
MARITAL RAPE AND GENDER EQUALITY UNDER INTERNATIONAL HUMAN RIGHTS LAW

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ABSTRACT

India's stance on marital rape continues to be a significant human rights issue, influenced by intricate legal, cultural, and societal dynamics. Despite the global consensus that spousal rape constitutes a severe form of sexual abuse, India has yet to criminalise it under Section 63 of the Bhartiya Nyay Sanhita, 2023.¹ The absence of specific legislation on marital rape perpetuates patriarchal ideologies that allow husbands to exercise unrestricted sexual control over their wives, thereby eroding women's bodily autonomy, dignity, and equality within marriage.

This article examines the legal status of marital rape in India by delving into its cultural and historical context, and assessing the societal beliefs that justify and sustain such abuse. The strong social stigma attached to marital rape often deters survivors from pursuing legal recourse, leaving them socially marginalised and legally unprotected. Furthermore, the paper discusses recent debates on the need for criminalisation, the efforts of civil society, the importance of legislative action, and the emerging cultural shift that emphasizes consent as the fundamental principle in all marital and sexual relationships. To ensure justice for survivors and address the deeply entrenched gender disparities that enable marital rape, Indian law must be brought into conformity with universally accepted human rights standards. This necessitates a multidimensional approach involving legal reform, widespread public education, and the establishment of comprehensive support mechanisms for survivors. The criminalisation of marital rape constitutes an essential prerequisite for the advancement of gender justice and the cultivation of a societal framework grounded in the principles of dignity, equality, and universal human rights.

Keywords: Marital rape, gender equality, international human rights, legal system in India.

¹ Chhibbar S, *Sexual Violence in Private Space: Marital Rape in India* (Torkel Opsahl Academic EPublisher 2016).

INTRODUCTION

Marital rape refers to sexual intercourse forced by a husband without his wife's consent. It constitutes a form of sexual violence that violates a woman's right to bodily autonomy and dignity. Globally, marital rape is widely acknowledged as a serious human rights violation and is criminalised in the legal systems of most countries. However, in India, there is a significant legal gap, as the act is not explicitly criminalised within the framework of existing laws. Notably, Section 63 of the Bhartiya Nyay Sanhita, 2023, which defines and penalises rape, includes an exception that effectively legitimises marital rape when the wife is over 18 years of age, thereby undermining the protection of women's rights within marriage.²

The absence of legal recognition for marital rape is deeply influenced by longstanding patriarchal ideologies that consider marriage a sacrosanct institution in which a wife's consent is presumed, and her status is deemed inferior to that of her husband. Marital rape in India emerges as a complex issue involving legal inadequacies, cultural norms, and human rights violations. The existing legal framework largely fails to extend the same protection against sexual violence to married women as it does to their unmarried counterparts. This legal disparity is reinforced by idealised cultural portrayals of marriage and the persistence of patriarchal gender expectations, which collectively contribute to the oppression and silencing of women who experience sexual violence within marriage. As a result, victims not only endure physical and psychological suffering but are also burdened with social stigma, exclusion, and limited access to justice. Although civil society efforts and public discourse on the issue have intensified, the Indian government has been notably slow in enacting legal reforms to criminalise marital rape.

A common argument put forth by policymakers is that criminalising marital rape could threaten the integrity of the marital institution and potentially lead to an increase in false accusations. However, such a viewpoint neglects the central concern of consent and fails to acknowledge a woman's fundamental right to bodily autonomy, irrespective of her marital status.

² Bergen RK, *Wife Rape: Understanding the Response of Survivors and Service Providers* (SAGE Publications 1996).

INDIAN LEGAL FRAMEWORK AND THE ONGOING STATUS OF MARITAL RAPE

The legal stance on marital rape in India remains highly debated and complex, deeply influenced by patriarchal and traditional views on gender and marital dynamics. Under the current legal framework, marital rape is not criminalised, largely due to a specific exemption within the Bharatiya Nyaya Sanhita (BNS). While Section 63 of the BNS outlines the definition of rape, Exception 2 excludes from its purview any non-consensual sexual act by a husband with his wife, as long as she is over 18 years of age. This exemption essentially legalises marital rape and denies married women any legal protection against sexual abuse by their husbands.

