

MARITAL RAPE: WOMEN AS THE BIGGEST SUFFERER IN INDIA

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Abstract

Explicit laws that are framed for penalizing any offense which is done by the general public should be enforced by the legislature by adding up more recognized amendments. The various type of shortcomings of the particular alteration consisting of defined modesty includes all the different type of rights in which is neither taken into consideration nor uplifted by society. One such grievous harm that ensures the endangerment of life is Martial rape, moreover, it is not compelled to the boundaries of criminal offense and has not implemented as a violation of outrage of dignity. The main agenda to highlight the purpose, as well as the objective for writing this specific issue, are specific acts and provisions should be introduced as “substantive law” where women are being provided with penalty and remedies. Inconsistencies that arise due to the fact of less charge for the crime which is termed as exemption should be mandatorily prosecuted and intent to include in serious crime. An immediate setback of the proceedings and disclosure of facts is that they are never been taken admissible and stark(diluted) difference within the societal norms which is been valued as a sacrament belief. Marriage ravishment has potentially destructed the purity and prevalence of the institution of marriage and thus husband has never been punished for the unconventional retract against the subservient chattel of mankind. The government is unable to perform any criminalizing obligation towards the accused because due to lack of evidence and coercion among the people, the proceeding remains silent. The existence of all type of threats which leads women as well as children to be categorized as an affirmative weaker section and uproar the strength of male dominance should be viewed under the worse situation. The effect should be executed under the special category and remedies should be provided to the women as if the people are not safe within their home and society then the associations cannot demand the guidelines of safeguarding the rights of the women all over the country.

Keywords – Substantive Laws, Penalized offense, Remedies, and Affirmative weaker section.

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Background

The protection and safety of the people in the country is the most recurring element which every administrative as well as a statutory authority should ensure. Our Indian constitution ensures all type of several rights which safeguard the interest of the society as there are many laws which are faced by the dread of the situation and still the victims remain in the suffering stage. Violation and infringement of the act which defines that an individual can tolerate any type of offense relating to dignity, self-esteem, self-respect, and liberal treatment among the people. The most sufferable group in history as well as the modern world are the women, who are termed as the segregated section of the society.¹ In the contemporary world women are given equal opportunities within several sectors but even now also there is a lack of proper treatment and partial approach towards the employment side. Even to reduce and diminish the status of the women many uncertain objects are used merely for the demotion of the rights for the betterment of society i.e. sexual gratification which is done by threatening an individual. Balance and stability within society play a vital role in the purpose of the vulnerability of relation, which is known as Marriage. Focusing on the idea of immediate necessity for the distinct law which appraises certain guidelines mandatory to follow between the two

¹ Sarthak Makkar, Marital Rape: A non-criminalized crime in India, Harvard Human Rights Journal (Jun. 13, 2020, 19:45 P.M.), <https://harvardhrj.com/2019/01/marital-rape-a-non-criminalized-crime-in-india/>

individuals for the acceptance of the marriageable norms.²

It was never in the field of justiciable reforms that if a woman accepts the proposal of marriage, she is given the acceptance related to having any sort of unwanted, uncertain as well as no consensus for sex. The wrong hypothetical presumption that society has made is if a woman has tied a knot irrespective whether the consent was within the will or not, but after the marriage all the notional rights are held up with the society and husband, the act which can be included are – health, will, consensus, and unwanted. Women have always fought for their rights whether it is basically within the boundaries of family or society, for having the main agenda to be protected against the culprit of the territory. Contrary to the statement the biggest violators of the law and dignity consist of outside unknown entities and the member of the family i.e. Husband. Marital rape has been the most self-enforced and detrimental subject matter which mainly deals with instability and lack of cure with the perspective of emotional, mental, psychological, and financial notions.

