

|LAW AUDIENCE JOURNAL|
|VOLUME 1|ISSUE 3|APRIL 2019|ISSN (0): 2581-6705|

|LAW AUDIENCE JOURNAL®|

|VOLUME 1 & ISSUE 3|

|APRIL 2019|

|ISSN (0): 2581-6705|

EDITED BY:

LAW AUDIENCE JOURNAL'S

EDITORIAL BOARD

[LAW AUDIENCE JOURNAL]
[VOLUME 1|ISSUE 3|APRIL 2019|ISSN (O): 2581-6705]

COPYRIGHT © 2019 BY LAW AUDIENCE JOURNAL (ISSN (O): 2581-6705)

All Copyrights are reserved with the Author. But, however, the Author has granted to the Journal (Law Audience Journal), an irrevocable, non-exclusive, royalty-free and transferable license to publish, reproduce, store, transmit, display and distribute it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known.

No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non-commercial uses permitted by copyright law.

For permission requests, write to the publisher, subject of the email must be "Permission Required," at the email addresses given below.

Email: lawjournal@lawaudience.com, info@lawaudience.com,

Phone: +91-8351033361,

Website: www.lawaudience.com.

Facebook: www.facebook.com/lawaudience

Instagram: www.instagram.com/lawaudienceofficial

Contact Timings: 5:00 PM to 9:00 PM.

DISCLAIMER:

Law Audience Journal (ISSN (O): 2581-6705) and Its Editorial Board Members do not guarantee that the material published in it is 100 percent reliable. You can rely upon it at your own risk. But, however, the Journal and Its Editorial Board Members have taken the proper steps to provide the readers with relevant material. Proper footnotes & references have been given to avoid any copyright or plagiarism issue. Articles published in Volume 1 & Issue 3 are the original work of the authors.

Views or Opinions or Suggestions, expressed or published in the Journal are the personal point of views of the Author(s) or Contributor(s) and the Journal & Its Editorial Board Members are not liable for the same.

While every effort has been made to avoid any mistake or omission, this publication is published online on the condition and understanding that the publisher shall not be liable in any manner to any person by reason of any mistake or omission in this publication or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this work.

All disputes subject to the exclusive jurisdiction of Courts, Tribunals and Forums at Himachal Pradesh only.

“MARITAL RAPE AND THE DISPUTED CONCEPT OF IMPLIED CONSENT.”

AUTHORED BY: MR. SAHAJVEER BAWEJA (B.A.LL.B (Hons)), RAJIV GANDHI

NATIONAL UNIVERSITY OF LAW.

Email ID: Sahajveerbaweja@rgnul.ac.in

I. WHAT IS MARITAL RAPE?

Before directly jumping to what marital rape is, it is better to divide words and to understand them separately. Starting with the second-word rape; Rape is unlawful sex or sexual intercourse with the other person. Here the sexual intercourse is without the consent of the other person. In India, currently only the rape of a woman is recognized and rape of a man is still not recognized. Rape is one of the heinous crimes in India which has punishment up to death penalty.

I.I RAPE:

Rape consists of one word and this single word is enough to destroy the entire life of a woman. It not only attacks the sexuality of a woman but with that it violates the right to life, right to liberty, right to freedom and other fundamental rights.

The bare provisions related to Rape have been mentioned under Section 375 of Indian Penal Code, 1860 and Punishment for Rape is mentioned under Section 376 of Indian Penal Code, 1860. They are:

Section 375, Indian Penal Code, 1860 (Rape)¹:

“A man is said to commit "rape" if he:

- a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or*

¹ Sec 375, Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

- b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or*
- c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any ~ of body of such woman or makes her to do so with him or any other person; or*
- d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:*

First: *Against her will.*

Secondly: *Without her consent.*

Thirdly: *With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.*

Fourthly: *With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.*

Fifthly: *With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.*

Sixthly: *With or without her consent, when she is under eighteen years of age.*

Seventhly: *When she is unable to communicate consent.*

Explanation 1: *For the purposes of this section, "vagina" shall also include labia majora.*

Explanation 2: *Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:*

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1: *A medical procedure or intervention shall not constitute rape.*

Exception 2: *Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.²*

Section 376, Indian Penal Code, 1860 (Punishment for Rape)³:

“1. Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years⁴, but which may extend to imprisonment for life, and shall also be liable to fine.

2. Whoever:

- a) being a police officer, commits rape:*
 - i. within the limits of the police station to which such police officer is appointed⁵;*
or
 - ii. in the premises of any station house; or*
 - iii. on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or*
- b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or*
- c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or*

² *The Supreme Court in Independent Thought v. Union of India (India) has modified the Exception 2 attached to Section 375 of Indian Penal Code. Now it read as follows: “Sexual intercourse or sexual acts by a man with his own wife, the wife not being 18 years, is not rape”.*

³ Section 376, Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

⁴ Prior to “*The Criminal Law (Amendment) Act, No. 22 of 2018 (India)*” it was seven years.

