Without her consent
- c) With her consent, when her consent has been obtained by putting her in fear of death or of hurt
- d) With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
- e) With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- f) With or without her consent, when she is under eighteen years of age
- g) When she is unable to communicate consent.⁴

- **Theory of Consent**

Consent is the informed and positive cooperation of the woman’s “will”. The idea underpinning consent is that man is the best judge of his or her own interests, that no man will agree to what he or she views harmful to his or her own interest and that if a man or woman chooses to endure injury freely, he or she cannot complain when it occurs. Consent to relieve criminal culpability must be voluntarily provided and not gained via deception, error or misunderstanding of facts.⁵

Consent may be provided either verbally or via actions. As per the views in Black Law Dictionary, Consent is defined as “concurrence of wills”. This concurrence might be explicit

⁴ Act 45 of 2023

⁵ S.N MISHRA, INDIAN PENAL CODE 113 (23rd ed. Central Law Publication 2023)

or tacit. According to the rule 70 of the International Criminal Court's rules of Procedure and Evidence, a victim's silence or lack of resistance to alleged sexual abuse does not constitute consent. This is especially important since psychologists increasingly identify "psychological paralysis" or "freezing" as a typical reaction to sexual assault. However, also in explanation 2 of section 63 of Bhartiya Nyaya Sanhita Defined consent as "an unequivocal voluntary agreement when the woman communicates a willingness to participate in a special sexual act through words, gestures or any other form of verbal or non-verbal communication".

- **Historical Background of Marital Rape in India**

The history of evolving the concept of marital rape in India is divided into 5 phases of timeline which are as follows: -

- a) During 1960s**

The main reason for starting of this year because in India the Hindu Marriage Act was enacted in 1955, also the legalization or registration of marriage is also started from 1955.

So, in this era there was no such term as marital rape, and people did not see it as a crime. They did not consent to make any offense that violates male autonomy. Marital rape was not recognized and was not considered a crime at that time also. Women are expected to follow their husband's order with respect. She was regarded only a muse in her husband's hands, and she was also obligated to do all the work which was ordered from the male counterpart. Marital rape was considered a rare occurrence and spouses often did not report it, believing it was their fate. It was regarded a woman's obligation to do all of the activities requested by the husband, and from the husband's perspective, it was her duty, while the husband had the inherent and legal right to humiliate his wife in any manner.

However, the husband's sexual orientation was an easy target, and if a wife did not comply, she was then accused of disobeying the husband's will and wishes, which was seen unacceptable. If the wife did not agree to any sexual conduct, she was held accountable and abused in society. There was no mention of consent, and whether she agreed to sexual conduct was irrelevant. Marriage implied that she had given her agreement to all of her husband's actions and had accepted all of his tortures and those of his family members. Domestic abuse events were overlooked, but marital rape was not recognized as a legal offense. During that

period, there was no legal recourse for the woman, and no prosecution if the husband was accused of marital rape against his wife. Since the act was not considered as rape, it was only a private problem that was expected to be settled by the family alone, and no legal provision or redressal was available.

Furthermore, after debating the legality of cohabitation, the framers proposed a new concept of marital rights. They argued that if cohabitation is not permitted, the purpose of marriage and heirs would be mismanaged as well as hindering societal growth. If a husband is unable to engage in sexual intercourse with his wife, it undermines the purpose of marriage and cannot be considered a crime. It was determined that he had the right to engage in sexual intercourse with his wife. However, after receiving several public condemnations, it was determined that a forceful act could not be undertaken since it would imply demeaning his own wife. However, the lawmakers and framers provided another definition, stating that marital privacy is something that the state should not interfere with. They focused on the fact that the marital relationship is intimate and private, and no one can enter it.

b) During 1970s

Following the discussion on marital privacy, the government clarified that it is not a specific area that should be regulated by legislation. The government did not believe that legislation should be enacted to address specific issues such as marital rape. The state also opposes separate legislation due to lack of proof. Another factor impeding the legislature's ability to enact marital rape legislation was gender prejudice. They were more concerned with male patriarchy than with feminine issues. During this era women activities sought to raise awareness and held several campaigns in order to effect change in women's living circumstances. They strove to enhance women's standing in a male-dominated culture but were unable to make a significant effect. Despite little awareness of legal and human rights, women began to focus on themselves telling their experiences and raising their voices.

