



THE RELATIONSHIP BETWEEN CHILD MARRIAGE AND MARITAL RAPE: AN IN DEPTH ANALYSIS

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ABSTRACT

Child marriage and marital rape are two significant issues that often intersect with each other. Child marriage is categorised as a marriage in which one or both parties are underage or minors according to the law. Marital rape, on the other hand, refers to non-consensual sexual activity between spouses. Child marriage has a direct link with marital rape because a child bride is often forced into marriage and is not emotionally or physically ready for the sexual relationship that is expected of her. When a girl is forced into a marriage, she may not fully understand the implications of the relationship, including the expectation of sexual activity. Additionally, child brides are frequently the victims of rape in marriage and other forms of sexual abuse by their older, more skilled husbands. Additionally, child brides are more likely to be cut off from their relatives and social networks, which makes them more susceptible to maltreatment. Child brides may experience serious effects from marital rape. They are more prone to undergo emotional and physical injury, have problems with their reproductive systems, and become pregnant unintentionally. The following paper aims to address the various legal provisions and the constitutional mandates concerning child marriage and marital rape. Furthermore, the author has tried to draw an analysis as to how the two concepts are interlinked in the modern-day world and how the same needs to be confronted in order to achieve a gender inclusive society.

Keywords: Child Marriage, Marital Rape, Gender Justice, Minor Brides.

INTRODUCTION

Child marriage and marital rape are two pressing issues that have long had an impact on societies across the world. They are major violations of human rights and are acutely damaging to the physical, mental, and emotional well-being of women and children. The

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concepts of child marriage and marital rape, their historical context, the present legal frameworks surrounding them, as well as the challenges still to be overcome in addressing these pressing issues. The practice of marrying off young girls, often under the age of 18, frequently without their will, is known as child marriage. Despite international conventions and legal restrictions, it is a deeply rooted social and cultural phenomenon that persists in many different regions of the world. UNICEF¹ data shows that 27 % of girls before the age of 18 and 7 % before the age of 15 are married. Child marriage is a social evil. If it were stopped, the cases of child marriage could cross more than one billion by the year 2050. On the other side marital rape is a rape without the consent of the wife which affects the health of the body of the women and as well as her mental health. Rape is a very heinous crime when it is considered against a victim at any point in life and has severe punishment for the criminal as well but when it comes to rape within marriage, several obstacles line the path to criminalizing the act. India is a land of different religions and religious ideologies, so it goes with their Opinions on the same. Some believe that this is a crime and that it should end like how a crime ends, but at the same time, some think such a thing does not even exist. Thus, like a coin with two faces, there are two polar viewpoints on the same issue. **The Hale's principle of English Law states that** "A husband could not be held guilty of raping his wife, as the wife gives up her body to the husband at the time of marriage."²

Approximately 77 countries are having laws on marital rape while approx. 34 countries do not agree to this concept and believe in decriminalization of marital rape and this case, India being a diverse country makes sense if it takes appropriate time to take an action plan on marital Rape. In our country, the issue is juxtaposed against the civil society in which, on one end, female deities are assigned divine status and worshipped as 'Davis,' and at the same time, such crimes affecting the social and mental status of women in the society are justified in the social and legal framework. Marital rape refers to non-consensual sexual activity or intercourse between spouses or partners. It is an act of sexual violence where one spouse forces or coerces the other to engage in sexual activity against their will.

¹ UNICEF Report on child marriage

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://data.unicef.org/topic/child-protection/child-marriage/&ved=2ahUKEwjrsdaU1vWLAxUfhq8BHaTBIUUQFnoECB0QAQ&usg=AOvVaw17y3BPPBEfifVWNGHsg5E2>

² The controversy surrounding Marital Rape

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.barandbench.com/amp/story/columns/just-law-controversy-around-marital-rape-part-i&ved=2ahUKEwj73H3PWLAXVwd2wGHfnMEIIQFnoECB0QBQ&usg=AOvVaw166yMN1hbYVqsqn9C943a->

TYPES OF MARITAL RAPE

Forced Sex: In this type of rape husband force their wives to have Sexual relations with them. This type of marital rape generally occurs when wife denies the sexual intercourse.