⁵ In Section 376, sub-section (2), Clause (i) has been omitted by “*The Criminal Law (Amendment) Act, No. 22 of 2018 (India)*”

- d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or*
- e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or*
- f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or*
- g) commits rape during communal or sectarian violence; or*
- h) commits rape on a woman knowing her to be pregnant; or*
- i) commits rape on a woman when she is under sixteen years of age; or*
- j) commits rape, on a woman incapable of giving consent; or*
- k) being in a position of control or dominance over a woman, commits rape on such woman; or*
- l) commits rape on a woman suffering from mental or physical disability; or*
- m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or*
- n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.*

3. *Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.*

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim⁶.

Explanation: *For the purposes of this sub-section:*

- a. "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any Jaw for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government!, or the State Government;*
- b. "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;*
- c. "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;*
- d. "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children."*

In the case of *Shri Bodhisattwa Gautama vs Miss Subhra Chakraborty*⁷, it was held that "Rape is thus not only a crime against the person of a woman (victim); it is a crime against the whole humanity. It abolishes the entire psychology of a woman and pushed her into deep emotional crises. It is only by her absolute will power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her with disrespect and contempt. Rape is, therefore, the most hated crime. It is a crime against elementary

⁶ Sub-Section (3) in Section 376 has been added by *The Criminal Law (Amendment) Act, No. 22 of 2018* (India).

⁷ 1996 S.C.C. (1) 490 (India).

human rights and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21. To many feminists and psychiatrists, rape is less a sexual offence than an act of aggression aimed at degrading and humiliating women. The rape laws do not, unfortunately, take care of the social aspect of the matter and are inept in many respects.”

Rape is not just a nightmare that can be forgotten with time. Rape is that experience which devastates the foundations of the lives of the victims.⁸ It strikes the confidence of a woman that she carries and puts her into a state of intense fear from society. Certainly, the trauma does not end just after the rape and the societal mockery; it carries with her even in the legal proceedings where she had to express everything through her words of what had happened with her. Rape prosecutions are a traumatic experience and sometimes more painful than the real incident.

I.II MARITAL:

Talking about the first word in the combined word ‘Marital rape’, Marital means a relationship between a woman and a man which is voluntarily taken by the parties as per their personal governing laws and once that ceremony is concluded, the parties are further recognized as husband and wife. In a marriage, three elements are important to conclude that it is a marriage.

- a) Agreement to be married.
- b) Living together as husband and wife.
- c) Holding out to the public that the parties are married.

With all these essentials, the consent of living together is an important feature of marital relationships. Sharing common roof and duty to live together form part of the ‘Consortium

⁸ Delhi Domestic Working Women v. Union of India, 1995 S.C.C. (1) 14 (India).

Omnis Vitae” which obliges spouses to live together⁹. So the meaning of Marital means a relationship that is related to living together as a married party with mutual consent.

I.III MARITAL RAPE:

Now comes the important issue of what Marital rape together means. To define the concept, it can be termed as unwanted sexual intercourse of any type with or without the use of force irrespective of the consent of the wife. Here the consent of the wife is not given any life and is taken for granted. The patriarchal framework of our society that is flourishing even in the 21st century violates the fundamental rights of women openly and without any threat or fear. This framework has excluded rape of the wife from the definition of rape. To be more precise, the law has accepted that after marrying a woman, a man has all the rights to have sexual intercourse with the woman no matter she is willing to or not willing to have at that time. The consent factor that is essential in the definition of rape has been excluded when it comes to the subject matter of a wife. Here the consent of the wife is assumed as implied consent not just by the husband but also by the highest institution of justice in our country.¹⁰

In one of the statistical report produced by the UN Population Fund, it came forward that two-thirds of the married women in India have gone through rigorous torture and violence in both the forms; physical which includes sexual and mental. With the reports of a survey conducted by the International Men and Gender Equality Survey, the results reflected that almost one in five married women were forced to have sex. Here the concept of considering wife as a property of man can be portrayed. Such legal immunity was bestowed upon husband in respect of his wife by the virtue of the marital cord.¹¹

This Marital rape is the most common and obnoxious form of masochism in Indian society which is protected under the iron curtain of marriage. Magnificent natural laws and

⁹ Indra Sarma v. V.K.V.Sarma, (2013) 15 S.C.C. 755 (India).

¹⁰ Dr. Vandana. “MARITAL RAPE - EXEMPTION UNDER INDIAN PENAL CODE: QUEST FOR RECOGNITION AND LIABILITY.” ILI Law Review, vol. 2.

¹¹ Vibha Yadav, MARITAL RAPE, <http://ujala.uk.gov.in/files/ch19.pdf>.

numerous codified laws in India mutually enforce the denial of women's bodily integrity which is the preamble of women's human rights. There should be no classification of types of rape. Rape is rape and there is no category of marital rape or stranger rape. The non-recognition of marital rape denies the fundamental right to a woman and even if it is treated as a crime by the law, the issue of penalty remains somewhere lost in a cloud of legal uncertainty. This takes us to the conclusion that when a man marries a woman, he also gets sex in the same package widely taking it under the scope of consent for marriage.¹²

II. CONSENT:

"Consent is an act of reason, accompanied with deliberation, the mind weighing, as in a balance, the good and evil on each side."

