



A STUDY ON MARITAL RAPE

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“JUST BECAUSE SHE SAID ‘I DO’ DOESN’T MEAN YOU DON’T HAVE TO ASK HER AGAIN” - DANIEL FERNANDEZ

INTRODUCTION

History helps us identify that oppression of women can be found in at least three elements of paradigmatic contemporary contracts, which are the contract for surrogate motherhood, prostitution contract and marriage contract. Often a marriage contract is viewed as liberalised access to sex without any legal prohibition on marital rape. India is the largest democracy in the world, with a population of 1.38 billion, but it is one of the 32 countries that haven't criminalised marital rape yet. Section 375 of the Indian Penal Code (hereinafter referred to as IPC) defines rape. In India, marital rape does not equal rape because of what is held in exception number (2) of section 375 IPC. “Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.” In *Independent Thought v. Union of India*, the age was increased to 18 years in 2017. "Sexual intercourse by a man with his wife, the wife not being less than 18 years of age, is not rape". Responses to raising the age from less than 15 to less than 18 have raised issues of child marriage and child sexual abuse just as much as they have clarified of rape of minor wives.¹

The Judge Verma Committee is a committee that recommends amendments to the criminal law. The main purpose is to acquaint guilty with enhanced punishment who commit sexual offences against women and offer a quick trial. The committee recommended that the exception of marital rape under section 375 of IPC be removed. Marriage cannot be considered as an irrevocable consent to sex. The relationship between the victim and perpetrator is not relevant while adjudicating a rape case. The law commission of India, in its 172nd report where there was a review of rape laws, took note of a writ petition in the Supreme Court filed by petitioner “Sakshi”, which is an organisation interested in issues faced by women. The law report said this with respect to section 375 of IPC- "Representatives of Sakshi wanted us to recommend the deletion of the exception, with which we are unable to agree. Their reasoning runs thus: where a husband causes some physical injury to his wife, he is punishable under the appropriate offence, and the fact that he is the husband of the victim is not an extenuating circumstance recognised by law; if so, there is no reason why concession should be made in the matter of offence of rape/sexual assault where the wife happens to be above 15/16 years. We are not satisfied that this exception should be

¹ Post, SLR , <https://www.sociolegalreview.com/post/independent-thought-v-union-of-india-and-the-unconstitutionality-of-marital-rape>. (last visited Jan 15, 2022).



recommended to be deleted since that may amount to excessive interference with the marital relationship." ²

India, although a secular country, comprises almost 80% Hindus, and the Hindu scriptures state that a religious rite cannot be performed without the participation of the wife. Wives are called 'Ardhangani', meaning better half. Women and men are given equal positions. ³

But it is not all so easy. By the background of the research done by the author, it can be narrowed down that the crux of the issue in the minds of the citizen is a dichotomy of views of the two genders. Rape is a violent crime that harms the victim physically and mentally and completely disregards consent. Criminalisation gives the victim access to justice. But, unfortunately, we don't live in a perfect world where the laws are not misused, and the criminalisation of rape can lead to the filing of false complaints against men and harassing them. The crux of the argument presented by the Courts is two-fold, criminalisation of marital rape may lead to threatening the sanctity of marriage and losing family values.

This paper deals with problems with the legal status of marital rape in India.

RESEARCH QUESTION

- Is the second exception under section 375 violating fundamental rights?
- What is the relief against marital rape currently?
- What is the position of other countries in the matter of marital rape?
- Arguments for and against decriminalisation of marital rape?
- What are the history and socio-cultural context of marital rape?
- Methods to criminalise marital rape by Verma committee

RESEARCH OBJECTIVE

- To ascertain whether the non-criminalisation of marital rape violates the fundamental rights of married women.
- To examine the current relief in the country against marital rape
- To analyse the validity of arguments for the criminalisation and non-criminalisation
- To understand the socio-cultural relationship of marital rape in India

RESEARCH METHODOLOGY

The present research is primarily based on current laws, statutes and cases that have set a precedent in the judicial system. For the purpose of research, analytical and prescriptive tools are not the

² LAW COMMISSION OF INDIA, , <https://lawcommissionofindia.nic.in/rapelaws.htm> (last visited Jan 15, 2022).