Sex Pressure: It means that the man compelled her wife to engage in sexual intercourse without consent due to the pressure of her duties. This type of rape also includes verbal pressure from husband.

Battering Rape: In this sort of rape, the husband hits the victim's Spouse to force her to engage in sexual activity, or a battering rape, the victim's husband uses force and aggressiveness to engage in sexual activity. In this kind of rape, the victim is subjected to both physical and sexual abuse.

Obsessive Rape: This type of rape combines severe deeds towards the wife with the use of forceful action in a sexual attack.

In *Nimeshbhai Bhatratbhai Desai vs. State of Gujarat*³, Battering rape, Force Only rape and Obsessive Rape were discussed and given recognition.

CAUSES OF CHILD MARRIAGE

Poverty: Women from households with low incomes marry at an early age because the parents don't have enough money for their upbringing.

Social Context: Scheduled Castes and rural communities both have higher rates of child marriage.

Trafficking: Because the transaction allows for a significant financial gain for the girl's family. They are indifferent to their daughters, and the proceeds from selling them are used to support their sons.

Low Economic Return Potential: The work performed by women is often limited to household chores and is not valued. The issue of dowry is another aspect. Even though dowry has been illegal in India since 1961 (Dowry Prohibition Act), parents of girls still frequently provide presents to the groom and/or his family, whether in cash or kind.

³ Criminal Misc. Application (For Quashing & Set Aside Fir/Order) No. 26957 of 2017

Education: Girls have a lower literacy rate in comparison to boys in India. Female students have a low gross enrolment ratio in higher education and also experience a high dropout rate.

CAUSES OF MARITAL RAPE

Male Superiority: Male superiority is a big reason because of which marital rape occurs. From historical times the males have had the upper hand in the relationship, if we look from the perspective of a patriarchal society. Thus, Male domination is a major reason.

Gender Inequality: Gender based discrimination and inequality are a reality in which Indian males are given preferences in all sectors of the economy and social work of the society.

Religious Virtue: In Hinduism, marriage is regarded as an institution. The relationship is regarded as an alliance of seven lives. So women have to adjust in the name of that alliance many times. A married woman is considered a pativrata, which means a woman should follow what men say. Then only she is regarded as holy or a Good Wife in the society.

Economic Factor: In most areas, women are economically dependent on men because women handle the household and operate the house. Whereas the man works to earn the money, so they have a hold over the women, as the women are financially dependent.

Absence of Legal Laws: There is no particular law which criminalize marital rape and that is a big issue in the society.

THEORIES FOR MARITAL RAPE

Social Theory: Constructivists argue that men dominate society in legislation and law. Thus, the law reflects the interests of the people. Under such laws, a woman was considered the property of her husband after marriage. Therefore, marital rape was considered a misdemeanour compared to rape. Some jurisdictions even assumed that spousal rape was not rape at all. Constructivists believe spousal rape is a way for men to assert themselves. Prioritize oneself over one's wife to maintain her long-acquired power over one's property.

The Sex Role Theory: These theorists contend that specific gender roles govern how spouses interact sexually while they are married. Women are encouraged to be quiet, docile, and subservient in marriage, but males are trained to be aggressive and domineering. Women are said to have compassion and love. Men, please go ahead. On the one hand, they are also

the primary producers of sex acts with violent themes. Role socialists consider marital rape to be only a violent act. “Traditional Concepts of Gender Roles”

Feminist Theory: According to a clear representation of feminist theory, marital rape is a tool in the arsenal of a system of patriarchy that uses women as a means of exercising control. They believe that the marital rape expectation is a holdover from previous rules governing women, which led people to believe that women are the husband’s property. According to feminists, marital rape is nothing more than the beginning of a power struggle used by husbands to subjugate and abuse their wife. Radical feminists also firmly think that heterosexual sexual activity is fundamentally driven by men’s desires and is one of the primary ways that women are oppressed.⁴