Marital rape in India is rooted in colonial-era legislation that was heavily influenced by English common law, which historically did not acknowledge the possibility of rape within marriage. The legal assumption was that marriage implied a wife's perpetual consent to sexual relations, a notion that continues to dominate Indian legal thinking. This outdated principle stems from a patriarchal belief system that treats marriage as a transfer of property rights over a wife's body, effectively negating the necessity of her explicit consent to sexual acts.

India's legal framework offers limited safeguards to women facing sexual violence within marriage. The Protection of Women from Domestic Violence Act (PWDVA), 2005, provides some recourse by allowing women to seek civil remedies, such as protection and residence orders, against abusive spouses.³ However, the Act does not criminalise marital rape and primarily addresses broader forms of domestic abuse, including emotional, physical, and economic violence.

Indian legal and judicial institutions have long grappled with the issue of marital rape. The Justice J.S. Verma Committee, established following the 2012 Delhi gang rape incident, strongly recommended the criminalisation of marital rape, emphasising that the principle of consent must remain valid within marriage. The committee's report criticised the legal exception for marital rape, asserting that it violates women's constitutional rights. However, Indian authorities have been reluctant to implement this recommendation, largely due to concerns that criminalising marital rape could undermine the institution of marriage and lead to an increase in false allegations.

³ Protection of Women from Domestic Violence Act 2005.

India's legal stance on marital rape, though limited, holds significant potential to challenge spousal sexual violence and serve as a catalyst for gender justice and the protection of human rights. This section unpacks the legal provisions currently in place and offers insight into how the Indian legal system views and navigates the complex issue of marital rape.

The Bharatiya Nyaya Sanhita (BNS), which came into effect on 1st July 2024, forms the core of India's legal structure dealing with sexual offences. Section 63 of the BNS defines rape as non-consensual vaginal intercourse under specified circumstances. However, it includes an exception stating that sexual intercourse between a man and his wife, if she is above 18 years of age, does not constitute rape. This provision reflects the outdated belief in implied consent within marriage and fails to recognise consent as an essential aspect of every sexual relationship. The exception has drawn significant criticism for reinforcing patriarchal norms and weakening the bodily autonomy and agency of married women. It disregards the fundamental principle that consent must be clear, ongoing, and freely given, even within the context of marriage, thereby undermining the broader ideals of gender equality and individual rights.

The absence of a specific law criminalising marital rape in India has been a significant cause for concern. However, it is important to note that certain provisions under the Bharatiya Nyaya Sanhita (BNS) can be applied to address instances of non-consensual sex within marriage. This provision, which specifically deals with cruelty by a husband or his relatives, may be utilised in cases where sexual abuse within a marital relationship is deemed to constitute legal cruelty.⁴

Indian courts have played a significant role in interpreting and applying existing laws related to marital rape. The judiciary has acknowledged the importance of consent within marriage and has recognised that non-consensual sexual acts may constitute an offence under the Bharatiya Nyaya Sanhita (BNS). Judicial decisions have sought to uphold the rights of wives within marriage and to provide a legal avenue for addressing sexual violence in marital relationships.

Despite these developments, the lack of a specific law criminalising marital rape, combined with inadequate response and low prosecution rates, remains a major concern. The

⁴ Bhartiya Nyay Sanhita, s85.

absence of explicit legal recognition contributes to under-reporting, societal stigma, and challenges in proving non-consensual sexual acts within marriage. In recent years, there have been growing demands for legislative reforms to explicitly criminalise marital rape in India, with emphasis on the need for legal recognition, protection, and compensation for victims. Recognising marital rape as a criminal offence is increasingly viewed as a crucial step toward achieving gender equality, ensuring bodily autonomy, and affirming every individual's right to refuse sexual activity, regardless of their marital status.