The nomenclature of the abundant stigmas related to social and economic act has the one primary reason for the evil side of sacrosanct culture performed within the marriage is an unrecognized set of laws. The legislative tier of the government has to consider that if not amendment of the provision in the existing law

² Pallavi Prasad, Why it's still legal for Indian men to Rape their wives, The Swaddle (Jun. 13, 2020, 22:10 P.M.), <https://theswaddle.com/marital-rape-india-decriminalized-crime/>

then, there should be another way to make the defined policies and uphold the accountability to the state. Emphasising and analysis with the current situation of the problem which are facing by the women section is an internal issue of stake, and the statutory authority should focus on law reforms which can be implemented for the upliftment of the position rather than imposing legal criteria for marriage with certain guidelines. If there will be inequality and partiality among people then the society will face a huge level of instability within the society.

Introduction

The law and order are made for the protection of the citizen living in any defined territory, in whichever form it is – there human/fundamental rights and duties should be preserved. It is the deadliest misfortune of the system as well as courts that - there are many unlawful activities such as Rape, immense Murder, or anything which causes instability all over the society. The final punishment which is given to the accused is the death penalty but if that particular offense has been committed by any close-relative such as -wife or husband, then there is no punishment and considered as unwanted PIL against the person under the basic custom. Half of the cases remain unregistered and other half file FIR but due to coercion, it leads to withdrawal before the legal proceedings start, many people sustain the case and fight till the end. Whenever there is a conversation of threat and unfortunate situation, which ultimately indicates pressure among people it

always signifies the possession of control in and around that surrounding³. As the history of India have a huge impact on the roots of the society whenever there is an administrated matter i.e. Patriarchal Scenario, the belief system among the group of the community has a consideration that “a male can handle every situation in a confined manner without misleading the rules and policies which are laid down for the welfare and impartial treatment of the scenario”. As the past history in India proof that women and men were equally involved in agricultural sectors but they were not been provided with all the basic and primary rights which can uphold the situation in the society.⁴

The misconception all around is proven wrong in the contemporary as well as in chronicle era as if the laws are been made such as Article 14, Article 19 and Article 21 which automatically state that everyone should be equal as the law is supreme and no segregation should be made within the jurisdiction, then it also specifies that men are equal to women and every delineated rights and power should be divided within them.⁵ Right to Sexual Privacy, Bodily Self- Determination, and Good health – these are the established laws for the exemptions which can hold a miserable argument among people. Upholding the power

³ Krina Patel, The gap in marital rape in India: Advocating for the Criminalization and Social Change, 42 FILJ, 10-14 (2019)

⁴ Robin West, Equality theory, Marital Rape, and the Promise of the fourteenth amendment, 45 Georgetown law centre, 11-65 (1990)

⁵ Suchita Srivastava v. Chandigarh Administration (2009) 14 SCR 989 (India)

over women sometimes leads to crime and illegal activities which affects the lives of victims as well as criminals. In developing country like India, the most often occurring crime is Rape, which has been defined under section 375, IPC which clearly state that - against the will, without consent, causing injuries to a person. If that particular person is unsound or has to intake any intoxicated substance then it will be considered as a crime within the age group of 15 – 18 years. If our government ensures that there is equality among people then the discrimination would never be considered as every individual have the right to make an independent legal entity and having guarantee that the law will treat everyone equally.⁶

Spousal Rape in India

The most stubborn and difficult situation in India is making the difference between the crime such as Rape, which is possible to happen before or after marriage, ultimately which can be termed as Stranger rape and Marital rape. In this particular scenario, most people know about the Stranger rape which happens before marriage but not the Martial Rape, as it has not been considered as a criminal offense. There is an examination done on the bases of the institution of the society i.e. Marriage, then it is contemplated as it is the responsibility of both the people involved in

⁶ Benjamin Kentish, [Indian Government files legal papers to try to stop marital rape being outlawed](https://www.independent.co.uk/news/world/asia/india-marital-rape-ban-fight-legal-papers-file-parliament-law-change-marriage-a7924106.html), INDEPENDENT, (Jun. 14, 2020, 11:40 A.M.), <https://www.independent.co.uk/news/world/asia/india-marital-rape-ban-fight-legal-papers-file-parliament-law-change-marriage-a7924106.html>

the marriage with contrary husband, possess all the defined rights over his wife. Performing many surveys from census and statistics done by the various types of agencies, it has been stated that India is the most dangerous place for the growing platform and development of women.⁷

