



# INTERNATIONAL JOURNAL OF ADVANCE RESEARCH, IDEAS AND INNOVATIONS IN TECHNOLOGY

ISSN: 2454-132X

Impact Factor: 6.078

(Volume 8, Issue 3 - V8I3-1139)

Available online at: <https://www.ijariit.com>

## Analysis of Marital Rape as an Exemption

Shradha Alanghat

[shradha.alanghat@law.christuniversity.in](mailto:shradha.alanghat@law.christuniversity.in)

School of Law, Christ (Deemed To Be University), Bengaluru, Karnataka

### ABSTRACT

*Marital rape is an issue that reflects the socio-cultural conditioning of marriage in a manner that leads to gender disparity in the essential aspect of decision-making that forms the basis for every individual's existence. Women experience the dark side of marital relations, subjecting themselves to the gender roles instilled in them by society. In India, women are subject to veritable societal and cultural expectations. The patriarchal roots of society have viewed women as instruments to fulfill familial expectations rather than their expectations about her life. Such an idea is perceived as a norm even in today's world, despite advancements seen in various aspects of gender studies. India indeed has granted equality to women in social, political, and economic spheres. There is hidden hypocrisy within the social realm as these advancements do not influence gender equality in various households. The paper aims to delve into socio-legal aspects of the issue of marital rape. The initial section of the article gives an insight into the philosophical dimension of the problem, which offers veritable views from philosophers. This enables us to think from some realms of morality and ethics in a more specialized manner. The second section deals with some of the prevalent justifications restricting the criminalization of this primitive social norm. The author has also attempted to decipher the validity of such explanations by various societies and governments in pertinence to the issue's intensity. The subsequent section offers a brief description of the backward and arbitrary nature of 'consent.' The author questions the narrow approach towards understanding the concept of 'consent, an essential character binding a marriage. The following section delves into the legal aspects of such an exception, offering a detailed description of the legal lacunae posed by such an exception. This section explains the contradictory nature of the legal exception with the Constitution, which is the supreme law of the land. The succeeding area puts forth a psychological understanding of the victims of this inhumane form of violence through the theory of 'learned helplessness.' The paper's final section lays an account of the prevalence of the issue in rural and urban areas, respectively.*

**Keywords-** Patriarchy, Conditioning, Gender Roles, Equality, Criminalisation

### INTRODUCTION

Marriage is considered a bond embraced by love, respect, sincerity towards partners. Every act in marriage should be characterized by the interest of both partners. However, the notion of marital rape reflects another picture altogether. Consent should be considered a necessity in marriage.

Such an unfair exception granted to marital relations can also lead many to misinterpret the nature of marriage. This tends to make people (especially women) view marriage negatively. Women, apart from being wives to their husbands, are also individuals. Fundamental rights are bestowed upon every individual. In general, the Indian culture considers marriage as a form of consent already being granted to the partner. However, one of the major issues is that women are expected to consistently keep up the 'implied consent. Any circumstance where they are not physically or mentally prepared to be involved in some sexual activity cannot be considered.

There is an expected embedded into them by the socio-cultural norms. Women could consent to sexual activity when they body and mind desires the same. However, such an exception would restrict them not giving consent to being coerced into an act that would be painful to their physical and mental state.<sup>1</sup>

### VIEWING MARITAL RAPE THROUGH PHILOSOPHERS' EYES- UTILITARIAN APPROACH

The utilitarian approach advocates 'the prevalence of greatest possible parity of good over evil or least possible parity of evil over good' (22nd reference UNIVERSITY OF NAIROBI ARTICLE). One branch of utilitarian associates 'good' with happiness and

'happiness' with pleasure. As per this stream of thought, an action is perceived to be correct if it advances 'happiness.' The definitions of 'happiness' and 'pleasure' are intertwined in this branch of utilitarianism. Due to this reason, both these terms are perceived as interchangeable. However, it is essential to understand that the word 'pleasure' is used in a more confined context, as it focuses more on the person who acts than the person who is impacted by the act. Happiness is used on a broader concept, as it lays equal importance upon the former and the latter. In totality, utilitarians advocate that proper actions are practical and capable of producing good ends. <sup>2</sup> "Utilitarianism revolved around the principle of greatest happiness for the greatest number"<sup>3</sup> The 'consequential' aspect of utilitarianism requires a legal framework to balance self-driven rationale and ethical norms.<sup>4</sup>