c) In 1993

After addressing worries about sexual assault to women's, several countries have implemented Legislation against marital rape. In the United States, more than 50 states prohibited marital rape and began to recognize as an offence. During this year it has been seen as an extraordinary start to the challenges experienced by women, and it is regarded as one of the finest years when

women were at least heard of for the violence that occurred. But in India there was still lack of recognizing of marital rape as an offence.

d) In 1994

Despite the challenges, this year saws the modest progress including the implementation of new legislation. The acts marked a new beginning in the globe, with women's voices heard and actions taken to their advantage. The violence against women act of 1994 in United States marked a new era of justice for women victims of atrocities committed by males and their families. Although the violence did not contain the term and idea of marital rape, it did address sexual violence and domestic unpleasant conduct by the groom's family, which aided the ladies and resulted in justice. Here also in India, the law for protection of rights of woman's were absent.

e) During 2000s

In this era, Indian Government also identifies the violence against woman's and enacted the law in 2005 known as Domestic Violence Act, 2005, while in this statute the term marital rape was still undefined. The legislation in this statue includes violence or sexual assault inside marriage. The statute includes sexual force and use of force, but not marital rape. However, victims were still able to complain and get justice based on the existing provisions.

Throughout history, marital rape was never recognized, but after seeing the situations of young and innocent women, politicians were persuaded to enact some kind of legislation, if not precisely marital rape.

After this statute, Indian Government enacted many laws relating to the protection of rights of woman's i.e. Sexual Harassment of Women at Workplace Act, Prohibition of Child Marriage Act 2006, Hindu Succession (Amendment) Act 2005 [Recognized the right to daughters in copacenary property], Criminal Law (Amendment) Act 2013 and 2018, Maternity Benefit (Amendment) Act 2017 etc. but none of the Act Deals with the criminalizing Marital Rape, as this discussion is discussed in today's era.

- **Causes of Marital Rape**

Rape is an act of violence that comes not from a man's physical strength, but from a patriarchal

belief that males have greater social power than women, which is reinforced by laws that justify male dominance. In respect of this, the causes of marital rape are as follows: -

a) Narrow Mindset

Marital rape typically happens when a husband sees his wife as an object to meet his needs, rather than an equal partner with liberty. This misunderstanding perception is reinforced by societal norms that favor male authority in relationships while downplaying the necessity of consent.⁶

b) Release of Frustration

In today's society, the escalation of rivalry in numerous fields has caused increased stress and dissatisfaction for many people. The constant search of achievement, along with economic constraints and cultural expectations, often results in an atmosphere in which individuals face insurmountable problems. Unfortunately, some people use unethical and immoral methods to deal with their frustrations throughout these circumstances.⁷ It is disheartening to observe that, in certain cases, marital rape has been recognized as a means of releasing dissatisfaction.

c) Satisfaction of Dowry Demand

Marital rape is a heinous conduct that violates a person's consent within the context of marriage. While it is true that in certain cases, especially in communities where dowry traditions exist, marital rape may be used to impose dowry demands, it is critical to realize that such acts are founded in very problematic cultural and gender dynamics. Dowry-related marital rape highlights the problem of treating women as commodities, with their consent and well-being ignored.

d) Lack of Awareness and Education

The Lack of Awareness and Education about consent and good relationships may provide a bad environment for marital rape, since people may have a limited grasp of the important components that characterize consensual intercourse within marriage. A lack of knowledge

⁶ Melba Kuriakose, *Attitudes towards Marital Rape: A Cross-Cultural Study between Young Adults in the United Kingdom and India* 7 IJIP 309 (2019)

⁷ Saif Rasul Khan, *Marital Rape: The Bitter Truth*, 2 IJLLJS 5 (2019)

may make it difficult to recognize and respect limits within a marriage. Individuals who lack a thorough grasp of good relationships and open communication may unintentionally violate their spouse's autonomy and well-being.⁸

e) Absence of Family Support

The absence of family support for victims of marital rape in India is a key and concerning aspect leading to the spread of this problem. Family, as a core social unit, has a significant impact on individual experiences and reactions to incidents of abuse in the marriage context.

When victims do not get enough assistance from their family, a number of negative outcomes may occur. Lack of family support may normalize abusive behavior within the marital relationship. Also, without a safe environment to communicate their experience, people may struggle with the emotional and psychological effects of marital rape alone, leading to feelings of powerlessness and despair. The fear of being shunned or blamed by family members may exacerbate victim's distress, limiting their capacity to seek help or intervention.⁹

f) Fear of Society

The fear of social consequences and probable violence aimed at victims of marital rape in India is a key and unpleasant aspect contributing to the rise and continuation of this deeply ingrained problem. Fear might lead to a tendency to remain silent. Victims are typically hesitant to discuss their traumatic experiences for fear of social shame and condemnation, the cultural expectations around marriage may create a climate in which individuals who speak out face public condemnation, leaving victims to cope with their misery alone.