CONSTITUTIONAL VALIDITY OF MARITAL RAPE

The fundamental rights of women under the Indian Constitution, including Articles 14 and 21, are negated by conjugal violence. No matter if the crime of domestic violence takes place in a marriage’s private space, the State is nonetheless responsible. When a woman is assaulted by her partner and the State no longer steps in to intervene, she is left without a response. In *T. Sareetha vs Venkata Subbaiah*⁵, the court ruled that articles 14, 19 and 21 of the Indian Constitution are violated by section 9 of the Hindu Marriage Act (1955). This claim received approval from the court. The Court found that the compensation for intimate freedoms treatment became unlawful because it pushed the right to wish to unwind in the woman having sex with the State. Since it infringes on an individual’s autonomy of thought, this could violate Article 21 of the Constitution. The Court also noted the significance of sexual independence for women and that women may be harmed by this arrangement. Similar to how the Court in this case feels that “no practical exhibition of interaction may be compelled upon the unwilling people, as nothing could be more overtly corrupting to human respect and decency.

The argument in the “conjugal assault” controversy is that even though the rule treats married and unmarried women differently in terms of their rights, it would not now violate Article 14 because a valid marriage is a fair prerequisite. It’s important to emphasise that the argument

⁴ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.ijlra.com/paper-details.php%3Fisuurl%3Dmarital-rape-a-comparative-legal-analysis-by-nending-sonia-&ved=2ahUKEwjoi5XQ2vWLAxVKSmwGHZaLCqYQFnoECBoQAQ&usg=AOvVaw04ScQw8YHFLkqQdo5-8qRY>

⁵ *T. Sareetha vs. Venkata Subbaiha*, AIR 1983 AP 356

is not that marriage fits the requirements for a reasonable distinction under Article 14 of the Constitution, which would make assault illegal on its own. Even though assault is a violation of Article 21, even when it's not, because "conjugal assault" is a fair classification, it is forgiven.

To overcome this, we may demonstrate how marriage has evolved to include women as equal partners. We'll use this to show how the evolved view of marriage prevents the exception for domestic violence from meeting the requirements of Article 14. According to the Supreme Court's decision in **Bodhisattwa Gautam v. Subhra Chakraborty**, assault is the most heinous and serious violation of fundamental freedoms, and it violates the victim's most treasured right, the choice of where to reside. Composure is described in "Article 21 of the Constitution". As part of the right to life and individual freedom, the court has recently started to recognise the right to refrain from sexual behaviour and the right to be free from unwelcome sexual contact.

MISUSE OF MARITAL RAPE LAW

"Countermeasures" Any law can be abused in some ways: Police must act after thoroughly analysing the case, and the judge must determine the credibility of the allegations. False cases were registered for other crimes, and many other laws were abused. But it is the responsibility of the criminal justice system to expose the wrong cases. Besides, women are more likely to rape because rape cases carry cultural stigma. The desire to endure this ordeal is small.

The Need for Evidence beyond a Reasonable Doubt: Nevertheless, proponents of the "spousal abuse exception" argue that the exception should be removed. To resolve issues of irrelevant discussion Domestic Violence denounced the Dowry Prohibition Act and Section 498A⁷ of the Indian Penal Code. Any serious and actual abuse of a woman by her partner or family member is an offence under Section 498A of the IPC. Based on this idea, the Supreme Court in *Arnesh Kumar vs State of Bihar*⁶ said, "Section 498A is being used as a weapon by disenchanted people." The total no. of 498A cases registered in India in 2016 (1, 10,378) is 32.6% of the total cases registered under the Crime against Women category. In 2016, 6745 cases under IPC 498a were considered false as per the final report. 2958 cases were considered a Mistake of fact. 8308 were considered true but possessed insufficient Evidence.