³ 20th WCP: Status of Women in Indian Society, , <https://www.bu.edu/wcp/Papers/Huma/HumaSing.htm> (last visited Jan 15, 2022).



only methods that were incorporated but secondary and tertiary empirical data, which helps in further study and analysis of the research topic.

SOURCES OF DATA

For the purpose of research, primary and secondary sources of data were adopted. Primary data with reference to this research is the Constitution, relevant statutes, Supreme Court judgments, Reports and reviews of legislature committees. For a broader unbiased view on the research topic, secondary material of journals both international and national, books and other sources on the internet are referred to.

SIGNIFICANCE OF STUDY

India is the world's largest democracy, but it is one of the 36 countries that still hasn't criminalised marital rape or recognised marital rape as a crime. The numerous amount of appeals, reports, reviews have not brought any change to the law. The argument that the non-criminalisation of marital rape is violative of the fundamental rights that are granted to every citizen is a significant problem that has to be solved in a rights-respecting society like India.

The rights of one gender in society might abuse and violate the right of the opposite gender. The non-criminalisation of marital rape is a regressive and patriarchal ideology and impedes the gender equality of citizens of India. The research is especially prevalent now as due to the covid-19 pandemic, there is a rise in domestic violence and chances of an increase in marital rape. The UN women have called it the shadow pandemic due to the increase in the number of distressed calls on helplines of domestic violence. The secretary-general called the governments of the world to make prevention and red dress of violence against women during the covid-19 pandemic a key part.⁴

The current research addresses the legal immunity granted to perpetrators who commit marital rape. The researcher understands the significance of the study now, in a pandemic more than ever.

LITERATURE REVIEW

The current research paper mainly depends on legislation such as the **Indian Penal Code, 1860**⁵, which was enacted in 1860 during the British rule who have now criminalised marital rape. The **Protection of Women from Domestic Violence Act, 2005**⁶ is passed to protect women from domestic violence and offers remedy when they become a victim of such. These two legislatures

⁴ The Shadow Pandemic: Violence against women during COVID-19, , UN WOMEN , <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19> (last visited Jan 17, 2022).

⁵ The Indian Penal Code, 1860 (Act 45 of 1860), Acts of Parliament, 1860 (India)

⁶ The Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2006), Acts of Parliament, 2005 (India)



were used to determine the penalty and the current laws prevalent for marital rape. **The 172nd report of the law commission of India**⁷ reviewing the rape laws and **Justice Verma Committee**⁸ suggestion on the repeal of exception of marital rape from the IPC statute and suggestion moving forward. The case

Independent Thought vs Union of India and Anr.⁹As it was agreed that it was violating article 14 and 21 but only changed the age of exception from 15 to 18.

Part-II

1) Is the second exception under section 375 violating fundamental rights?

A) ARTICLE 14

"Equality before law the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth."¹⁰

Not every individual is treated equally in every single circumstance. The equals in the society should not be treated unequally, and the unequal in the society should not be treated equally. The doctrine of reasonable classification governs article 14 of the constitution. Reasonable classification permitted but not class legislation. In class legislation, unfair discrimination is prevalent by choosing citizens arbitrarily and given privileges. Class legislation is usually based on real and substantial distinction.

In the Supreme Court case of 1952, *the state of West Bengal v. Anwar Ali Sarkar*¹¹ and in *Budhan Choudhary v. State of Bihar*¹² laid out two conditions that are important for reasonable classification. they are as follows:

1. "The classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others; and

⁷ LAW COMMISSION OF INDIA, *supra* note 2.

⁸ Justice_Verma_Comm_1340438a.pdf, https://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf (last visited Jan 15, 2022).