Section 63 of the Bharatiya Nyaya Sanhita (BNS) excludes forced sexual intercourse by a husband with his wife over the age of 18 from the definition of rape. In contrast, Section 67 of the BNS criminalises sexual acts committed by a husband who is living separately from his wife.

- Section 63 of the BNS does not consider forced sexual intercourse by a husband with his wife over the age of 18 as rape.⁵
- Section 67 of the BNS prescribes punishment for sexual acts committed by a husband who is separated from his wife. The offence is punishable with imprisonment for a minimum of 2 years, which may extend up to 7 years.⁶

MARITAL RAPE WITHIN THE FRAMEWORK OF GENDER JUSTICE

Marital rape brings to the forefront critical concerns surrounding gender equality and the protection of women's rights within the institution of marriage. This section explores how marital rape intersects with gender dynamics, power structures, and systemic inequality.⁷ At its core, marital rape is rooted in deeply entrenched patriarchal norms and unequal power relations, which have historically positioned women as subordinate and treated their bodies as the property of their husbands.

Laws addressing marital rape aim to dismantle these oppressive structures, reinforcing the essential principle that consent is a foundational element of any sexual relationship, regardless of marital status. The persistence of marital rape perpetuates gender inequality by

⁵ Bhartiya Nyaya Sanhita, s63.

⁶ Bhartiya Nyaya Sanhita, s67.

⁷ *UN Women*, 'Ending Violence Against Women' (2020) <https://www.unwomen.org/en/what-we-do/ending-violence-against-women> accessed 12 June 2025.

disregarding women's bodily autonomy and personal agency. It effectively strips women of control over their own bodies and upholds the outdated belief that consent is unnecessary within marriage. Denying sexual autonomy to women in marital relationships reinforces traditional gender roles, compelling women to prioritise their husbands' desires over their own rights and choices.

Recognising marital rape as a violation of women's human rights is essential to achieving true gender equality. It affirms that women have the right to refuse sexual activity, including within marriage, and that such decisions must be made freely and with full consent, deserving of complete respect. The criminalisation of marital rape reflects a society's commitment to upholding gender equality and protecting women's rights. Furthermore, such legislation acknowledges the intersection of gender with other identities such as class, race, and religion. Women from marginalised communities often face compounded vulnerabilities, as they encounter additional obstacles in accessing justice and protection in cases of marital rape. The impact of marital rape and gender-based violence is disproportionately severe for these women, deepening existing inequalities and reinforcing systemic discrimination.

A global comparative analysis of legal systems underscores the critical need to recognise marital rape as a human rights violation and a key obstacle to achieving gender equality. International frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), advocate for the principles of consent, bodily autonomy, and equality within marriage. These agreements urge member states to reform their legal systems to criminalise marital rape and to provide holistic support for survivors.

Addressing marital rape effectively demands a comprehensive strategy that includes legal reforms, public mobilization, and a shift in societal norms and attitudes. While criminalisation is an essential step toward gender justice, it must be accompanied by initiatives in education, awareness, and the provision of support services. These efforts are crucial in dismantling gender stereotypes, promoting the centrality of consent, and empowering victims.

Marital rape is closely linked to systemic gender inequality and the denial of women's rights within the marital framework. It must be explicitly recognised as a violation of human rights. Criminalising marital rape is a foundational step in the pursuit of gender justice. Through challenging entrenched patriarchal norms, affirming the significance of consent, and empowering survivors, society can take meaningful strides toward achieving equity and justice

for all individuals.

HISTORICAL EVOLUTION AND CULTURAL FOUNDATIONS OF MARITAL RAPE

Marital rape continues to persist in India, even though it faces widespread international condemnation, due to its deep roots in the nation's historical and cultural traditions. Conventional views on marriage, gender dynamics, and sexual relations have played a pivotal role in shaping legal interpretations and social norms, ultimately contributing to the acceptance and normalization of forced sexual acts within marriage.