⁶ Arnesh Kumar vs State Of Bihar & Anr , AIR 2014 SC 2756

In 2016, only 5,433 cases where convictions happened as compared to 39,248 cases of acquittals. Conviction rate was 12.2%. Lower as compared to the rate of acquittals.⁷

The National Family Health Survey Shows Evidence to the contrary: 2 out of 5 Indian women were found to be victims of physical or sexual violence or localised aggressive behaviour within the home. The aberrations between review discoveries and conviction rates recommend that the quantity of convictions doesn't necessarily reflect reality. Additionally, "low conviction rates are much of the time the after-effect of ineffectively led examinations, unlawfully gained proof, and witness explanation oversights." what advocates of the maltreatment contention neglect to perceive is that insufficient funds, limited admittance to the court framework, and devastating disgrace all posture obstacles to ladies acquiring equity under these regulations. The lawful interaction for a lady to record an objection against her husband is extended, difficult, and embarrassing, with cures being hard to obtain. "At the point when a lady documents a grievance with the police, she is often as much as possible exposed to intrusive and cold-hearted cross-examination, and legal decisions show an inclination towards ladies who record claims against their life partners. Ladies are habitually convinced to drop their grumblings after recording them." Besides, the thought that India's ignorance, neediness, and absence of information make the possibility of conjugal assault unfeasible goes against the reason that condemning conjugal assault would prompt abuse assuming that ladies miss the mark on schooling or assets to appropriately direct such a standard, it follows that they will be as unprepared to mishandle it. That means they are likewise not prepared to mishandle it.

Poor Economic Conditions: This is due to the difficulties women face in pursuing claims. Spouses rarely control their livelihood framework, an honour given to them in India. Therefore, simply providing insurance to actual accident victims is far from a reasonable premise. Abuse of spousal violence is only a hypothesis at this time. Extensive Regulations to punish the accused of marital abuse are necessary.

LEGAL PROVISIONS REGARDING CHILD MARRIAGE

Child marriage remains a common problem in the country at the grassroots level. According to the Child Marriage Restraint Act, 1929, the minimum age was 18 years, but later it was

⁷ Crime in India-2016, National Crime Records Bureau, Government of India, <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20%202016%20Complete%20PDF%20291117.pdf>

repealed by the Prohibition of Child Marriage Act, which also advocated that the minimum age should be 18 years; otherwise, the marriage would be voidable. Voidable marriage is covered under section 12 of the Hindu Marriage Act of 1955, which means that marriage is valid until it is challenged in court. In June 2020, the Ministry of Women and Child Development and Improvement established the Jaya Jaitly Committee⁸ to address these child-related issues and other social record management issues. The council noted that the legal age of marriage should be raised to 21 to effectively promote gender equality in society and make it easier for girls to participate in and complete educational, training and vocational programmes. The committee called on the government to consider ways to make it easier for girls to attend school and college, such as sending girls from faraway areas to attend school and college.

The Commission also proposed embarking on a mindfulness movement to promote marriage extensions on a large scale and to promote social acceptance of the new law, which would arguably be more effective than coercive measures. They say that the situation surrounding child marriage in India still has a long way to go. India has the fourth-highest child marriage rate among eight South Asian countries. Child marriage is currently illegal in India. The legal age of marriage is 18 for girls and 21 for men. Nevertheless, India has the highest percentage of child brides in the world. In *Lajja Devi v. State*⁹ on July 27, 2012, the Court ruled that under section 6(1) of the Dowry Prohibition Act, “When the woman was a minor”. Laws give women the option of dissolution, but these agreements represent that such relationships are subject to dispute.

