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ABSTRACT:

“It is lawful in India to rape your wife if she is between the ages of 15 and 18. Marriage is a unique compact that not only has economic and cultural importance, but also protects males from being prosecuted for raping their wives. The implicit message in granting them this immunity is that males have the right to have sex with their spouses regardless of the latter's consent. Many Western countries have now recognised marital rape as a violation of human rights and have made it illegal. However, the Indian government maintains its orthodox stance and opposes repealing this ancient statute that shields husbands from being charged with rape on the grounds of "family values.

“Allowing marital rape preserves "family values" in what way? Their reasoning goes something like this: marital rape is a private matter that should be resolved amicably by the couple involved (funny how that logic doesn't apply to gay sex), and the state should stay out of it so as not to destroy society's traditional family unit. Through retaining the marital rape exception, we are permitting males, particularly abusive men, to claim prior consent (by marriage), therefore protecting those who rape their wives intentionally. Regardless of the potential drawbacks (difficulty in prosecuting, possibility of false charges, compromise of “family values” – all of which apply to many other crimes as well, I might add), I believe it is not justifiable for the law to grant immunity to someone who does abusive conduct.

Dropping the assumption of consent would make it less likely that such abuse would go unchecked. Whether we find the idea of marriage indicating implied consent repulsive or not, it is ultimately a question of choice. The marital rape exemption prevents a woman from telling her husband "No." As a result, it legitimises an abuser's conduct in violating his wife's personal sovereignty over her body. It is just absurd that such a transgression may be dismissed as a "personal matter" in the name of Family Values. The criminal law exemption for marital rape is in conflict with other legislation. This work examines a gap in Indian legislation concerning marital rape, as well as the implications for wives who have not reached the age of consent for sexual intercourse but have been victims of marital rape”.

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I. INTRODUCTION:

Rape is the most prevalent form of sexual assault, cutting across state systems and civilizations and being utilised as a weapon of degradation and terror against women in all countries and cultures. Rape is an attack on a woman's core as well as an intrusion into her most private and intimate portions of her body¹. Rape is a crime that affects the entire society, not just the person of a woman. It devastates a woman's entire psychology and causes her to experience severe emotional distress. Rape, whether it is marital rape or any other type of rape, is a humiliating, degrading, and violating act. Restricting one's understanding of rape reinforces the notion that rapists treat rape as sex rather than violence, and hence justify it. "Marital rape, often known as marital rape, is non-consensual sex committed by the victim's spouse. As a result, it is a type of rape, domestic violence, and sexual abuse against a partner. Spousal rape, which was once commonly tolerated or overlooked by the law, is now condemned by international conventions and is becoming more criminalised. Spousal rape is still legal or illegal in many nations, but it is generally tolerated and recognised as a spouse's right².

Rape is a crime against basic human rights, according to the Indian ***Supreme Court in Shri Bodhi Sattwa Gautam vs. Subhra Chakraborty***³. It is "*deathless disgrace and the gravest offence against human dignity*," according to the court. Rape is an assault on a woman's dignity and self-respect, and when it occurs within the confines of a marriage home, it reduces the woman to the position of a sexual object. Marriage is a trusting and loving relationship. The institution does not allow a husband to exercise sexual superiority by obtaining it on demand and by any means feasible. Surprisingly, no Indian law book recognises this as a crime. Women in India have been socialised to accept and bear such brutality. Rape is a violation of the victim's most valued fundamental rights, particularly the right to life established in Article 21 of the Constitution, however marital rape is an

¹ Dr. Vandana, Sexual Violence Against Women :Penal Law and Human Rights Perspectives, LexisNexis Butterworths Wadhwa, Nagpur, 2009 p.49.

² Sourced from <http://ujala.uk.gov.in/files/ch19.pdf> (visited on 14-1-2022).

³ AIR 1996 SC 922, p927.

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exception⁴. In India, numerous laws and enactments dealing with violence against women in their own homes have been passed, including laws against dowry, cruelty, domestic abuse, and female infanticide. There is no legal protection for the wife after she reaches the age of 15, which is in flagrant violation of international human rights law. How can the same law provide an 18-year-old legal age of consent for marriage while only protecting children under the age of 15 from sexual abuse? There is no treatment for a lady after the age of fifteen.