The overwhelming complexity is that crime (Rape) which has taken place has mostly a loose thread which states that the victim/survivor was much familiar with the culprit, and in most cases, it has been defined as a true statement that victim was very well known about the accused, in Marital Rape, the real culprit is – Husband, etc. Martial Rape can be further defined as intercourse or penetration (Vaginal, Anal or Oral) which is done forcefully, threatening, and without having any consent, which is termed as an objectionable and offensive form of a masochist. This particular rape is complex and complicated as it is massively difficult to segregate between personal relations and violent crime. There were many petitions filed against the offenses and many illegal activities concerning women such as dowry, cruelty, sex determination, sexual as well as domestic violence, with various types of recognized and coercive crime. If there is any type of standard measure which was taken by the courts to avoid as well as the cure - unreasonably, perversion, or unnatural sex, which permit the marriage but not the forced sexual intercourse,

⁷ Saachi Sharma, [NCRB data shows 95% rape victims in India known to offenders: MP tops in the List](#), FIRSTPOST, (2020)

here the grounds of the judiciary, as well as the legislature remain silent.⁸

Acts which can ensure the tendency in which it shows that the women are been through marital rape are –

- Availing and approaching to the court for the conjugal rights or judicial separation.
- Malicious actions towards women very frequently.
- Repugnant the rights over the women and indicating the pressure of patriarchal dominance over society.
- Forcing and building up of any coercive situation, which sometimes leads to tamper or destruction of the evidence.
- Unwillingly and no consensus penetrating within vaginal, anal, or else oral by application of all the prevalence forces.

All the above-mentioned scenarios result in outrage towards the will of women, which ultimately implies that the act is violent enough to make women as well as anyone to loss the self-integrity and dignity. Even in many judgments of the Supreme Court of India it clearly stated that rape and any injurious harm related to bodily as well as mental is considered as a deathless and brutal shame over the people and the gravest crime against mankind. Just like rape the court found difficulty to carry on the investigation and caught the culprit but the biggest challenges

⁸ Raveena Rao Kallakuru & Pradyumma Soni, Criminalization of Marital Rape in India: Understanding its constitutional, cultural and legal impact, 1 NUJS Law Review, 9-18 (2018)

which are faced by the legislative, as well as the administrative department, was to term a rape which happens after marriage. It has been proven as a result to infringe the rights of an individual or one own self which ultimately destroys the freedom of women.⁹

Challenges faced against the violation which ultimately include domestic as well as physical and as a result due to enormous impact over all the lives of the people as an outcome it ultimately put a question mark in the identification of the entity. There are plenty of policies and enactment of the laws which are regarding the violation of activities which are performed against the women within the household such as – non - allowance of sex determination of child, child marriage, dowry law prohibition, cruelty, and many more. Usually, men think that women are the assets and property of their livelihood, through which they can have all the defined command over the activities which are performed on the daily basis and with this it often become habitual, which ultimately consist of no guilt.¹⁰

Historical to Contemporary world

Traditional justification exempted marital rape as a vague law in which the wedlock between two individuals was under the basic premise as

⁹ Pragati Varghese and etc. v Cyril George Varghese AIR 1997 Bom 349 1997 (4), BomCR 551, 1997 BomCR Cri, (1997) 3 BOMLR 333 II (1997) DMC 407, 1997 (3) MhLj 602 (1997)

¹⁰ Neetu Chnadra Sharma, Marital Rape: Survey takes lid off sexual violence by husband, live mint (Jun. 16, 2020, 11:20 A.M.), <https://www.livemint.com/Politics/2On0uNbW6ufrjabfKZwPnM/Marital-rape-Survey-takes-lid-off-sexual-violence-by-husban.html>

according to the doctrine of common law “women was the property of male and there is no control in the manner of the treatment”. If there is any sort of comparison made between the revolution and evolution era, then the most surprisingly thing which will be revealed is throughout the ancient era most of the societies have a gravest custom that accept and even sometime enhance the men to force as well as threat their wives to have any uncertain activities which also include sex against the will, in spite of been in the state of non-convenience. People cannot make any type of context such as someone who is known to an individual can ever think of abusing or else with the perspective of marriage – thought to rape his own wife.