Origin and Historical Perspective: India's legal approach to marital rape is deeply rooted in colonial-era legal traditions, particularly those derived from British common law. A significant influence was the 18th-century doctrine of coverture, which denied married women a separate legal identity from their husbands. This principle was applied in colonial India, where marriage was assumed to establish continuous and irrevocable consent to sexual relations. As a result, non-consensual sex within marriage was not recognised as a criminal act. The concept of implied consent in marriage was a common legal standard across many jurisdictions at the time, and Indian law adopted this presumption- an enduring belief that still impacts legal interpretations in the present day.⁸ Over time, British law reformed many of its outdated provisions and eventually criminalised marital rape in the 1990s. In contrast, Indian law has seen minimal progress in this area. The continued existence of the marital rape exception in Indian legal provisions reflects a lingering influence of colonial-era legislation, now reinforced by conservative social norms that have hindered meaningful legal reform in the country.

Cultural and Religious Foundations: In India, the understanding of marriage is heavily shaped by cultural, religious, and traditional ideologies. Hinduism, followed by the majority of the population, regards marriage as a sacred and spiritual union. This belief system often imposes a moral duty on wives to comply with their husbands' wishes, including sexual expectations, without resistance. Rituals such as the saptapadi- the seven vows taken during Hindu weddings- reinforce the idea of a wife's obedience and submission to her husband.

Patriarchal values are further legitimised through ancient scriptures like the Manu Smriti, which place women in a subordinate position and uphold the notion that men have

⁸ Brownmiller S, *Against Our Will: Men, Women, and Rape* (Ballantine Books 1993).

control over their wives. These texts emphasise the sanctity of marriage while undermining women's bodily autonomy and individual rights. Such ideologies remain deeply rooted, especially in rural parts of the country, where traditional gender roles persist and the concept of a wife's sexual independence is still widely resisted.

EMOTIONAL AND MENTAL CONSEQUENCES OF MARITAL RAPE ON WOMEN

Marital rape remains one of the most under reported forms of violence experienced by women. Countless instances occur across the country, yet many go unreported or are deliberately concealed. For a long time, governments showed little interest in addressing such issues within marriage.

Historically, rape within marriage was not treated as a serious offence, largely due to the perception of women as property or objects owned by their husbands. Since the perpetrator was often the legally recognised spouse rather than a stranger, the crime was viewed with less severity. This issue is particularly widespread in developing countries, where reported cases far exceed those in nations like the United States or the United Kingdom. Equality theory focuses on determining whether men and women have equal access to resources and opportunities. It examines the roles, contributions, and benefits each gender brings to society and how these factors support their ability to function together as a cohesive unit. As women move closer to achieving equality, men often feel threatened and may seek ways to hinder their progress or limit their advancement.

In India, some men have used sexual assault and marital rape as a means of retaliating against women's pursuit of equality and independence. Whenever they perceive a threat to their dominance, they may resort to degrading women in an attempt to reassert control. Women who experience domestic violence often endure severe psychological distress, and the trauma of marital rape can significantly impact their mental health and cognitive well-being.

MARITAL RAPE AS A VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW

The following sections describe the key fundamental rights violated by the offence of marital rape. This crime not only breaches essential human rights such as the right to life, liberty, personal security, equality before the law, and protection from discrimination, but also contravenes peremptory norms of international law, including those recognised by the

Committee Against Torture.

Marital rape further infringes upon rights that are central to an individual's autonomy and dignity, including the right to equality within the family and the right to health. It also violates a wider range of rights protected under national laws, regional human rights instruments, and decisions of international and domestic courts. These include the right to access justice, sexual autonomy, respectful and humane treatment, personal safety, privacy, mental and physical integrity, bodily autonomy, reproductive freedom, and overall well-being.⁹

The United Nations has consistently emphasised that violence against women, whether it occurs in private or public spheres, undermines or denies their human rights and impedes their ability to exercise fundamental freedoms. The CEDAW Committee has explicitly affirmed that gender-based violence either limits or entirely strips women of these essential rights. These rights are embedded in major international human rights treaties to which the majority of states are signatories. The primary global instruments for the protection of human rights include the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These human rights treaties impose obligations on states to regulate the behaviour of individuals acting under their authority.