The Prohibition of Child Marriage Act of 2006 (PCM Act), aims to prevent girls under the age of 18 from marrying. The law makes it illegal to solemnise, promote, or allow child marriages. If a man over the age of 18 enters into a marriage with a girl under the age of 18, he can be penalised under the Act. Sexual contacts in a child marriage, however, are not covered by the Act. It grants legitimacy to children born of child marriages, implying that sexual intercourse occurs within the context of a child marriage. Sexual intercourse between a man and his wife over the age of 15 is an exemption to rape under the Indian Penal Code of 1860 (IPC)⁵. The Criminal Law Amendment Act of 2013 increased the age of consent to 18 years, but left the exception intact. As a result, sexual intercourse with a wife who is over 15 but under 18 will not be considered rape under the IPC. We can confidently infer that Indian criminal law is vague and riddled with flaws when it comes to marital rape legislation. In the following chapters, we will attempt to analyse, detail, criticise, and, if necessary, offer remedial procedures in order to bring some clarity to this under-researched area of rape law.

II. CHILD MARRIAGE AS A FORM OF SEXUAL ABUSE OF CHILDREN:

Child weddings are clearly a type of sexual abuse that no one can deny. The misery of our country's daughters has been documented by UN assessments, which show that India ranks second in the world in terms of child marriage⁶. Hundreds of child marriages are openly

⁴ Ibid .

⁵ Exception 2, Section 375, Indian Penal Code, 1860.

⁶ Reetu Sharma, Child marriage, sexual abuse with minor girls alarmingly high in India: When will it stop?.

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performed in Rajasthan on Akshya Tritiya day, also known as the Akha Teej. Sexual abuse of minors not only has a negative and long-term impact on the victim, but it also has an influence on the victim's family, community, and society as a whole. Sexual abuse of children, both within and outside our families, is a serious subject that directly reflects the health of a society. Families typically regard daughters as an economic burden in regions where women are generally not regarded viable wage earners. Poor parents may elect to marry a daughter early in order to avoid the cost of education—if education is even available for girls—and to reduce the financial burden of raising a child. When schooling isn't an option, parents have an extra incentive to marry off their daughters as soon as possible.

Families may marry off a child to clear debts or settle disputes. The timing of child marriages is also affected by dowries and bride prices. In these instances, a bride's youth is considered as increasing her worth; a younger girl has more time to devote to her new family and bear children. Dowries (*money provided to the groom's family*) can be reduced in various parts of India if the bride is younger⁷. Regional and cultural boundaries do not apply to child marriage. One in every three girls in developing countries is married before the age of eighteen, and one in every nine before the age of fifteen. Analysts predict that 142 million girls will marry before reaching adulthood in this decade if current patterns continue. The technique is still practised to varied degrees all across the world. South Asia and West and Central Africa, where an estimated two out of every five girls are married as minors, have the greatest prevalence rates, as assessed by the percentage of women aged twenty to twenty-four who report being married before the age of eighteen. India, on the other hand, far outnumbers other countries in terms of absolute numbers; it accounts for over 40% of all child marriages⁸.

Child marriage has negative consequences for both the child and the society. Marriage has a tremendous physical, intellectual, psychological, and emotional influence on both girls and boys, cutting off educational opportunities and prospects for personal growth. While child

⁷ Child Marriage, Council on Foreign Relations, available at http://www.cfr.org/peace-conflict-and-humanrights/child-marriage/p32096#!/?cid=otr_marketing_use-child_marriage_Infoguide#!%2F.

⁸ Ibid.

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marriage affects boys, it affects girls in far greater numbers and with far greater severity. Girls are particularly affected, as they are frequently forced into early childbirth and social isolation. Child brides are more likely to drop out of school and are more vulnerable to domestic violence and abuse, greater economic reliance, loss of decision-making capacity, and inequality at home, all of which contribute to discrimination and low status for girls and women.