One of the most exempted statement which was made by the famous scholar Lord Hale – he stated that wife or woman who gets married, automatically handed over all the legal, emotional, social, and economical rights to her husband in which all the different type of consent to have all the sexual activities and will against the health condition. Implied consideration includes verbal and written consent which specify that if there is any type of consideration at the time of marriage then it will be continued till the end of the entire life, such of denial is considered as inadmissible in the eye of law, duty and accountability which is hold upon the women that established law which was termed as once the consideration of wedlock has given then there is not remaining

right to refuse for anything.¹¹ The biggest presumption is been made that everything her husband would do will be beneficial for the family and henceforth it cannot be revocable. Many sociologist and scholars of past time elaborated as Marital Rape is not a welcomed crime as the biggest assumptions which by framed by the society is to lower the stature and representation of the wife or women as beneath that of slave or Dalits at that time.

In the contemporary era all the amendments and provision state the guidelines which enhance the public to approach towards the courts whenever there is any type of violation within the general community.¹²

There are section 375 and 376 of Indian Penal Court elaborates about the vicious crime and the defined punishment to the culprit, although the marital rape can only be identified when the women is between the age limit of 12 – 15 years, after that there is no protection as the safeguard has been directly contravened from the regulations of human rights. Statutory and administrative department plays the main role to operate and execute the amended law as the guidance and implemented towards the welfare of the economy as well as country. The legal immunity remains within the hands of higher authority who constitute with all the guidelines in which it cannot be implemented and suitable for the Indian culture. The legal

¹¹ Erika W. Smith, Statistical that'll change how you think about marital rape, REFINERY29 (Jun. 18, 2020, 10:30 A.M.), <https://www.refinery29.com/en-us/marital-rape-in-relationships-statistics>

¹² Saptarshi Mandal, The impossibility of Marital Rape, 29 TFO 255 – 272 (2014)

regulation reforms of the institute of marriage is further defined as null burden over the family or society, as the marriage is consensus then everything related to the culture should be with will.¹³

Administrative and Comparative Constitutional Law in India

Assault and violence against anyone in the society if it is against the will as well as brutally injured someone it can be headed as a criminal offense. Rape came from the word “rapio” which ultimately means “to seize or limit” as an outcome the power and forceful act should be made barred for the benefit of the people. In India according to Section 375 of IPC which explicitly elaborate and grant permission to a man for raping his adult wife, which should be considered as a crime under coercion and forcing against the consent. The legislature and advancement of law & order always remain silent whenever it comes to the right against the marital rape because it has been considered as the most complex as well as a complicated topic within the circumstances.¹⁴ The incident of inequality among the gender of society was the ideology which exists even before the colonial rule in which it was stated that and enacted within the Indian laws as – marital rape is considered as an exemption over the specific norms of

patriarchal that implies men and women are not equal and hence the entity of wife always emerges under husband it was termed as “doctrine of coverture”. Regarding the constitution, all the laws and policies which were imposed for the enhancement of the position and guarantees independence were perpetually under a large level of influence. All the tiers of the government have recognition all the suppresses factors which are essential for the growth of the economy and for the following burgeoning administrative authority, which have an alternative option to enforced controversial data regarding the criminalization of marital rape in India.¹⁵

Advancement and growth in a country like India having immense opportunities to be considered as progressive in every field of society. For the better development of the new economy – commissions and legislation were set up for making various amendments but despite these circumstances, the humiliating and enfeebling action towards the weaker section i.e. women were always vicious. Here, the most frequent provision is section 375, 376, and Article 2(Declaration of the Elimination of Violence against Women) will be discussed explicitly. Having no consensus if any person including husband or wife, it will be headed under immense crime, and the defined provisions disclose about the consent,

¹³ Rinchen Norbu Wangchuk, Survey takes veil off Marital Rape in India: It's time we had a serious discussion, Gender Issues Women, <https://www.thebetterindia.com/134673/survey-nfhs-marital-rape-india/>