The issue of marital rape, if viewed through the lenses of a utilitarian, is two-pronged- pain for the victim and pleasure for the perpetrator. The perpetrator would perceive the action has brought himself good, as it would have vested a sense of authority in him. On the other side of the spectrum, a victim would perceive the action has brought her evil, as this act deprives her of the right to sexual autonomy. Such discriminatory form of activities does not facilitate the least balance of evil over goodness. Thereby, it can be deciphered that 'marital rape' is not a moral action as it lacks the element of reason.

"Utilitarianism is a form of consequentialism. The realm of consequentialism holds that the morality criterion of actions in terms of their outcomes"<sup>5</sup> It needs to be emphasized that consequences alone are the test of right and wrong action; and that a reference to good and bad consequences is indispensable. "Right actions have good consequences, and wrong actions have bad consequences"<sup>6</sup> As per the consequentialist dimension, the person is obstructed from acting solely on his self-interest through punishments. These sanctions refrain individuals from behaving in a manner, causing a threat to society as a whole. The consequentialist aspect determines whether an act is right or wrong based on the outcome it produces.

Viewing the issue of marital rape through the lenses of a consequentialist enables us to understand that it is morally permissible to convict an individual for committing a marital rape. Criminalizing marital rape could impact members of society by emphasizing the urgent need to curb this social evil. Secondly, such an action by the government will imply that the lives of married women are also socially and legally secured. The utilitarian theory is "consequentialist" in nature. It recognizes that punishment has consequences for both the offender and society and holds that the total good produced by the discipline should exceed the real evil. The principle of general deterrence should be applied in dealing with such issue, due to the social character of the wrong. Marital rape is a wrong on the entire class of women, and any woman could be victimized to such harassment.<sup>7</sup>

## **ETHICAL EGOISM**

In simple words, an ethical egoist is one who is driven by an excessive level of self-interest, gratifying his interest in a way that might be 'exploitive' to another person.<sup>8</sup> In the case of marital rape, the victim is subject to such an act, whereby she is coerced into sexual activities, despite her unwillingness in order to sexually gratify the husband. Spousal rape traces its path to the theory, as it explains the selfish or egoistic nature of the husband with the legal permission granted in the form of marriage. The action of gratifying sexual pleasure is not processed through realms of sensitive emotions of love, care, empathy and so on. The husband (in this case the perpetrator) does not see the wrongful nature of the act as he derives pleasure from performing the same, which is thereby creating a positive consequence for himself.

'An ethical egoist could not understand or have any insight into other human beings, grasp that they are in pain, and so forth, as ordinary persons, not entirely egoistic.'<sup>9</sup> (What is Ethical Egoism? By Edward Regis, Jr). In this case the husband is visualized as a 'dismal self-seeking brute', not valuing the sensitivity of such a heinous act, or about the trauma it can subject the wife to.<sup>10</sup> In case of marital rape, the actions of perpetrator could be deciphered through this theory. The perpetrator acts in such a way emphasizing on the need to fulfill his intrinsic pleasure, even at the cost of harming the victim (in this case, the wife). However, as the husband enjoys his legal authority, the wife is not able to enjoy her freedom of choice and consent. Such a situation reflects conflicting interest, as there is a disparity in the enjoyment of interests, by the husband and wife, respectively.<sup>11</sup> As per ethical egoism, the indicator for a moral action is that the force of self-interest drives actions. However, such a stand for morality is questionable as such actions might sometimes not benefit others who are impacted by such actions.

## **FEMINIST THEORY**

The feminist approach questions the rank of women in the family and various social spheres and this road to liberation was the impetus to encourage women to examine issues subject to social stigma.<sup>12</sup> Such conversations might seem to be 'uncomfortable' to be spoken about in society but are essential to understand the seriousness of issues women face in their lives.