Like many other human rights violations, marital rape is not explicitly mentioned in international legal instruments. However, treaty bodies such as the CEDAW Committee have interpreted these rights to encompass a prohibition on marital rape, as discussed in the previous section. By becoming parties to these conventions, states accept the authority of treaty bodies, which have the power to guide state compliance through general comments and recommendations that clarify the scope of rights and obligations. The current focus is on identifying the specific and fundamental human rights that are breached in instances of marital rape.

⁹ Organization WH, *Sexual Health, Human Rights and the Law* (2015) .

PROTECTION AGAINST TORTURE AND INHUMANE OR DEGRADING PUNISHMENT

Rape and domestic violence are recognised as violations of the right to be free from inhuman or degrading treatment or punishment. The Committee Against Torture has clarified that acts of rape or gender-based violence, even when committed by private individuals, can constitute breaches of the Convention Against Torture if the state is complicit through tolerance or inaction. Marital rape qualifies as an act of torture under Article 1 of the Convention Against Torture because it inflicts severe pain and suffering, is carried out for unlawful purposes such as coercion, intimidation, or discrimination, and is often permitted or ignored by state authorities.

The Convention Against Torture does not require both physical and psychological harm to be proven for an act to be classified as torture. Since marital rape is deliberately inflicted and causes serious physical and emotional trauma, it falls within the definition of torture under international human rights law.¹⁰

Under international criminal law, rape committed by private individuals can be considered a form of torture or cruel, inhuman treatment if it is tolerated or encouraged by the state. There is a distinction between international criminal law, which focuses on the responsibility of individuals, and international human rights law, which deals with state accountability. Despite these conceptual differences, both fields of law universally and unequivocally condemn rape as a form of torture. International legal frameworks stress the obligation to criminalise rape committed by non-state actors. A state fails its duty of due diligence when it does not prevent, investigate, punish, or provide remedies for acts of gender-based violence. The state also violates this obligation when it permits, supports, or turns a blind eye to such acts by non-state actors, thereby allowing impunity and undermining the Convention's protections.

The General Comment asserts that the state bears responsibility when it fails to prevent or respond to unauthorised acts of violence, including marital rape, and such inaction is interpreted as implied consent or approval. When a state demonstrates indifference or fails to

¹⁰ Torres MG, "Reconciling Cultural Difference in the Study of Marital Rape," *Marital Rape* (Oxford University Press 2016) <<https://doi.org/10.1093/acprof:oso/9780190238360.003.0001>> accessed June 13, 2025.

intervene, it is seen as providing encouragement or de-facto permission for these crimes to continue. Therefore, the failure to criminalise marital rape is not merely a legislative gap but a form of state-sanctioned tolerance toward such abuse. The Committee Against Torture has specifically identified women as a social group particularly vulnerable to acts of torture committed by private individuals, especially within the home. It has noted that women are at risk in various contexts, including during the deprivation of liberty, medical treatment involving reproductive decisions, and gender-based violence occurring in private and community settings.

The Torture Convention obligates State Parties to safeguard women who are at risk of domestic violence and rape by implementing effective preventive and protective measures. It also requires states to actively investigate and prosecute all acts of violence and abuse. The Committee Against Torture emphasises the broad scope of state responsibilities, particularly because women, as a social group, are especially vulnerable to violence in intimate relationships. These obligations include enacting legislation that explicitly criminalises acts of torture, in line with the standards set out in Article 4 and the definitional elements outlined in Article 1 of the Convention. Furthermore, states must ensure that legal frameworks contain no gaps or exceptions that allow perpetrators to evade accountability. Given that marital rape can constitute an act of torture, the Convention mandates that such conduct be subject to criminal penalties under national law.