¹⁴ Dr. Bhavish Gupta & Dr. Meenu Gupta, Marital Rape: Current legal framework in India and the need for change, 1 GJLS, 20-28 (2013)

¹⁵ Neetu Chnadra Sharma, Marital Rape: Survey takes lid off sexual violence by husband, live mint (Jun. 18, 2020, 09:20 A.M.), <https://www.livemint.com/Politics/2On0uNbW6ufrjabfKZwPnM/Marital-rape-Survey-takes-lid-off-sexual-violence-by-husban.html>

punishment, and violence against the woman including marital rape as there is no proper guideline for declaring marital rape as an offense, subsequently it is been presumed that if there is a marriage happened it automatically gave a perpetual consent for having sex in our country, it has been elaborated in this manner.¹⁶

The comparative law is different all over the country within which there are almost 60% of country which have criminalize the act of marital rape. One of the most suffrage country was UN, USA, South Africa and many other countries - the government stated that the most dangerous and vicious place which women are not safe is their own homes. In several countries including India, allows the culprit to marry victim and avoid any type of punishment or penalty – this particular statement was mentioned in Annual Progressive of World’s women report. The statistic of whole world shows that almost 60-65% of female victims which are residing in international boundaries are homicide by the members for their own family and moreover the average rate of death, killed, murdered, violence, suicide, and negligence has reached up to 140 per day as per the report of 2017. The report and analytical studies of various acts and agency which was headed under the statutory department have elaborated as 1 in 5

¹⁶ Benjamin Kentish, Indian Government files legal papers to try to stop marital rape being outlawed, INDEPENDENT, (Jun. 19, 2020, 09:40 A.M.), <https://www.independent.co.uk/news/world/asia/india-marital-rape-ban-fight-legal-papers-file-parliament-law-change-marriage-a7924106.html>

women experience physical and sexual abuse with the situation of marriage having a age limit of 15 – 48 years hence it is been considered as violence against women are serious, uphold huge impacts, and ubiquitous which is severely caused by the people living around the victims.

The Supreme court of India gave certain guidelines regarding the age group of the women who are facing forceful or unwilling sexual acts. The court stated that if the woman is between 15 – 18 years old and there is any non-consensus sexual intercourse then – the person will be charged with criminalize penalty and further prosecution will take place.¹⁷ In this particular subject matter, there are many arguments – which are related to the many circumstances and for the failure of the implementation of Martial Rape as a criminal offense.¹⁸ The following arguments are –

- Against the ethic and culture of India, particularly due to Patriarchal history.
- Women give perpetual consent(implied) once she gets married
- Have the wrong presumption that the women living in the society will misuse the legislative rights.

A big conflict between the status and prioritization of relations, many times leads to

¹⁷ Independent Thought v. Union of India, (2013) 382 SCC (2017) (India)

¹⁸ Krina Patel, the gap in marital rape in India: Advocating for the Criminalization and Social Change, 42 FILJ, 10-14 (2019)

misleading direction and investigation.¹⁹ Due to many drawbacks and impossibilities for retaining the faith of the people it sometime leads to uncertain and unwanted mass movement which ultimately hold up a large amount of deterioration of the economy. Continuously demanding of the framed issue from the perspective of feminist group is to criminalize the act of marital rape but due to insufficient evidence and investigation the further emphasis does not take any legal regulation by this it is been inconvenient and complicated situation all over the country.²⁰

Massive control over public leads to Mischief

Excessive power can sometime lead to misuse of authority as given all the defined control over a specific group of community then as an outcome it always leads to instability among the society-

1. Excessive and immense possession over the power leads to misguide of the case and towards the direction of the investigation.
2. Sometimes leads to false allegation to the accused.
3. Massive power over the population have the pressure among the youth and unwanted cases.