Initiatives to challenge cultural norms, raise knowledge about the frequency and consequences of marital rape, and provide supportive environment are critical.

• Characteristics of Marital Rape

The characteristics of marital rape are as follows: -

⁸ bell hooks, *The Will to Change: Men, Masculinity, and Love* 66–69 (2nd Ed. Washington Square Press 2004)

⁹ Padma Bhate, *Women's Experiences of Marital Rape and Sexual Violence within Marriage in India* 29 TFIJ 56 (2022)

a) Numerous Names

Marital rape is a very upsetting phenomena that goes by several names across the globe. It is also known as partner rape, spousal rape or intimate partner rape, with each word emphasizing the link between the offender and the victim within a married or intimate relationship.

The employment of these various titles emphasizes the issue's worldwide character, which transcends geographic borders and cultural differences. While the nomenclature may vary, the core problem remains the breach of consent and the critical necessity for society to recognize, treat and prevent such types of intimate violence within relationships.

b) The scope is narrow

Marital rape has a tighter meaning and scope than the larger idea of rape, since it only entails non-consensual sexual actions inside the bounds of a lawful marriage. The phrase "marital rape" suggests that the attacker is a spouse, usually a husband, and the victim is a woman. This narrow definition differentiates marital rape from other types of sexual assault that may occur outside of marriage. If a sexual attack occurs in a relationship that is not legally recognized as marriage, it is not considered marital rape. Essentially, marital rape is a subset of a larger problem of rape.¹⁰

c) The nature is universal

Marital rape is a worldwide occurrence that exists throughout nations, communities and historical eras. Non-consensual sexual behaviors inside marriage are not restricted to certain countries or cultures, but are a common feature of the human experience across the globe. Marital rape is a widespread problem that affects all countries and cultures. While knowledge and legal acknowledgement may differ, the underlying violation of personal autonomy within the institution of marriage is a universal component of the human experience. According to the world health organization, over 30% of women worldwide have suffered physical or sexual assault from, an intimate relationship. This demonstrates involves forced sexual behaviors throughout marriage. The universality of marital rape is not just anecdotal, but also supported by cross-national health and rights statistics.

¹⁰ Susan Moller Okin, *Justice, Gender, and the Family* 22–26 (Basic Books 1989).

d) No Uniform Laws

The legal recognition of marital rape varies greatly throughout the world. In certain nations, marital rape is illegal, recognizing the significance of consent within the confines of marriage and regarding it as a severe crime. However, in some countries, marital rape may not be officially criminalized, typical owing to deeply ingrained cultural attitudes or legal systems that formerly saw marriage as an exception to sexual consent requirements. Furthermore, even in nations where marital rape is considered a crime, the degree of penalty varies greatly. Some countries have harsher sanctions for marital rape, while others may have lenient law. This dramatic variation in legal methods highlights the complexities and evolution of society views toward intimate partner abuse, as well as the continuing worldwide discourse aimed at obtaining more uniform and effective legal safeguards for victims of marital rape.¹¹

e) Victim suffers physical injuries

Victims of marital rape may suffer a variety of bodily injuries as a consequence of the non-consensual and sometimes violent nature of the crimes committed against them. Research published in clinical journal of interpersonal violence found that frequent abuse may lead to more severe physical results, especially in partnerships where the victim lacks the ability to leave or seek legal help. These injuries might include bruises, abrasions, lacerations and fractures. The severity of injuries varies according on the level of force utilized during the attack. In certain situations, victims may suffer internal injuries, such as reproductive organ damage, which may have long-term ramifications for their health. Stress and dread from marital rape may lead to physical symptoms such as headaches, gastrointestinal difficulties and sleep disruptions.

f) Mental Injuries

Marital rape causes deep emotional trauma to victims that go beyond the physical pain produced by the consensual actions. According to 2020 research by amnesty international, the legal acceptance of marital rape in numerous Asian nations directly contributes to survivors who retreat from seeking care. Survivors have more challenges in psychological rehabilitation than victims because to lacks of public conversation and social cleansing. The emotional and