⁹ Independent Thought v. Union of India, (2017) 10 SCC 800

¹⁰ INDIA CONST.art.§14

¹¹ State of W.B. v. Anwar Ali Sarkar, 1952 SCR 284

¹² Budhan Choudhry v. State of Bihar, (1955) 1 SCR 1045



2. The differentia must have a rational relation to the object sought to be achieved by the legislation”¹³

Often the law and the grouping are going to be distinct things, and hence there is a need for the particular distinction to not be unconstitutional and discriminatory; there must be a nexus between the object of the law and the grouping.

In this case, the law is making an unreasonable distinction between married women who are the victims of rape and unmarried women who are victims of rape. There is no reasonable explanation for intelligible differentia for there to be a distinction, and hence the exception of marital rape is in violation of article 14 of the constitution. It is discriminating by stereotyping joined with patriarchy and defies reasonable classification. The marital status of a person does not exempt the protection given by the constitution that is the birthright of every citizen. Married and unmarried individuals both need protection from the law against rape. The marital status and a marital relationship held by two individuals does not take away their body autonomy and personhood.

Discriminating against married women is of complying with an archaic rule called "doctrine of coverture". When the IPC was drafted was in 1860, a woman did not have the same rights as she does now in the modern days. This doctrine was adopted by the Britishers that discriminated against men and women and saw women as inferior to men. Women did not own properties and did not have an individual identity after marriage. The exception of marital rape is violating article 14 of the constitution.¹⁴

B) Article 21

Protection of life and personal liberty:- " No person shall be deprived of his life or personal liberty except according to procedure established by law." ¹⁵ this was reiterated in the case of KS Puttaswamy v. Association of India¹⁶. It was in the case of Maneka Gandhi VS Union of India, Where Article 21 got its expansive view that includes all forms of rights that protect life and liberty. It is not just a purely literary grant of life and liberty. The marital exemption of rape is unconstitutional as it violates article 21 and further the right to privacy, right to good health and right to bodily self-determination.

RIGHT	CASE	VIEW OF THE COURT
	Justice K.S Puttaswamy v.	The right to privacy is a fundamental right, and decisions related to sexual acts in an intimate

¹³ Doctrine Of Reasonable Classification, , <https://legalserviceindia.com/legal/article-6754-doctrine-of-reasonable-classification.html> (last visited Jan 15, 2022).

¹⁴ Marital Rape: A Non-criminalised Crime in India, , <https://harvardhrj.com/2019/01/marital-rape-a-non-criminalized-crime-in-india/> (last visited Jan 15, 2022).

¹⁵ INDIA CONST.art.§21

¹⁶ Justice KS Puttaswamy v. Union of India, (2017) 10 SCC 1



Right to privacy	to Union of India ¹⁷	relationship are reflected in the right to privacy. Forced intercourse is a violation of the fundamental right, and it doesn't make a distinction between married and unmarried.
Right to make a choice.	<i>Suchita Srivastava v. Chandigarh Administration</i> ¹⁸	The right to make choice in sexual activity is aligned with article 21.
<i>Right to live with human dignity</i>	Francis Coralie Muin v. Union Territory of Delhi ¹⁹	Article 21 gives the right to live with human dignity. Supreme court held in a catena of judgments that rape abuses the right to life and human dignity of a victim of rape.

So it can be concluded that the marital rape exemption from protection from the law is unconstitutional. Even if the marriage exemption survives the constitutional validity of Article 14 and the doctrine of reasonability test in Article 14, it still must survive the “just, fair and reasonable” test.

2) What is the relief against marital rape currently?

A. Section 375 and section 376

Marital rape is not an offence in India. But this doesn't mean that there are no consequences. The offender can be punished under other provisions but not section 375 of IPC. This is due to the exception clause present in section 375 of IPC. “Sexual intercourse by a man with his own wife, the wife not being under 15 years of age, is not rape.”²⁰

Section 376 (1) “Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the women raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of fewer than seven years.”²¹

¹⁷ Justice KS Puttaswamy v. Union of India, (2017) 10 SCC 1

¹⁸ Suchita Srivastava v. Chandigarh Admn., (2009) 9 SCC 1

¹⁹ C.V. FRANCIS Versus UNION OF INDIA&"OTHERS LNIND 2011 JHAR 214

²⁰ The Indian Penal Code, 1860 §375,(Act 45 of 1860), Acts of Parliament, 1860 (India)