The Child Marriage Prohibition Act of 2006 itself allows marriages of underage girls as long as the individual’s laws, customs, religions and traditions permit. To legally recognise these marriages, section 6 of the Hindu Minority and Guardianship Act, 1956, already stipulates that the husband is the guardian of the wife, so that if the marriage is not annulled, the wife will be subject to her husband. Consent is irrelevant if the girl is under the age of 16. However, assuming that the extraordinary circumstances continue and that the girl, who has reached the age of 16, makes a statement agreeing to go with the accused man, the procedure under Sections 363 and 376 of the I.P.C. shows current uncertainty and ambiguity about the

⁸ https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://prsindia.org/billtrack/the-prohibition-of-child-marriage-amendment-bill-2021%23::~:~:text=%3DIn%2520June%25202020%252C%2520the%2520cental,such%2520as%2520Infant%2520Mortality%2520Rate&ved=2ahUKEwjw2Obm0fWLAxVkT2wGHUPLEO0QFnoECBcQBQ&usg=AOvVawliQwMTJcFZy89ece8kh_6B

⁹ 2013 CRI. L. J. 3458

legitimacy of relationships between minors and adults. The case was concluded in court and settled by proving that Meera was a minor at the time she agreed to marry the defendant. However, she was 17 years old at the time, an investigation found that the marriage was invalid, and when the time came for the most part, it would be up to her whether she would exercise her freedom under the PCMA 2006, which would be a choice. The Supreme Court of India ruled on 11 October 2017 in the Landmark case *Independent Thought v. Union of India*¹⁰ that, within the meaning of Section 375 of the Indian Penal Code of 1860, intercourse or sexual intercourse between a man and a woman under age shall be the judgment was made that the following acts were considered rape.

The Court interpreted Exception 2 of Section 375 to state that “the sexual intercourse or sexual intercourse of a woman with her wife by a man who must not be under the age of 15 for a woman does not amount to rape”, which states that “ Sexual Intercourse with his wife does not constitute rape.” A “minor” is considered rape, but no exceptions apply if the wife is between the ages of 15 and 18. Section 9 of the Child Marriage Restrictions Act 1929 provides that the court may not find her guilty under the Child Marriage Restrictions Act 1929 if one year has elapsed from the date the crime was allegedly committed. In the case of *Krishna Pillai vs. T.A. Rajendran*¹¹ a three-judge collegial panel held that judges were barred under section 9 of the Child Marriage Restrictions Act 1929, and that the trial would be held after the expiry of section 9 of the Child Marriage Restrictions Act 1929. Has been barred from acting in the proceedings of the lawsuit and is therefore incapable of giving an opinion at this time. A deadline for the year had been submitted.

The Child Marriage Prohibition Act of 2006 (PCMA) was enacted by the government to prevent child marriage and to punish those involved in child marriage. State governments have the authority under Section 16 of the Child Marriage Prohibition Act (PCMA) to appoint an official known as the Child Marriage Prohibition Officer (CMPO) to be responsible for the areas specified in the notice Jurisdiction over all or part of a state. This part also covers the skills required for CMPO. This includes preventing a sombre relationship with your child by taking steps you deem appropriate. Collect evidence so that lawbreakers can be effectively prosecuted. To admonish or instruct the local population not to take pleasure in promoting, supporting, assisting, or permitting the celebration of young relationships by making them aware of the negative effects of relationships with children.

¹⁰ AIR 2017 SC 4904

¹¹ AIR1954 SC 335

Also, in order to revitalise the region on the problem of relations with young people. These professionals are subordinated to their respective state law/UT organisations. They are therefore responsible for fulfilling the provisions of the law. Furthermore, on December 21, 2021, the government introduced a bill called the Child Marriage Prohibition (Amendment) Bill 2021, raising the legal age of marriage for women to 21 to put it on par with men.

CORRELATION BETWEEN CHILD MARRIAGE AND MARITAL RAPE

There is a strong link between concerns about child marriage and marital rape. Child marriage, or young marriage, often increases the risk of marital rape. In many countries, particularly India, the link between child marriage and spousal rape is subject to legal and regulatory scrutiny. In light of the *Independent Thought v. Union of India* case, here is an overview of the legal position on child marriage and marital rape in India. The Children's Marriage Prohibition of Child Marriage Act (2006) sets the minimum age for marriage in India. The law specifically states that child marriages can be annulled at the discretion of the parties, and states that the minimum age for marriage is 18 for women and 21 for men. However, the law contains a controversial exception that makes child marriage legal if the girl is over the age of 15, with both sides claiming the marriage is "null". In 2017, the Supreme Court of India issued an important decision in the *Independent Thought v. Union of India* case.