¹¹ Dr. Sanjay Sindhu, *Critical Evaluation of the Legality of Marital Rape in India: An Overview*, 11 KLJ 23 (2020)

psychological consequences of marital rape may be severe and long-lasting. Survivors often have mental issues including as anxiety, despair, PTSD and feelings of betrayal and violation. Trauma in an intimate connection, where trust and safety should prevail, may leave long-term emotional scars that damage the victim's entire well-being. Stigmatization and cultural unwillingness to admit marital rape may exacerbate these psychological scars, heightening feelings of isolation and humiliation.¹²

g) Violation of human right

Marital rape, at its heart, is a serious violation of the victim's fundamental human rights. The fundamental tenet of human rights philosophy is that every person has an inherent and is that every person has an inherent and inalienable right to bodily autonomy, dignity and freedom from all forms of violence or compulsion. International declarations and agreements recognize the universality of rights across cultures and communities. Marital rape breaches the victim's personal security and bodily integrity while also challenging the human rights framework that protects persons from damage.¹³

h) Lack of Helpline Number

There are various hotline numbers created to assist victims of rape, but there is a significant void in terms of specialized assistance line expressly designed for survivors of marital rape. Victims of marital rape may face specific problems, such as the difficulties of confronting abuse in an intimate environment and possible hurdles to obtained treatment owing to cultural stigmas connected with private affairs. Help lines dedicated to addressing the complexities of marital rape may provide specialized aid, information and a safe venue for survivors to share their stories. Such helplines may play an important role in shattering the share their stories. Such helpline may play an important role in shattering the silence around this kind of intimate partner abuse by providing resources and linking survivors to appropriate support networks, counselling services, or legal aid.¹⁴

• Landmark Judgement

The Landmark judgements of different courts on marital rape are as follows: -

¹² Shyam Prakesh Pandey, *Changing Dimensions of Institution of Marriage in India*, 4 IJLMH, 66 (2021)

¹³ Deborah Kim, *Marital Rape Immunity in India: Historical Anomaly or Cultural Defence*, 69 JCLSCE 94 (2018)

¹⁴ Neeraj Malik, *Marital Rape Laws and Women Security in India: A Critical Analysis*, 4 GJRA 133 (2015)

a) Usha Badri Poonawala v. K. Kurian Babu¹⁵

The Bombay High Court gives the remarkable judgement in this case, by exploring the complexity of marital relationships and individual rights within marriage. The High Court stated that marital rape is a serious problem which is equivalent in severity to domestic violence and dowry killings and should not be pushed to the margins of society standards. In this judgement the court emphasizes marital rape as a crime against women, acknowledging it as a breach with all the characteristics of criminality. The court also agrees that marital rape is a serious form of gender discrimination against women in India, including both mental and physical violence. The Bombay High Court was crucial in forming the discussions around the need for judicial remedy and public awareness of this prevalent problem. This important ruling helped shape the narrative on women's rights and the need for legislative changes in the area of marital relationship in India.

b) Nitin Kumar Tomar v. The State Govt. of Delhi¹⁶

In this case the Delhi High Court denied anticipatory bail to a spouse accused of sexual assault, raising serious concerns about the social attitude that considers marriage as a justification for sexual violence.

c) Mrs. Pragati Varghese & Etc. v. Cyril George Varghese & Etc.¹⁷

The court emphasized that marital rape is a destructive practice that is strongly ingrained in families and continues behind closed doors. Marital rape, unlike external dangers undermines the family's purity from inside. The decision emphasized that marital rape is a kind of violence against women that manifests in a variety of ways, including physically, sexually and mentally. The court found that this multifarious violence causes severe damage to women and must be treated with the utmost severity.

d) Nimisbhai Bhartibhai Desai v. State of Gujarat¹⁸

The main issue in this case was whether a husband coercing his wife into oral sex constituting

¹⁵ (AIR 2002 BOM 292)

¹⁶ BAIL APPLN. 2833/2023

¹⁷ AIR 1997 BOM 349

¹⁸ 2018 SCC OnLine Guj 732

rape and was punishable under section 376 of Indian Penal Code.