Safeguarding the Right to Life: Domestic violence, also referred to as intimate partner abuse, is recognised globally as a major contributor to death and disability among women. In extreme cases, such as honour killings, women are deliberately murdered for allegedly violating religious, familial, or societal norms. In many cultures, one of these entrenched norms is the belief that a man holds inherent sexual rights over his wife or partner.

Marital rape leads to serious health complications, including miscarriage, fistula, urinary tract infections, and life-threatening sexually transmitted infections such as HIV. Even in societies where there may be no overt expectation to sexually satisfy one's partner, the fear of marital violence can compel women to engage in non-consensual sex. In extreme cases, marital rape has been linked to instances of spousal homicide, where husbands kill their wives under the pretext of honour or crimes of passion, often without facing legal consequences.

The right to life is a fundamental international human right enshrined in treaties such as Article 6 of the International Covenant on Civil and Political Rights (ICCPR). The Human Rights Committee has explicitly recognised that violence against women constitutes a violation of this right. States are therefore obligated to adopt and enforce legal measures, including criminal penalties, to hold perpetrators of marital rape accountable. Both Indian and international jurisprudence have acknowledged marital rape as a violation of basic human rights, emphasising that a lack of legal recognition and awareness surrounding domestic violence contributes to breaches of the right to life. Criminalising marital rape is essential to fulfil the state's duty to protect women's right to life.

Protection of Individual Liberty and Bodily Integrity : Marital rape constitutes a severe violation of a woman's bodily and psychological integrity, denying her the right to autonomy within her own home. It undermines personal agency and control, particularly in intimate spaces like the bedroom. Article 9 of the ICCPR affirms the right to liberty and security of person, a principle rooted in early human rights declarations such as the French Declaration of the Rights of Man and of the Citizen (1789) and the Universal Declaration of Human Rights (UDHR).¹¹

Victims of marital rape are often subjected to repeated abuse, as the perpetrator commonly shares the same household and holds social and financial power over them. This close proximity and imbalance of power heighten the risk of continued violence and make it harder for victims to seek protection or escape. Without laws that criminalise marital rape, husbands may perpetrate unchecked sexual violence with legal and social impunity, further exacerbating the vulnerability and powerlessness of women within the marital relationship.

Legal exceptions that permit marital rape perpetuate the belief that women cannot withhold sexual consent within marriage, stripping them of their sexual and bodily autonomy. The absence of legal recourse leaves women trapped in abusive marriages, particularly in societies dominated by patriarchal norms, where leaving such a relationship can lead to increased violence, social isolation, and economic hardship. When laws fail to recognise marital rape, women's rights to liberty and personal security are subordinated to traditional notions of marital harmony and family preservation. To comply with international human rights

¹¹ International Covenant on Civil and Political Rights 1976.

standards, it is imperative for states to criminalise marital rape and ensure robust legal protections for survivors.

Ensuring Equality and Non-Discrimination : The right to be free from discrimination is the cornerstone of human rights law and is included in all major treaties, including CEDAW. Discrimination occurs on two levels when marital rape is not criminalized: it distinguishes between non-marital and marital rape, as well as between violence against women and other forms of violence. The link between discrimination and gender-based violence has long been recognised. The CEDAW Committee, in its General Recommendation, identifies gender-based violence as a form of discrimination that prevents women from fully exercising their rights and freedoms on an equal footing with men. Under CEDAW, state parties are obligated to adopt comprehensive measures, including legal safeguards, to protect women from all forms of sexual violence.¹² In its 2012 report, the UN Special Rapporteur on Violence Against Women stressed that states have a duty to address violence against women with the same seriousness and commitment as any other form of violence. This includes the obligation to prevent, investigate, and punish such acts. As part of this responsibility, states must criminalise spousal rape and enforce strict legal penalties. International human rights bodies, such as the Inter-American Court of Human Rights and the European Court of Human Rights, have consistently ruled that granting impunity for violence against women breaches obligations under human rights conventions. Consequently, the continued failure to criminalise marital rape reinforces gender-based discrimination and stands in violation of established international legal standards.