III. LACUNAE UNDER INDIAN LAW:

Sir Matthew Hale stated in 1678 that *"the husband cannot be guilty of rape perpetrated by himself upon his legitimate wife,"* and that *"the wife hath given up in this manner unto her husband, which she cannot retract."*⁹ The statement's premise was founded on the common law concept of marital unity, which stated that husband and wife were one and that a married man could not be held responsible for raping himself¹⁰. The most perplexing of all the abuses performed against women is sexual assault within the marriage¹¹. Marital rape is not a contradiction in terms; rather, it is a form of domestic violence that is not uncommon, but rarely discussed¹². In a high number of couples, rape is an ongoing problem. The most prevalent kind of sexual assaults reported are those committed by husbands, which occur nearly twice as frequently as those committed by strangers¹³. A number of policy arguments in favour of the married exemption rule have been made. First, if this regulation is not implemented, wives will falsely accuse their husbands in order to get divorce or a property settlement: Second, rape laws are intended to protect women against sexual assaults by strangers, not to protect headachy wives from the discomfort of having sex with their mostly benign husbands. Finally, permitting women to accuse their husbands of rape will inhibit reconciliation.¹⁴ The acceptance of the notion of primacy and supremacy of the husband's

⁹ Early Marriage: Child Spouses. Innocenti Digest No. 7. UNICEF, 2001.

¹⁰ Sir Matthew Hale quoted in Rosemarie tong, women, sex and the law, 1994, p.94.

¹¹ Deborah L Rhode, Justice and gender, 1989, p 250.

¹² Arati Rao, Rights in the home – Feminist Theoretical Perspective on the international human rights', in the feminist terrains in legal domains- Inter- disciplinary essays on women and laws in India.

¹³ David Finkelhor and Kershti Yllo, 'Rape in marriage – A sociological View', in The Dark sides of the families- Current Family Violence Research, by David Finkelhor, Richard J Gelles, Gerald T Hotaling and Murray A Straus (eds), 1983, p 119, at p 130.

¹⁴ Ibid.

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right over the wife's, even though she is considerably under the legal age of marriage, is a unique feature of Indian law. The legal corollary of not treating forcible intercourse with a minor wife (between the ages of 15 and 18) as rape is to not view similar intercourse with an adult wife as rape at all. The rule only applies to lawfully divorced spouses who are not living together under section 376A of the Indian Penal Code, and the great majority of marital rape is still illegal. As a result, no attempt has been made under Indian penal law to provide even a semblance of protection to a married woman's right to bodily or sexual autonomy.¹⁵

The 156th Law Commission Report raised reservations about raising the age of the wife in the exception to section 375 IPC from 15 to 18 years, without providing any specific reasons. The deletion of the exemption to section 375 IPC, according to the 172nd law commission report, is unnecessary since it may result in undue interference with the marital relationship. The commission did, however, suggest that the wife's age limit be raised from 15 to 16 years old¹⁶. Endorsement of any spousal rape exception reflects acceptance of the outdated notion that wives are the sexual property of their husbands and that the marital contract is an entitlement to coercive sex. Furthermore, by limiting the offence to women who are not married to the perpetrator, rape laws become discriminatory and deny equal protection to a group of people: married women¹⁷.

Girls are frequently married before they reach puberty in impoverished countries. The emphasis on the girl's chastity and virginity as the most prized virtue in society leads to the solemnization of child weddings. Early marriage ensures a woman's virginity, relieves her family of the duty of feeding her, and ensures a long cycle of fertility, resulting in a large number of sons. The incidence of child marriages can be traced back to a customary practise based on religious and/or patriarchal beliefs. *The Prohibition of Child Marriage Act of 2006*

¹⁵ Ibid.

¹⁶ Rosemarie Tong, *Women, Sex and the Law*, 1994, p. 95.

¹⁷ Hindu Marriage Act, 1955, s (iii), prescribes 18 years and 21 years as the legal age for female and male respectively.