The Gujarat High Court had addressed the problem of marital rape in this case. The court stated that making marital rape criminal offence will eradicate the harmful attitudes that encourage such behavior. The court also ruled that the husband could only be held liable for outraging his wife's modesty and engaging in unnatural intercourse, since marital rape is not recognized as a crime under Indian Law. The court noted that the notion has not yet made marital rape a criminal offence owing to concerns among legislators that it would undermine the institution of marriage and may be utilized by women to file false cases against their husbands. Although marital rape is the same as rape perpetrated by a husband against his wife, the law now interprets it differently. Husbands who physically attack their wives face assault charges under the IPC. However, if the same husband coerces his wife into sexual intercourse, he will only be charged with assault under the framework of a lawful marriage and not rape.

e) Joseph Shrine v. Union of India¹⁹

In this Landmark Judgement of Supreme Court, the court decriminalized adultery recognized that treating a woman as a property of her husband violates her autonomy and dignity under Article 14, 15 and 21 of the Constitution of India. This case highlights the significance of human choice and physical integration in intimate relationship, challenging established legal frameworks that prioritize patriarchal power and marital control.

f) Hrishikesh Sahoo v. State of Karnataka²⁰

In this case the Karnataka High Court has taken a huge step by permitting a spouse to be punished under section 375 of the IPC. The court said that the exception of marital rape cannot be viewed as the absolute norm with no exceptions. While condemning the provision, the court said that harsh acts of sexual assault on his wife without her consent cannot be classified as anything other than rape. Justice M. Nagaprasanna who delivered the judgement quoted that "A man is a man, an act is an act, rape is a rape, be it performed by a man the husband on the woman wife".

¹⁹ AIR 2018 SC 4898

²⁰ 2022 SCC OnLine Kar 371

g) X v. Principal Secretary and others²¹

In this case, the supreme court has taken a small but significant step toward criminalizing marital rape. The court determined that rape refers to any forced sexual intercourse, regardless of whether it occurs inside or outside of marriage. Unwanted pregnancy may occur regardless of the marital relationship. Intimate relationship abuse, including rape is an unfortunate reality that cannot be disregarded. The principle of consent does not take a complete 180- degree flip just because the women is married. As a result, the court accepted that rape may be perpetrated by a spouse and that even the wife should be able to terminate her pregnancy due to sexual assault or rape.

h) Kavita v. State of Haryana²²

This case addresses the subject of marital rape and the necessity for legal protection for women in violent marriage. In this case, the Punjab and Haryana High Court ruled that the provision in the IPC that exempt a spouse from rape charges was discriminatory and should be examined.

The above mentioned all cases gives the evidence that due to absence of law and exception 2 of section 375 of IPC makes this clear that marital rape is a grave area where parliament need to make a separate law to give justice to all women who suffered from marital rape and to all those women's who would suffer from marital rape in future.

- **Suggestions**

The following can be suggestions for criminalizing marital rape in India are as follows: -

- a) Criminalize marital rape and repeal the exception 2 of Bhartiya Nyaya Sanhita, 2023
- b) To make proper statute to criminalize marital rape with property safety that it cannot be misused
- c) Recognizing consent as a vital aspect of marriage
- d) Promoting understanding of physical autonomy, dignity and gender equality

²¹ 2022 SCC OnLine SC 1321

²² 2022 SCC OnLine P&H 1439

- e) Organizing the gender sensitization courses in schools, colleges and workplaces
- f) Providing the specific training to police officials, judges and medical experts to properly handle instances of marital rape
- g) Strengthen victim assistance mechanisms including counselling centers, legal aid, helplines and rehabilitative programs
- h) To ensure timely investigation and fair trial systems in situations of sexual assault inside marriage
- i) To encourage study, policy discussion and public debate on marital rape and women's rights
- j) To encourage Equality and respect in marriage based on mutual agreement and understanding.

- **Conclusion**

Marital rape is still one of the most challenging and unsettled topics in the Indian judicial system. Marriage is a holy institution based on trust, love and mutual respect and it cannot be exploited as a tool to take away a woman's basic right to bodily autonomy and dignity. Any sexual connection is based on consent. Marriage does not give license or permanent or absolute permission to have sex. The ongoing presence of the marital rape exemption exposes the patriarchal views that have traditionally seen women as the property of their husbands rather than as persons with equal rights.

The constitutional and judicial interpretations have been slowly recognizing the significance of equality, privacy and personal liberty under Article 14, 19 and 21 of the constitution of India. Various important cases have underscored the need to defend the dignity and autonomy of a woman irrespective of her marital status. However, the lack of a particular legal recognition of marital rape still leaves married women unprotected from sexual assault in marriage.

Legal change, societal awareness and gender sensitization are required on the part of marital rape. Criminalizing marital rape would not damage the institution of marriage but would reinforce the concept that marriage is founded mutual respect and agreement. Thus, there is an

urgent need for the legislation to be amended in consonance with constitutional morality, human rights and evolving social norms to provide fairness and protection to all women.