Ensuring Equality Within the Family Structure : A woman's right to give or withhold consent to sex within marriage is fundamental to achieving true gender equality. The notion that marriage automatically entails perpetual consent undermines women's sexual autonomy and dignity. When marital rape is legally permitted, it opens the door to systemic violations of women's rights and equality within the family. In some legal systems, rape is nullified if the perpetrator marries the victim. Penal codes in countries such as Venezuela, Indonesia, Cameroon, Chad, Denmark, and Russia have provisions that excuse or pardon rapists upon marrying their victims. Such laws perpetuate harmful gender stereotypes by suggesting that a

¹² Freeman MA, Chinkin C and Rudolf B, *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary* (OUP Oxford 2012).

woman's worth lies in her chastity and effectively strip sexual violence within marriage of its criminal character.

In many nations, regulations still favor male dominance in the home, making women more vulnerable to marital rape. Legal systems in Iran, Chile, Rwanda, Honduras, and the United Arab Emirates frequently identify the husband as the head of the family, strengthening the notion that wives are compelled to meet their husbands' sexual requests. The UN Special Rapporteur on Violence Against Women has reported that coercive measures, such as financial reliance and threats of divorce, are frequently used to persuade women to comply in marriage. The CEDAW Committee emphasized the critical necessity for nations to deliberately remove gender stereotypes in both cultural practices and legal systems, particularly those that perpetuate male dominance.

Criminalising marital rape is a necessary step toward dismantling deeply rooted gender inequalities and establishing marriage as a relationship founded on mutual respect rather than coercion. Neglecting to take this action not only violates international human rights obligations but also reinforces systemic discrimination against women within the family structure.

CONCLUSION

Marital rape infringes upon fundamental human rights, reinforces gender inequality, and erodes the principles of dignity, justice, and personal autonomy. Despite the global acknowledgment of sexual violence as a criminal act, Indian law continues to exclude rape within marriage from its legal framework. This legislative gap not only leaves women unprotected against intimate partner violence but also perpetuates patriarchal beliefs that treat marriage as a relationship where consent is presumed, rather than explicitly affirmed.

Marital rape remains outside the scope of criminal law largely due to entrenched societal beliefs that treat it as a private matter and discourage survivors from speaking out. The perception of marriage as a private domain, combined with stigma and fear of social exclusion, often silences victims and obstructs efforts toward legal and social reform. Overcoming these institutional barriers requires a multifaceted approach, including survivor-centered support systems, sensitisation of the judiciary, legal reform, and broader efforts to raise public awareness and challenge harmful social norms.

A review of global legal systems reveals a strong international consensus on the need to enact laws that protect against marital rape, with the majority of countries having recognized and criminalized it through formal legislation and practice. In contrast, India's ongoing preservation of exceptions for marital rape remains inconsistent with prevailing international human rights principles. Treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) require nations to eliminate legal inequalities that hinder gender justice. By upholding these exceptions, India undermines its adherence to such international obligations.

To promote gender justice, India's legal system must comply with international human rights standards by legally recognizing and criminalizing marital rape. Legal reform alone is insufficient; complete measures must be made to change societal attitudes, promote public awareness, and empower survivors to seek justice. Active participation from civil society, campaigners, and legal professionals is critical in dispelling myths about marital rape and establishing a progressive legal framework that promotes consent and physical autonomy.

In addition to being morally required, addressing marital rape is also required by law. The natural rights of women to equality, dignity, and safety from assault must never be subordinated to the sanctity of marriage. Making marital rape a crime and enacting strong legal protections are essential steps in creating a society that is more just and equal and that acknowledges women as independent people with equal legal standing rather than as subservients in a marriage. The criminalisation of marital rape must be complete and unambiguous in order to achieve true gender justice and for marriage to genuinely embody the fundamental values of respect, consent, and human dignity.