The lawsuit challenges the PCMA's exemption that allows sexual intercourse with girls between the ages of 15 and 18 who are married as children. Under the Indian Penal Code (IPC), sexual contact with a wife between the ages Of 15 and 18 constitutes rape, the Supreme Court said. Criminalization of marital rape is a big issue The Indian IPC does not clearly define marital rape as a crime. But even in the context of child marriage, the Independent Thought decision concluded that non-consensual sex with a girl between the ages of 15 and 18 constitutes rape and violates the fundamental rights of the bereaved. The Independent Thought's decision recognized the rights of child brides and made significant progress in resolving the problem of marital rape. It is important to remember that the IPC has not yet been amended to more broadly criminalize spousal rape in all circumstances. Activists, human rights groups and legal experts in India continue to support the criminalization of spousal rape in all cases, regardless of the age of the parties involved or whether they were married as children.

Discussions around this topic include discussions on consent, body autonomy, gender equality, and the need for comprehensive legal reform. To fully understand the current legal situation regarding child marriage and spousal rape in India, it is important to consult the latest legal resources and expert opinion. When it comes to child marriage, there is usually an age gap between spouses, with girls marrying older men at an early age. This power imbalance within the relationship increases the likelihood of sexual assault, including spousal rape. Younger spouses may lack the ability to provide informed consent or enforce boundaries, making them more vulnerable to spousal sexual abuse. Child brides often have limited agency and autonomy over their own lives and choices, including sexual choices. They may be forced to marry without their consent or pressured to comply with their husband's demands, including unwanted sex after marriage, limited Education and Awareness. Child brides often have limited access to education and information about their rights, including sexual and reproductive rights. This lack of knowledge can mean that spousal rape cases cannot be identified, challenged, or sought for help.

PROBLEMS BETWEEN SOCIAL STRUCTURE AND LEGAL FRAMEWORK

Due to the following causes, the current social structure and legal framework have problems.

The Role of Secondary Vocational Education and how it affects family income: It also leads to dropouts, which is a significant difference, especially after learning about poverty. There should be a connection between economic development and vocational education. It will be simpler for family members to manage and alter their stereotypical thinking if the training is properly designed and linked to the economy. The ban on child marriage legislation of 2006 should be changed to declare all child marriages void to address the issues with the current laws. The law was created to declare null and void marriages that were obtained through threats, ransom, kidnapping, force, or other unlawful means. Only in the State of Karnataka the child marriage void; otherwise, it is voidable. According to the POCSO Act of 2012¹⁹, engaging in sexual contact with a child under the age of 18 is illegal. The concept of consent is meaningless when it comes to children, and in cases of legal child marriage, the boy may face criminal charges. However, the amendment to the Criminal Law of 2013, which was created in response to the Delhi gang rape case from December 16, 2012, raises complicated legal issues regarding consent and sexual behaviour between minors who are legally married. On the one hand, it declares sexual contact between a husband and his wife only to constitute statutory rape if the woman is under the age of 15. On the other hand,

it makes consent irrelevant in the case of rape victims under the age of 18. Many people called for the age of sexual consent to be decreased to 16 years old when these rules were being drafted to prevent the criminalisation of young people engaging in consenting sexual behaviour.

The National Child Policy 2013 only mentions the child once, and that also in the context of children attending school. However, children will still be married young, thus youngsters will get married outside of school. Keep tabs on them, enrol them in school, and ensure their access to education. These are the social, technological, and legal strategies India can use to stop child marriage. The issue needs to be rectified as soon as possible if India wants a bright future, since the next generation will determine how a nation develops, and if this epidemic affects India, it won't. The PCMA Act should forbid Child marriage, according to the government.