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(PCM Act), aims to prevent girls and boys under the age of 18 from marrying¹⁸. The law makes it illegal to solemnise, promote, or allow child marriages. If a man over the age of 18 enters into a marriage with a girl under the age of 18, he can be penalised under the Act. Sexual contacts in a child marriage, however, are not covered by the Act. The national law against child marriage, the Prohibition of Child Marriage Act of 2006, does not allow for consent in minors and treats child marriage as a criminal offence. However, by calling some marriages void and others voidable, it generates confusion. An invalid marriage is one in which a minor is married by force, fraud, deception, inducement, selling and buying, or trafficking, while all other child marriages are voidable at the discretion of the parties and therefore lawful marriages until they are nullified by the court.¹⁹

The age of consent has been raised to 18 years by the Criminal Amendment Act 2013, however the provision for marital rape remains the same as before. However, Justice Verma has urged that this exception be removed. In 2012, the Government of India approved the POCSO Act, which criminalises all forms of abuse against children who have been neglected under the IPC. The term "child" is defined in the POCSO Act as "any person under the age of eighteen years. “In any form, the Act denies children's sexual autonomy²⁰. The Act makes it possible for children to be held responsible for sexual offences. As a result, sexual relations or intimacies involving or involving youngsters under the age of 18 are illegal²¹. The

¹⁸ Another peculiarity of Indian law is the provision of the decree of restitution of the conjugal rights embodied in the Hindu Marriage act 1955, s.9; in T sareetha v. Venkata subbiah AIR 1983 AP 356, the Andhra Pradesh high court declared it unconstitutional and violative of the fundamental rights of personal liberty and privacy , but the apex court upheld the validity of s.9, Hindu marriage Act, 1955 in Saroj Rani v. Sudharshan kumar AIR 1984 SC 1592, and totally ignored the effect of such decree can have on Indian women, who is under threat of judicial and social pressure and financial dependence may well be forced back to the matrimonial house and because of vulnerable position in it, be forced to have sex and live a life of misery in an atmosphere the obviously abhors.

¹⁹ Vandana, Sexual Violence against women, penal Law and Human rights perspective, 2009 .

²⁰ Child Marriage and the Protection of Children from Sexual Offences Act, 2012, CCL@NLSIU.

²¹ Sourced from

<http://www.ohchr.org/documents/issues/women/wrgs/forcedmarriage/ngo/haqcentreforchildrights1.pdf>(accessed on 16-01-22).

Para 79 We, therefore, recommend that:

- i. The exception for marital rape be removed.
- ii. The law ought to specify that:

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contradiction between the exclusion for Marital Rape under 15 years of age and this provision of the POCSO Act is mostly due to this provision. Which Act has precedence over the others? Section 42A²² of the POCSO Act explicitly indicates that in the event of a disagreement, the POCSO Act takes precedence over other Acts²³.

IV. STATE AND PARENTAL RESPONSIBILITY TO PREVENT

THIS HAZARD:

Who is responsible for ensuring that every child has access to a secure, protected, and nurturing environment? Parents should, in theory, be responsible for their children's adequate care and protection. Addressing concerns of care and protection is the responsibility of the local community and the government at large. The State and its institutions must take proactive measures at all levels of government and service in order to fulfil this commitment²⁴. *The United Nations Convention on the Rights of the Child (UNCRC)* does not exonerate families, communities, or society as a whole of their responsibilities to care for and protect children.

It does, however, place the burden of proof squarely on the shoulders of the government. The ultimate duty bearer is the government. In India, the government should ensure that all vulnerable children receive the best possible anticipatory, preventative, and restorative protection for their right to life, survival, well-being, and dignity. India's new National Policy for Children upholds the original 1974 policy's commitment of providing protective care to

-
- a. A marital or other relationship between the perpetrator or 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;

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.

²² 42A. Act not in derogation of any other law, - The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of its inconsistency.

²³ Section 2(1)(d), Protection of Children from Sexual Offences Act, 2012.

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children "before, during, and after birth, as well as during their growth period. "In practise, this means having access to comprehensive health care and nourishment, as well as opportunities for learning and play, social assistance, and legal protection. Child protection systems that are integrated can help to interrupt the cycle of childhood instability and exploitation.