The concept of autonomy is of utmost significance. Meyers understands autonomy as "competency or set of introspective, imaginative, reasoning, and volitional skills" that enables individuals to ignite forces of self-awareness and decision-making"<sup>13</sup> The enhancement of a man's license to commit rape in a marriage profoundly impacts women's autonomous choices. Mackinnon is concerned about the prevailing socio-cultural factors which impede women from exercising their autonomy. The subjugation of women in marital relations can trace its origin to various root causes in the form of three elements of 'ideological determinism' which comprise "a set of thoughts about internalization and the failure in understanding their decision-making as 'coerced' in several aspects of life."<sup>14</sup> While involving themselves in sexual relations, husbands are supposed to view women as 'persons' having individual desires, interests, choices, etc., not merely as 'bodies'<sup>15</sup> This is true when the sexual act was based on consent, not through force.

## **RATIONALES BEHIND THE CONCEPT**

The practice of marital rape has escaped from being attached to criminalization in some countries by laying forth a set of perception on the nature of marital relations. These reasons have been interpreted by the people, especially the conservative section of society.

Various governments have not reached the stage of criminalizing spousal rape, as they feel that the society would not be prepared to accept such a legal framework. Another fear that hinders criminalizing this heinous act, is the means by which such a law could be misused by married women. However, these do not have the strength in order to justify the exploitation women are subject to, in the name of marriage.

As per what Roger Crisp has expressed in one of his famous works, “women would be gain significant advancement, if they viewed as legal and moral equals of men in public as well as private spheres, and not view sex as relevant where it clearly is not”<sup>16</sup> The acts of injustices arising within familial spheres (marriage) are swept under realms of private affairs, which are sometimes devoid of receiving help from the outside sphere.<sup>17</sup>

### **CONSENT RATIONALE**

The origin of archaic notion of ‘consent’ in marital rape, can be traced back to the ‘implied consent’ theory put forth by Matthew Hale.<sup>18</sup> The theory puts forth that the marriage in itself is symbolic of the ‘consent’ given by the wife for all subsequent sexual relations with the husband. This means that once the wife enters the bond of marriage, she renounces her individual right to ‘consent’.

### **ADEQUACY OF ALTERNATE LEGAL REMEDY AGAINST MARITAL RAPE**

The adherents of such a persisting exception put forth legal provisions that bridge the hiatus created through this exception. The ‘cruelty against women has been dealt with in Domestic Violence Act (2005), Hindu Marriage Act, and Section 498 of Indian Penal Code.<sup>19</sup>

Domestic Violence Act (2005) acknowledges the issue of ‘sexual abuse’ within the ambit of domestic violence and prescribes remedies of civil nature, including injunction, monetary relief, and divorce. Section 498 A of IPC penalizes cruelty that women are subject to from her husband and their family. Section 13 (1) (I a) of the Hindu Marriage Act prescribes ‘cruelty’ as a basis for seeking a divorce. These legislations have addressed cruelty towards women in a generic rather than an intricate manner.

However, the problem in the Domestic Violence Act lies in the Act providing only civil remedies and does not attribute criminal nature to spousal rape.<sup>20</sup> The legislators believe that such legal provisions are adequate measures to seek legal remedies for spousal rape. However, such remedies, rather than punishment, allow husbands another channel for escape remains inconspicuous. There is a hidden form of gender bias within these laws, which shrouds that these laws are inclined towards male supremacy. Propositions of legislators have overlooked the truth that allowing husbands to escape from the eyes of law through a divorce is futile, as he could marry another woman and subject her to the same torture as he did in his previous marriage.<sup>21</sup> This escapism, especially with law permission, will bring no change in the husband’s aggressive and malicious intentions towards his wife. Thus, taking into account an unbiased view on the matter of coerced spousal rape along with the changes in the contemporary world, it would be an ideal stand to repudiate the exception given to husbands.<sup>22</sup>

### **LEGAL AND SOCIAL STATUS OF WIFE**

The Indian society is bounded by several factors such as religious principles, implied consent notion, and various traditional ideologies in broadening their perception about marital relations.<sup>23</sup> Society views women involved in marriage to adhere to the sexual desires of their husbands, regardless of their personal choices. This helplessness has led to women internalizing themselves to this social evil. The societal norms leave them with no other choice and are subject to shame and criticism if they express any retaliation towards the same. Many women are under the misconception that their ‘consent’ is of utmost significance, even in sexual activity within the realm of marriage.