¹⁹ Pallavi Prasad, [why it's still legal for Indian men to rape their wives](https://theswaddle.com/marital-rape-inda-decriminalized-crime/), THE SWADDLE, (May. 23, 2020, 22:40 P.M.), <https://theswaddle.com/marital-rape-inda-decriminalized-crime/>

²⁰ Nimeshbhai Bharatbhai Desai v State of Gujarat R/CR. MA/26957/2017

4. The scrutiny over the case should not be handled by the power but many times due to economic, social, political, and financial it is been handle by the perspective of leaders.
5. Within this the main agenda uphold by the population will not consist of justice, fair treatment, equality among people and impartiality all along the various sectors but excessive power can only lead to competition and mass movement.
6. The most affected primary sectors will be education, poverty, social and traditional customs.
7. The target will always look upon from the one-sided perspective, and that will ultimately cause mislead and mishandling of all the appropriate data.²¹

According to the statistics in the year of 2020 in India, which can be included in an exception in which out of whole world almost 36 countries who still consider marital rape is not a crime as women is married to the particular person, however that particular person hold up all the defined types of authority and possession over the women. There are many countries in which they penalized punishment charges or any sort of penalty only if the partner is in conscious manner and remember the crime which an individual has performed but if the particular person is incapacitated, drugged, or

²¹ Krina Patel, [The Gap in Marital Rape Law in India Advocating for criminalization and social change](#), 42 FILJ 1527-1531 (2019)

unconscious then no criminal charges are imposed.²²

Acts and Authorities

1. The Criminal law Amendment Act (Nirbhaya), 2013
2. National Family Health Survey, 2015
3. Protection of Women from Domestic Violence Act, 2005
4. All India Democratic Women's Association, 1981
5. Anti - Rape Bill, 2013
6. National Domestic Violence Awareness, 1981
7. National Coalition Against Domestic Violence [NCADC], 1978
8. Protection of Children from Sexual offences [POSCO], 2012

Facts and Figures

According to the statistics in the year of 2020 in India, which can be included in an exception in which out of whole world almost 36 countries who still considered marital rape is not a crime and it will not till the women is married to the particular person. All along if there is an examination of the current scenario of the society then as an outcome it will be that almost 95% of case are not registered due to many psychological factors which includes threat, violence (domestic as well as physical)

²² Raveena Rao Kallakuru & Pradyumna Soni, Criminalisation of Marital Rape in India: Understanding its constitutional, cultural and legal impact, 11 NUJS, 16-23 (2018)

and lack of opportunities. If there is close analysis of the characteristics of the section 375 & 376 of IPC – it play both role and within the two criteria in positive sense – by punishing the people with the recognition the crime which is vicious towards the people and society as well as negative sense - by knowing that committing rape is an criminal offence the biggest obstacle is that if a man is married and he commit any unwanted activities which basically includes – without consensus, against the will, and non- acceptance of the act then it is not considered as Rape. Arguable and most stubborn challenge within the hands of the government is to criminalizing the act and file the petition if the evidence is against the husband.²³

According to the latest National Health and Family Survey have the statistics of 5.4% of the proportion within the population who have experienced marital rape. Moreover, the fourth report of NFHS complied the data of marital rape having rethinking the position of women in the society – as almost 31% of the women who are married are still facing physical, emotional, mental, and sexual violence from the hands of spouse as well as family members. This particular statistic have a fluctuating characteristics as it is vigorously increasing and in very unnatural way, and it is not solely about the percentages which is decreasing or increasing on the onset of

²³ Rinchen Norbu Wangchuk, Survey takes veil off Marital Rape in India: It's time we had a serious discussion, Gender Issues Women (Jun. 20, 2020, 18:33 P.M.), <https://www.thebetterindia.com/134673/survey-nfhs-marital-rape-india/>

prepositions but at least the women should not be abused or their rights are should be avoided from all the situations for being violated. Minor married women who are below 18 years can appeal and file petition regarding the obligation which can be studied by the arbitrary as well as discriminatory department, within which bodily integrity and sexual intercourse will be included as it is a criminal offence. Minor women can file the petition against spouse within one year of tenure and accordingly, the remedies will be provided.²⁴

Suggestions

- An amendment should be made against the violence and sexual abuse for the married women with this it should be followed strictly.
- Everyone living in the society should be having limited authority by which there is no susceptible of misusing the power.
- Rape or Marital rape which has been committed for a short or longer period of time should be treated as offence as unwillingly, having no consent, and injurious to mental and physical health should punishable in the eye of law under Section 376 of IPC.
- If the evidence and proper investigation represent the culprit as husband then, the legal immunity which is been enjoyed having no consent shall be challenged and

charged under the court under Section 375 of IPC.