PROSPECTIVE REMEDIES

- For children and families who are at risk, support programmes must be established. Governments and non-profit civil society groups ought to offer hotlines, counselling, shelters, and legal aid. These aid programmes safeguard children's environments, step in to stop child marriages, and provide support to those who have already been impacted.
- Various parties, including governments, local leaders, nongovernmental organisations, and international organisations, must be involved in the thorough and coordinated implementation of these solutions. Societies can work together to stop child marriage and protect children's rights and welfare by combining legal measures, education, and support services.
- Families that are struggling financially frequently turn to child marriage as a solution. Effectively preventing child marriage requires the implementation of initiatives that improve financial opportunities for poor households. These initiatives might include efforts to create jobs, skill development programmes, microfinance plans, and vocational training. Families are less likely to view early marriage as a solution if there are viable livelihood possibilities.

- It is crucial to spread knowledge about the negative effects of Child marriage. The importance of girls' education, child protection, and the dangers of early marriage should be emphasised through educational programmes run by communities, schools, and religious institutions. By empowering people and communities with knowledge and information, education can encourage alternative behaviours that uphold children's rights and challenge societal norms.
- Child Marriage should be declared void instead of voidable under section 12 of the Hindu Marriage Act 1955.
- Section 376B, on the other hand, governs separated couples and has special characteristics. Condemn this scheme and impose a sentence of 2 to 7 years in prison. It is clearly shown that the goal was to lower the bar of offensive discipline where comrades were Guilty. In any event, we agree that this is illegal under the Article 14 impartiality decision. There are compelling reasons for the need for alternative punitive strategies in the presence of marital ties. Therefore, we recommend that part 376B be discontinued, and the configured strategy continues to work without guarantees.
- *One universally ideal concept is to approach in the same way we treat others.* Given the notion that spousal assault and abuse have ever taken place in the country. Therefore, it is very difficult to prove the existence of consent in marriage.
- The government should introduce or strengthen laws that make the minimum age of marriage 18 for both girls and boys. This minimum age should be in line with international standards such as the Convention on the Rights of the Child. Eliminate legal loopholes. The law must be reviewed and amended to remove provisions and exceptions that allow child marriage, such as parental consent and court approval for underage marriages. Strict adherence to the minimum age limit must be ensured.
- Birth registration is necessary to verify the child's age and prevent underage marriages. The government should work to improve the birth registration system, ensure that all children are registered at birth, and introduce penalties for failure to register births. Empower girls with knowledge, skills and support networks.

- There shall be compulsory registration of marriage, as it was also recommended in the judgment of *Seema vs Ashwani Kumar*.¹²

CONCLUSION

“In India, marital rape is an actual practice, not a legal one.” Prevalence of marital rape in India is for all facts and purposes, as old as the institution and marriage itself... The Indian Judiciary has taking a step back in this regard and argued that marital rape and legislation is within the purview of the Indian Parliament and the Parliament did so had earlier looked into the matter and emphasized that marital rape is not a crime in India. At the same time, the government believes that criminalizing marital rape would weaken the law the Institution of marriage. Neither the courts nor the administration intend to criminalize marital rape. In the shade, Judges and Lawmakers are essentially protecting criminals in the name of preserving marriage and justify their actions. The marital rape controversy is critical to the creation of equality for married women People who are otherwise confined to their homes in public or legal discussions. It is important to recognise that there are currently significant loopholes in the criminal law that undermine the Constitution. Protection should be guaranteed that gives women equality and independence. In summary, the legal analysis of child marriage and spousal rape has revealed significant issues and challenges that need to be addressed to ensure the protection and rights of individuals, especially women and children, in marriage. Child Marriage is a harmful practice that deprives children, especially girls, of their rights to education, health and self-development. It perpetuates gender inequality and exposes minors to many forms of abuse, including domestic violence, lack of autonomy and risk of early pregnancy. Efforts to combat child marriage must include legal reform, education, awareness campaigns and community engagement to address the causes and protect vulnerable children. Spousal rape is a Non-consensual sexual act in marriage and a violation of an individual's physical autonomy and basic human rights. However, in many jurisdictions, it remains undetected as a crime.

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