Indian legal perspectives are closely connected to that of Common Laws of England. According to these laws, the legal recognition of women converges with that of their husbands who influence their life choices—referred to as the ‘unitary theory’<sup>24</sup> Apart from this legal stand, cultural and societal norms attribute a superior nature to men<sup>25</sup> The government has put forth that criminalizing the act of marital rape can hamper the sacred element of marriage.<sup>26</sup> The social norms have seeped into laws on marital rape. The law has favored the granting of an authoritarian nature to men within marriage. This issue is reflected in the downfall of viewing the seriousness of spousal rape, thereby not criminalizing it. The exception of marital rape can trace its roots to the era of common law—where the wife was given the position of a ‘chattel’ or property of her husband. Women were considered devoid of a sense of individuality, which hindered them from making decisions even in their sphere of marriage. The legal system is hesitant in interpreting the notion of consent despite having made laws for the protection of women.

The social and legal notions regarding marital rape are sculpted to preserve the marriage bond even at the cost of women’s integrity. This rooted injustice can pave the way to crimes against women—domestic violence and dowry harassment and so on. Even though there are existing laws against these crimes, these evils could not be effectively eradicated from society until the law does not address marital rape, which is the aftermath of these crimes. The social expectations victimize women to marital rape in the illusion of ‘marital duty’. Men are viewed as figures of authority and dominance, through such a social context.<sup>27</sup>

The social norms also discourage women from reporting cases of spousal rape, as they are fearful of the pressure that society would impose on the women and their families in the form of reproof. The issue of underreporting cases of marital rape can lead to a manifold increase in social injustice to women. The change in attitude towards this issue has to start from society, as only the community could impact the pressing need for such a change in the legal policy. Thus both social and legal norms have been overlooking to view marital rape elaborately and effectively.

Antediluvian concept of ‘consent’—An essential feature of consequentialism is its fundamental denial of what is known as the act-omission distinction.<sup>28</sup>

'Consent' is emblematic of equality, liberty, and enfranchisement. The exercise of consent by women in their life choices marks their decision-making power as 'individuals'<sup>29</sup> As per the concerns of married women, the law has not regarded consent that is situational based, as it has already made a presumption of consent from women as already given at the time of marriage for all subsequent episodes of sexual activity within the frame of marriage. The concept of consent in a terms contract is an element that all parties are entitled to the individual liberty of granting consent, thereby making the contract of valid nature. However, the preconceived notion about women's consent in marriage is not as fair and egalitarian as contractual rights. This means that institution of marriage is driven by archaic and authoritarian norms of implied consent. This is an irrational approach in understanding the crucial role of consent to assure a just and equal marriage. Marriage is to be viewed not as lifetime consent from women to be subjugated but as a form of social contract where both parties to a marriage have the individual liberty to take decisions concerning the personal sphere of their bodies.

The ideology of permanent, irreversible consent has permeated into legal and cultural perceptions of marriage and coerced sexual activity within marital relations.<sup>30</sup> They viewed women through a more 'individualistic' approach brought about resurrection in understanding their marital relations role. Firstly, international organizations made a shift from the traditional, confined approach to a broader approach. This approach made it inclusive of women's rights in private spheres like family, marriage, etc.

Secondly, the change in the notion of 'marriage' also brought about a broader perspective concerning women's rights in marriage. Such transition involved deviating from traditional marriage norms to viewing it as a relation of 'companionship' and 'intimacy'<sup>31</sup> However, this transition has not created an impact on various cultures, even in today's world. Multiple nations have offered a series of rationales behind not criminalizing this heinous act. Thus, it is understood that these changes have not been implemented intricately throughout the world in a uniform manner. There has been no widespread acceptance because of which theories have not turned into a practice in society.