- The institution of marriage is undoubtedly a kind of purity and respectful commitment but if violence and disgrace is been included then it is mandatory to punish the perpetrator.

Guidelines

Provisions which are amended within the topic can be cured by following the law and orders strictly without any type of flexibility. Spousal violence which are common in and around the world have to be reported and rigid guideline should be followed, as the development from physically and mentally can only be enhanced when their will be stability and no partiality among the group of individual. The existence of marital rape was as old as the setting up of organized society when there was revolutionary era in which the people started to know each other and get involved in the various types of sectors. Discrimination, segregation, restricting the liberty, and behaving in a brutal way always leads to fares of all the defined worst circumstances among the weaker section. With reference to the progressive society, all specified offences and crimes is also vigorously increasing, the activities and actions which is performed against the women are also enhancing day by day.²⁵

²⁴ Erika W. Smith, Statistical that'll change how you think about marital rape, REFINERY29 (Jun. 21, 2020, 14:30 P.M.), <https://www.refinery29.com/en-us/marital-rape-in-relationships-statistics>

²⁵ Pallavi Prasad, why it's still legal for Indian Men to Rape their wives, The Swaddle (Jun. 21, 2020, 22:10 P.M.),

Almost in India, 15% of married women are faced the unwanted upcoming towards them such as - thrown the objects, dragged, pushed, pulled their arms in such manner which caused physical injury, punching, choked, burnt, attacked, and threatened not to tell anyone. The basic guidelines which should be enclosed within the communities should include initiatives – not to influence or temper the evidence or misguide the prosecution. An interesting fact which was uncertain and repealed that till 1993, legally marital rape was not considered as a crime or any offence, but after the situation was examined properly then the result which were put on was – forcible, unwillingly, or unconsciously dragging or doing any sexual activities, it will be termed as loophole in the working of government. There were many constitutional amendments which is enforced for the representation of women for the unwanted and uncertain crime.²⁶ As the crime which is headed under this specific act was having only one main agenda to fight against the sexual offences and with the use of peaceful protest the society should awaken from all the defined sights.

Conclusion

India is repeatedly known for few unique abnormalities related to the fact of women who are tied in a knot of marriage which consists of – compromise, tolerance, sacrifice, and adjustment. Despite having many legal provisions and access to court, then also there

is lacking behind for the achievement of justice. It is seen in history as well as in the contemporary era, one of the most serious crime is violence against women and children. As the Indian Constitution has neither permitted the criminalization of law nor the implementation of the punishment for Marital rape. To bring a change in the laws and exiting policies, the only option is that the legislature can apply the rhetorical approach for the welfare of people living in the society by criminalizing Marital Rape and making the procedure as constitutional, by decreasing the power structure of patriarchal within the mankind. Equality cannot be termed according to the age group whether minor or major ultimately if there is any type of offence then the punishment should be imposed within the situation. The human individual rights paradigm can have a similar characteristic which can be enforced in India, where the divine, as well as cultural assumptions, can be made to protect the women from the evil of marital rape and should give the strength to the communities which promote women empowerment for not experiencing any kind of assault. Under every act and provision, if anyone is a threat or due to negligence any type of injury occurs with due respect of time and nature of the offense, the victim can approach the court for pleading and appealing for justice. Finally, it is not compulsory that any individual will always give the consensus for everything but as a mere chattel, a woman can get respect and dignity as she deserves.

²⁶ Erika W. Smith, Statistics that'll change how you think about Marital Rape, REFINERY29 (Jun. 21, 2020, 22:40 P.M.), <https://www.refinery29.com/en-us/marital-rape-in-relationships-statistics>