²¹ The Indian Penal Code, 1860 §376,(Act 45 of 1860), Acts of Parliament, 1860 (India)



- If the wife is between the age ranges of 12 to 15, then it is considered as marital rape, but this is severity of the offence is less- imprisonment up to 2 years for fine or both.
- The spouses under the age of 12, then imprisonment cannot be under seven years, can reach out to life or for a term of 10 years and subject to fine.
- The rape of a woman who was judicially isolated is up to 2 years and fine.
- Rape of a wife who was above 15 years is not considered rape.

B. Protection of Women from Domestic Violence Act, 2005

Marital rape is considered domestic violence. A woman who was a victim of marital rape can go to court to get a legal partition from her husband. This act is civil in nature and provides civil remedies. This act was created due to article 15 (2) to where it is mentioned that the state can create special provisions for women and children.

Section 3(a) - "harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse"²²

Explanation (2) - "sexual abuse' includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman."²³

C. Section 498-A of IPC

"Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."²⁴

3. Position of other countries with respect to marital rape

A) THE UNITED KINGDOM

Under the sexual offences Act, 2003, marital rape is criminalised in the U.K. It is said to be an offence if the spouse or the ex-spouse, without the consent, commits a sexual act against the will of their wife, then it can be classified as sexual assault and domestic violence. Before 1992 most sexual activities in marriages wasn't illegal in the UK. The first legal source on marital rape was in 1736, Stating that "The husband of a woman cannot himself be guilty of an actual rape upon his wife, on account of the matrimonial consent which she has given, and which she cannot retract."

²² The Protection of Women from Domestic Violence Act, 2005, §3 cl.a, (Act No. 43 of 2006), Acts of Parliament, 2005 (India)

²³ The Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2006), Acts of Parliament, 2005 (India)

²⁴ The Indian Penal Code, 1860 §498-A,(Act 45 of 1860), Acts of Parliament, 1860 (India)



It was the case *R vs R* where a man was convicted for raping his wife. This decision was challenged, but after it was reviewed by the House of Lords, it was voted unanimously to overturn the common-law rule and uphold the husband of rape.

It was strongly reiterated in this judgement that times have changed, and women cannot be viewed as the property of another man. In modern times and in modern society, marriage is a union between two partners who are equal.²⁵

B) UNITED STATES OF AMERICA

In 1970 every state in the United States of America viewed marital rape as an exception. In 1993 all the states in America had removed the marital rape exception. Survey in USA shows that 10% to 15% of women are victims of marital rape. Traditionally the judiciary in the USA viewed marriage as a contract to which the husband would get the "right to sex". Massachusetts, a state in America, was the first to recognise the "right to sex" as a ground for divorce. Right to sex became a defence against marital rape. This defence was later watered down by the judgement of the Supreme Court, stating that it is "hard to imagine how charging a husband with the violent crime of rape can be more disruptive than the violent act itself."

The traditional view on the legalisation of marital rape was the concept of "right to sex", but in the present day after the criminalisation, the justifications are protecting husbands from filing fake rape cases, the consent is harder to prove as they are married and have had consensual sex multiple times.²⁶

It was in the case of *People versus Liberty* where the court held that there was no reason to differentiate rape and marital rape and that marriage to licence should not be viewed as a licence to rape with impunity.

Most states in the USA differentiate between marital rape and stranger rape.

4) Arguments for and against decriminalisation of marital rape?

A) Against criminalising marital rape

1. Legal recourse is already provided in marital rape

One of the main arguments heard for the non-criminalisation of marital rape is that adequate legal records already exist in Indian laws. It exists in IPC through Section 498 a, Hindu marriages act

²⁵ A Guide to Marital Rape Law - Noble Solicitors, , <https://www.noblesolicitors.co.uk/about/a-guide-to-marital-rape.html> (last visited Jan 15, 2022).