The incapacity of married women to consent to sexual intercourse has impacted the manner in which law views them. The legal framework presumes a 'no' to be a 'yes' without precisely considering whether the woman was subjected to coercion by her husband.<sup>32</sup> Such narrow interpretation of 'consent' has been confined to this issue as it does not address such prejudicial norms. This problem further leads to distortion of our understanding of fundamental principles of freedom and equality.<sup>33</sup>

Another theory offered to justify the presumption of consent in sexual relations is 'generalized consent.' This notion puts forth that prior approval is implied for subsequent sexual acts as well or that the perpetrator presumes the presence of consent.<sup>34</sup> Such presumption is vicious as it does not look into the impact of such torturous acts on their mental and physical health. 'Consent' forms the bedrock of the 'citizenship' of every individual. This principle is applicable in social, economic, or political spheres and the private sphere of marriage. This essential aspect of citizenship should not be severed from women merely because they enter into the institution of marriage.

The elements of consent and coercion are not conspicuous facts; and rather a form of socio-cultural construct. The feminist approach enunciates that the legal justice framework views social aspects of force and consent as biased, more inclined towards the male perspective<sup>35</sup> The female-inclusive standard of consent would be encompassing delicate and intricate forms of coercion.

## **LEGAL HIATUS**

The exception granted to marital rape contradicts the fundamental rights bestowed upon every citizen. India has developed its legal policies by bringing various crimes against women under its ambit. However, spousal rape is still subject to the stage of debate and has not been provided space within the Indian legal framework. The lack of attention given to this matter is crucial, deserving much attention by the legislators. The Protection of Women from Domestic Violence Act (2005) did not criminalize marital rape but prescribed judicial separation remedies instead.<sup>36</sup> However, this does not entirely root out the social evil, as the husbands escape from punishment, even after tarnishing a woman's life by subjecting her various forms of torture-physical, sexual, and emotional abuse.

The fundamental rights are an essential prerequisite for enhancing the role of individuals in a society.<sup>37</sup> The exception in the Indian Penal Code threatened the socio-legal recognition of an issue that obstructs women from living a peaceful life. The Indian Constitution facilitates the journey towards achieving an egalitarian society, striking a balance between societal and individual interests.<sup>38</sup> The Apex Court has delineated rape as "deathless shame and the gravest crime against human dignity"<sup>39</sup> Thereby, the exception of women who are subject to sexual abuse by their husbands is irrational and discriminatory.

## **ARTICLE 14**

Article 14 of the Indian Constitution guarantees the 'Right to Equality before Law' as a fundamental right to every Indian citizen<sup>40</sup> This article's objectives emphasized- Firstly, ensuring that differentiation must be capable of being inferred in a reasonable and comprehensible manner, secondly to confirm the existence of a rational nexus to the aim of an enactment.<sup>41</sup>

The interpretation of the marital rape exception through the domain of Article 14 makes us identify that the exception does not intersect with the conditions mentioned above. The differentiation is not formulated on reasonable grounds. Section 375 of IPC provides protection to women against non-consensual sexual activity.<sup>42</sup> The State penalizes actions that disrupt the sexual autonomy of women, considering the nature of 'individuality' and recognizing their right to make choices regarding sexual relations. The exception of marital rape in the laws against rape is contradictory to the objective of the legal provisions for the protection of women.<sup>43</sup> However, there lies an exception in this provision that has not criminalized the coerced sexual activity within marital

relations as 'rape.' This makes us ponder whether women hold sexual autonomy even within their marital bond. The exception is based on the State's assumption of non-intervention in the private sphere of marriage and the notion of 'implied consent' from women within marriage.