V. CONSEQUENCES OF MARITAL RAPE:

Despite the historical belief that rape by a partner is a minor occurrence that causes little pain, research shows that marital rape has serious and long-term implications for women.²⁵ Rape, regardless of its form, has a profoundly traumatising effect on a woman's psyche. Rape strikes a victim's ambition, desire, aim, and goals, whether psychologically, socially, or physically. They are remorseful, and they have no one to lean on for help. Rape is a form of mental and physical violence. In the event of marital rape, start with the physical effects on the victim. Following a rape, the most common reactions are anxiety and terror. Following a rape, the birth of an unwanted child is a common occurrence. Mood swings and a stomach problem are only a few of the victims' bodily impacts to consider. The most important thing women lose is their faith in mankind.

A husband is seen as a support structure for any woman in any society, and when they commit rape, it is easy to understand the woman's grief. Women are the most vulnerable segment in our culture. In a patriarchal country like India, a woman is always seen as a means of expanding the family, and her work is seen as thankless. Husband perceives wife as a thing through which all of their wishes must be fulfilled, and denial of the role of wife drives husband to take this action only to satisfy his ego.

The attitude of the state and police is the most significant obstacle to tackling this problem. Even when it comes to rape, police are typically sluggish; their initial response is to try to negotiate an agreement between the criminal and the victim; yet, the vast majority of cases

²⁵ Requel Kennedy Bergen, (Wife Rape: Understanding the Response of Survivors and Service Providers, Sage Publications, California, 1996).

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never make it to court due to societal and police attitudes. Rape is now recognised as bad by society, at least after the 16th February case. Our Panchayats have taken a few steps to punish the perpetrator; formerly, there was just compromise between the victim and the perpetrators. As a result of these challenges, wives frequently abandon their struggle for her after marital rape.

Teenagers range in age from 15 to 18 years old, and it's easy to picture how rape in marriage would affect them. They don't even have the ability to comprehend what marriage is at that age, so raping them is equivalent to a divine double whipping. Marital rape has far-reaching consequences for them. Emotional imbalance, loss of trust, perpetual fear, and lack of excitement are just a few of the psychological consequences. On a societal level, no one intervenes at first since no one wants to meddle in other people's private lives.

VI. CONCLUSION AND SUGGESTIONS:

To combat the threat of child sexual abuse in the form of marriage, it is proposed that marital rape be made a crime in India. As a result, a rights-based approach to violence against women can be used to attain this goal. Although Indian women's organisations have succeeded in raising public awareness and passing domestic abuse legislation, marital rape has not been fully criminalised by eliminating the distinction between marital rape and stranger rape.

However, unless politicians and society recognise women's independent rights within the marriage, marital rape will not be criminalised or punished. The notion of marital exemption to rape does not pass the “just, fair, and reasonable” law test, and hence is in violation of both Articles 14 and 21 of the Indian Constitution. As a result, India's criminal code must be amended, as marital rape in child marriage is a grave injustice to women.

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References:

i) Articles:

- *K.D. Gaur, Textbook on Indian Penal Code, Fifth Edition 2014.*
- *Ratanlal and Dhirajlal, Indian Penal Code, Thirty-Fifth Edition.*
- *Prison statistics India-2012, National Crime Records Bureau.*
- *Shamsul Huda, Principles of Law of Crimes, (State Mutual Book & Periodical).*

ii) Websites:

- *<http://washingtonpost.com> last visited on 12/1/2022.*
- *<http://en.wikipedia.org/wk/Crime> last visited on 4/1/2022.*
- *<http://www.mca.gov.n/Ministry/latestnews/> last visited on 12/1/2022.*
- *CSR_Voluntary_Guidelines_24dec2021.pdf, accessed 4/1/ 2022.*
- *<http://ssrn.com/abstract=1348425>, accessed 4/1/ 2022.*
- *<http://juds.nic.n/supremecourt/chejuds.asp>, accessed 7/1/2022.*
- *<http://indankanoon.org/doc/832836/> last visited 12/1/2022.*