²⁶ The History of Marital Rape Laws | CriminalDefenseLawyer.com, , <https://www.criminaldefenselawyer.com/resources/criminal-defense/crime-penalties/marital-rape.htm> (last visited Jan 15, 2022).



and the protection of women from domestic violence act of 2005. Section 13 of the Hindu marriages act recognises cruelty as a ground for divorce. Section 498A of IPC punishes the husband or his relative when the woman is subjected to cruelty. The domestic violence act defines sexual abuse and protects women from sexual abuse by providing remedies like monetary compensation, protection orders and judicial separation

2. Consent

"the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given herself up in this kind unto her husband which she cannot retract." These were the words of Matthew Hale of England, who said that consent is implied when entered into a marriage contract. Another argument often presented in Courts is that it will be hard to prove the consent of the wife. It is only up to the speculation whether consent was given or not as no one can know what happens inside the closed doors. Court has used this argument to also say that criminalising marital rape would lead to too much interference of the Judiciary and the Legislature in the bedrooms of the citizens.

3. Cultural relativism

The courts and the Legislature often said the special circumstances of India must be considered. The religious values and the custom and the traditional yet sacred ideology held of marriage along with illiteracy, poverty create an environment where criminalisation of rape cannot thrive. It is also said that criminalising marital rape would lead to the state intruding in the privacy of the sacred marriage.

4. Repealing the Marital Rape Exception Will Lead to Misuse by Wives

Another popular defence opposing the criminalisation of marital rape is that it will be misused by married women to jail their husbands and settle scores from unrelated quarrels. This argument was also used multiple times while enacting other protection statutes for women, such as the protection of women from domestic violence act, Section 498 a and the dowry prohibition act. In the case of Arnesh Kumar v. the State of Bihar, the Supreme Court held that Section 498 (a) is being used as a weapon against men.

5. Marital rape is uncommon.

Another argument that is put forth is the severity of marital rape in marriages. 2000 survey by UNPF shows that only one-third of men have admitted to sexual violence against their wise and another study was done by ICRW shows that 1 in 5 men agreed to have shown sexual violence against women



B) For Criminalizing Marital Rape

1. Violation of Constitutional Guarantees

As mentioned in section 1 of the research paper, marital rape is in violation of constitutional guarantees provided to every citizen of India. It is in violation of article 14, article 15(3) and Article 21. Article 14 prohibits any form of discrimination on the grounds of religion, caste, sex, place of birth, race.

Article 15(3) allowed the state to make special provisions for children and women. Article 21 gives protection to life and personal liberty. Article 21 is generally more expansive and compasses numerous rights like the right to sexual privacy, right to health, right to choice and right to live life with dignity, which is all violated when marital rape is committed. Article 21 is an umbrella article for numerous rights.

2. In Contravention of Other National Laws

Husbands in India are usually held punishable for lesser crimes than marital rape, such as voluntarily causing hurt, voluntary causing hurt through weapons, sexual harassment, stalking, voyeurism, etc. If all these acts can be criminal, then marital rape is no exception. The exception is also breaching the protection of the human rights act, 1993. In this act, Human Rights include liberty, life, dignity and equality. This act is not only limited to the protection of children. It is also breaching the protection granted by the protection of women from domestic violence act, 2005.

3. In Contravention of International Law Obligations

India is a signatory of two international treaties like CEDAW which requires measures to be taken against discrimination against women. Article 2(b) requires States to adopt legislation to remove discrimination against women. Not only does it require the government not to discriminate against women but also people or organisations. So by due diligence, marital rape should be criminalised. It also requires states to change the cultural and social patterns that induce prejudice and stereotyping. ICECSR recognises intimate partner violence and an individual right to benefit from cultural, social and economic rights.

Right to life is an infringement of rights given by treaties that guarantee like ICCPR and UDHR. The right to liberty and security is granted by article 9 of ICCPR. Not criminalising marital rape is a breach of the protection of health and well-being that is granted by UDHR and ICESCR.



Article 12 of ICESR requires states to protect them from health risks arising out of domestic violence and physical and psychological consequences.²⁷

5) The socio-cultural context in marital rape and violence.