Thereby, it can be deciphered that such an exception is implausible and inequitable. Women must be treated as individuals with sexual autonomy to determine the nature of their relation, even within marriage. We can say this because the exception delineates the severance of bodily autonomy from women with their marriage. The hiatus between the legal remedies determined by marital status hampers attaining the goal of a protected and egalitarian society. "The sphere of equality must be inclusive of developing ideas in a society and should not be confined in particular aspects owing to traditional and doctrinal limits."<sup>44</sup> In a significant judgement, the Apex Court held that the "an individual's body is taken as the primary basis in order to determine control over their personal identity."<sup>45</sup>

## **ARTICLE 21**

Article 21 of the Indian Constitution bestows individuals the "right to life and personal liberty."<sup>46</sup> Every individual has the right to determine activities that happen in their private sphere, as such happenings directly impact their physical and emotional aspects. The exception symbolizes women being devoid of determining sexual relations that come under the most fundamental element of individuals-bodily autonomy. The legal framework puts women in a dilemma by posing such an exception along with granting of the fundamental right to life. This brings a gap in understanding the essence of Article 21, regarding whether women are merely existing animals after marriage devoid of holding even their personal bodily choices. In a significant judgement, the Apex Court put forth that "any legal mechanism which poses some obstruction in the rights guaranteed by Article 21 must be based on some plausible, logical, fair reason."<sup>47</sup>

Right to life is also applicable in the private sphere of sexual autonomy of individuals as this sphere is concerned to the individual's right to personal liberty. Viewing the 'right to life' in an elaborate and intricate manner makes it clear that such an exemption contradicts with the array of rights granted by the Constitution. The exception clause infracts the essential fragments forming the crust of Article 21- right to a healthy life, right to privacy, right to bodily autonomy.<sup>4</sup>

## **THEORY OF LEARNED HELPLESSNESS-**

The theory of learned helplessness will facilitate our understanding of marital rape through a psychological dimension. The theory of learned helplessness has an interconnection with the social attitude towards marital rape. "Learned helplessness is a mental state characterized by emotional numbing and maladaptive passiveness"<sup>49</sup> Women experience a sense of shock and agony on facing forced into sex within marriage. Women internalize themselves to such acts of forced sexual intercourse. They feel that if they deny such sexual activity, they will lose their worth in marriage, and society will demean them. The lack of control over such events victimizing them to injustice emphasizes their character of a 'victim' in the traumatic series of episodes. Victims are continuously subject to spousal rape despite expressing a lack of interest. However, their efforts to express denial are futile as societal norms also assert the sexual dominance of a man over his wife. Women feel helpless at a point, and this is when they compromise on their individuality despite knowing that this social evil is victimizing them.

The societal pressure to adhere to socio-gender rules of marriage compels women to view such harassment as 'trivial' even if they do not want to. This reaches a point where women just internalize to such practice, as they believe that do not have much alternatives. Providing civil remedies to such crimes are expressive of the fact that the legal framework, undermines the intensity of the act at some point. Solely, making this act as grounds for divorce, can provide relief to the woman who was being tortured. However, this is no form of guarantee to women who might get married to the same individual in the future. Thus the law should view the issue of marital rape, not only as a crime against one particular woman, but also against all the other women who could be victimized to this aggressive and heinous act.

Not criminalizing such a demeaning act, adds on to the injury by reiterating the dominant role of men in the marriage, in turn making women doubt their individual liberties upon getting married. Societal pressures on marriage have embedded a 'learning' in women to remain submissive by portraying helpless behavior towards the abusive nature of their marriage.

## **RURAL V URBAN AREAS (MARITAL RAPE)-**

The fact that subjugation of rural woman to such unjust acts has been long understood over the course of time. Recent studies show that even though the issue is prevalent in urban and rural areas, the issue has been hard to tackle in rural areas in comparison to urban areas.

As per the report of the National Family Health Survey,<sup>50</sup> the state of Karnataka has reported a shocking rise in incidents of spousal violence. The results reflect a deviation from the ordinary thinking course that such issues are mainly concentrated in rural areas. There is only a mere difference between the percentage of spousal violence in urban and rural areas, respectively.

However, reports regarding such incidents in rural areas might not show us the complete scenario as women in rural areas are subject to social stigma, familial pressure, etc., compared to women in urban households. Even in urban areas, incidents of marital rape are more likely to occur among urban slum dwellers. Thus even though they live in advanced urban areas, they do not share the culture of people living in non-slum areas.

However, it is observed that in the state of Maharashtra, Telangana, Gujarat, Himachal Pradesh, and some other states, the instances of spousal rape are more concentrated in rural areas. The reasons can be attributed to low levels of literacy among women, which

makes their opportunities constricted. Women in rural areas mostly afford to get jobs of temporary nature which means that their financial independence is inconsistent in nature. The report provides evidence to this statement, reflecting the lower percentage of women in rural areas who hold valid bank accounts. Financial independence is a crucial aspect for women to create a robust social identity for themselves. Women who are financially dependent on their spouses derive their socio-economic status from the latter, which means their identity is not self-built. In turn, decisions are driven by self-thinking. Another concern pertaining to unemployed women is that they do not have a wide social sphere to interact and seek coping strategies.<sup>51</sup> Unemployed women have a narrower approach towards coping with issues of marital violence, as they are confined to the household sphere involving family, where they might be pressured not to raise such matters for the sake of maintaining honor. On the contrary, employed women seek a more practical approach towards coping with such stress by deviating their minds into completing tasks at the workplace, thereby attaining goals. Thereby, the aspect of employment constitutes the enhancement of the socio-economic dimension in women, empowering their individuality.

The literacy rate among women in rural areas is much lesser in rural areas than in urban areas. The power of education is vital for women in these rural areas as it will enable them to think outside the primitive sphere of social customs and beliefs through logic and reasoning. This will further make them understand that respecting their individuality is of utmost importance when subjected to societal pressure.

The rise in spousal rape cases in rural areas has been attributed to unhealthy habits like alcohol consumption and substances (tobacco). Such practices disrupt the ordinary course of mental functioning and, in turn, hampers interpersonal relationships. The NHFS5 indicates a higher percentage of such practices in rural areas than in urban areas. The survey reports showcase betterment in the decision-making capacities of women (decisions regarding household affairs), especially in rural areas. However, this aspect might not seem attractive from the rural perspective as men use aggressive means to shun such autonomy growing in women. Thereby, we can understand women empowerment activities do not have a uniform outlook over rural and urban areas. Thus, women being subject to torture for taking individual decisions in their household proves that policies need to deviate more attention to women, specifically in rural regions.

'Rural women and girls face persistent structural constraints that prevent them from fully enjoying their human rights and hamper their efforts to improve their lives as well as those of others around them.'<sup>52</sup> Institutions introduced through welfare schemes in rural areas are difficult to be implemented throughout the time, as social and cultural stigmas supersede the power of such institutions, thereby tarnishing the very objective with which the institutions were established. Such a scenario delineates that women in rural areas are not well-connected to legal policies on this matter.

Assertion of unreasonable specification on gender roles in society has been another root of learned helplessness in women, especially in rural areas. Rural women are more victimized and are not exposed to the public sphere than women in urban areas. The variance in societal setups and perspectives of rural and urban areas, respectively, are also noteworthy. The strong emphasis on specifications regarding gender roles and the lack of exposure to the socio-cultural developments in the outside world makes rural women more subjective and submissive to the brutal practice of marital rape. The social expectation of assigning 'gender appropriate' behavior obstructs viewing the issue from the sphere of fairness and equality.<sup>53</sup>

## CONCLUSION

The shocking incidents of spousal rape bring out the alarming need to criminalize marital rape, with a punishment that has the intensity to deter other men in the society from practicing the same in their marital life. The concerns being raised pertaining to the false allegations being pressed upon men under such cases, is a genuine concern. However, this should not pose a barrier in criminalizing this heinous act, denying the path of justice to those women who are actually suffering such torture within their marriage. The criminalization of spousal rape will also bring about a realization in people, that marriage is not an instrument to solely exercise self-interest and assert the same on the partners. The law-enforcing agencies should frame a uniform pattern of enquiry in such cases. In such manner, appropriate action could be taken for such cases that require genuine attention. Also, strict punishment must be imposed on those who filed such a case, in order to seek revenge. The aim of such law should focus on paving the path to justice to those women who are victimized to this trauma, and simultaneously teach a strong lesson to those who use legal remedies as an instrument to fulfill their own greedy emotions. In such manner, legal system might deter its very misuse.

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