Studies have shown that community factors and societal responses are linked to marital violence, so it is worth noting India's socio-cultural context.

Marriage and family: In India, married women are usually socially validated, and arranged marriages are the most popular form of marriage in India. Consent is often something that Indians don't understand, as it can be seen in the manner of marriages. Arranged marriages are usually set up by family members. To find potential partners, sometimes consulting women, sometimes not. Revealed in a studies sample of 21000 married women, 86% consent was not considered, and the women met their husband for the first time on the day of marriage. 57% whose consent was taken also met their husbands on the marriage day. Usually, in terms of marriage, social status, economic status and caste are considered. The role of marriages usually provides an understanding of gender roles in Indian society. Generally, men with patriarchal families restrict women to the household and exert family controls. However, liberalisation is happening due to the westernisation of lifestyle, social processes and values. Generally, in India, the concept of joint families is very popular. Three to four generations usually live in one household, but nowadays, single generation nuclear families are living independently, and marriages are also moving from arranged marriages to self-selected contemporary partner marriages. It can be argued that in India, Marital violence is a subtype of family violence.

One of the common beliefs in Indian society's rape cannot happen between husband and wife. Many advocates and judges who opposed the non-criminalisation of rape held that not much trauma can come from marital rape compared to stranger rape. Generally, the roles of marriage and how married women are treated play a very important role in the context of marital rape. Typically, family matters are considered very personal issues, which leads to a "culture of silence", which leads to underreporting of marital violence. Due to all these beliefs, if a woman does choose to speak out, they experience re-victimisation from societal beliefs.²⁸

6) Methods to criminalise marital rape by Judge Verma Committee

In the judge Verma Committee report, the committee recognises the old notion that was popularised by Mathew Hale back in 1736 "The husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given herself up in this kind unto her husband which she cannot retract."

²⁷ Krina Patel, *The Gap in Marital Rape Law in India: Advocating for Criminalisation and Social Change 2019 Fordham International Law Journal Symposium Issue: International Trade: Isolationism, Trade Wars, & Trump: Note*, 42 FORDHAM INT. LAW J. 1519–1546 (2018).

²⁸ Meghna Bhat & Sarah E. Ullman, *Examining Marital Violence in India: Review and Recommendations for Future Research and Practice*, 15 TRAUMA VIOLENCE ABUSE 57–74 (2014).



Verma committee recommends that prohibition on marital rape should also be followed by the change in the attitude of the police officers, attitudes of the prosecutors and society in general.

Prohibition on marital rape should also be accompanied by raising awareness of women's rights and bodily autonomy, and physical integrity regardless of whether they are married or in some other intimate relationship. The suggestion was given by them in the 9th paragraph extracted hereunder:

“9. we, therefore, recommend that:

- i. The exception for marital rape be removed.
- ii. The law ought to specify that:
 - a. A marital or other relationship between the perpetrator and victim is not a valid defence against the crimes of rape or sexual violation;
 - b. The relationship between the accused and the complainant is not relevant to the inquiry into whether the complainant consented to the sexual activity;
 - c. The fact that the accused and victim are married or in another intimate relationship may not be regarded as a mitigating factor justifying lower sentences for rape.”²⁹

CONCLUSION

Should it be criminalised? **Absolutely, yes.** Rape is rape, whether it is within marriage or outside it. Marriage doesn't mean perpetual consent.

Can it be properly implemented, guaranteeing that it will not be used against men by wives as an instrument to harass them? **No.**

Indian law is full of instances where certain laws made to protect weaker sections of the society (like the POCSO, Prevention of Atrocities, 498A, etc.) are weaponised by people and used, not as a shield, but as a sword to harass others. If this law is implemented, it will be no different.

In legal systems around the world, there is an axiom: passing a law protecting others should not be discouraged solely on the grounds that it can be misused. I generally tend to subscribe to this ideology, and this case is no different. Hence, I'm of the belief that marital rape should be criminalised.

²⁹ Justice_Verma_Comm_1340438a.pdf, *supra* note 8.