The concept of consent is very clear and does not take us to any ambiguous conclusion. Basically, consent means an agreement or a concord between the parties to engage in any activity. Such activity can be a contract, a partnership, and a sexual relationship or maybe even in any other category. The value of consent is permissible in nature. Everything depends on the consent. If the other party has consent of the other person then both the parties fall under the legal framework and if one party does not have the consent of the other party and still acts on his behalf, then he has to face the legal repercussions. Certainly, the acceptance of submitting ourselves to the current situation with an intention to be a part of it shall be called consent.

II.1 CONSENT IN SEXUAL RELATIONSHIP:

The concept of consent in sexual activity is all about having communication about and it should not be implied if the consent is given for one time. Every time, the consent should

¹² Saurabh Mishra & Sarvesh Singh, Marital Rape — Myth, Reality and Need for Criminalization, 2003 PL WebJour 12.

be taken before indulging into it. Giving consent for one activity does not automatically means the consent for increased or repeated sexual contact.

As per the University of Michigan Policy & Procedures on Student Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence, “consent is defined as a “clear and unambiguous agreement, expressed clearly through mutual understandability through words or by certain actions so to engage in a particular activity.” It shows us that consent is given voluntarily and is not implied. It also gives us an another essential that consent may not be valid if a person has been subjected to any action that affects her and takes the consent by provoking her emotion, or by corrupting her psychology or pressurizing her financially or even in case of threat and intimidation.¹³

Talking about consent, there is also a limitation that given consent can be changed at any stage. This means that once the consent is given, it can be revoked at any time before the act takes place or even at the time of action. Withdrawing of consent at any point is functional in nature and it is totally in proportion to the comfort level of a human being. Though clear communication is required that my body is no more comfortable in the continuance of this activity and it needs to be stopped. So the next question shall be raised by many that how consent looks like. Basically, the consent is the communication to the other person that I am willing to get involved in a certain activity and I have all the intention to be a part of it.¹⁴

Features of consent are:

- a. It should be *clear*: for example, that “ do you want to have _____ now? ; Yes, I want to”

¹³ “Sexual Assault Prevention and Awareness Center.” What Is Sexual Harassment? | Sexual Assault Prevention and Awareness Center, sapac.umich.edu/article/49.

¹⁴ RAINN | The Nation's Largest Anti-Sexual Violence Organization, www.rainn.org/articles/what-is-consent.

- b. It should be voluntarily: for example, the person who indulges in giving the consent should be legal to give the consent and should be bodily present in giving consent rather giving consent through someone else.
- c. It should be free from influence: for example, no financial pressure or threat be given to the person for taking their consent. It should be absolutely free from any outdoor influence or even from internal influence.
- d. It should be coherent: this means that the consent shall be taken only when the other person is in the position to give. The consent shall not be valid when taken during a drunken condition or in mentally non-stable condition.
- e. It should be on-going: it means that for every activity, consent shall be taken and it is non-implied in nature which means that giving consent for one time or giving consent for certain intimacy means giving consent for next time or any level of intimacy.¹⁵

So, sheer consent without any intention does not constitute consent. "A mere act of helpless resignation in the face of inevitable compulsion, acquiescence, non-resistance, or passive giving in, when volitional faculty is either clouded by fear or vitiated by duress, cannot be deemed to be 'consent' as understood in law. Consent, on the part of a woman as a defence to an allegation of rape, requires voluntary participation, not only after the exercise of intelligence, based on the knowledge, of the significance and moral quality of the act but after having freely exercised a choice between resistance and assent."¹⁶

III. MARITAL RAPE AND THE CONCEPT OF IMPLIED CONSENT:

As we have now understood the context of both the words separately. It is now necessary to relate to them how they contradict with each other. It is a well-settled principle or you can say that in eyes of law, marital rape is non-recognized in India and certainly there is no punishment for the same. The full-fledged concept of consent that we have discussed

¹⁵ "Guide to Consent." Healthline, Healthline Media, www.healthline.com/health/guide-to-consent#asking-for-consent.

¹⁶ Rao Harnarain Singh vs. State, A.I.R. 1958 Punjab 123.

above has no application when it comes to marital rape. No matter in marital rape that the wife's body is submitted under the influence of fear or terror or not. It will constitute valid consent.

Basically what the law propagates is that, when parties agree to marry and give consent to live together, there is an implied consent to have sexual intercourse. It comes in the package of marriage. The husband gets the irrevocable license of having intercourse whenever he wants with her wife. The consent of wife for having sexual intercourse does not amount to any value and even such sexual relationship with the use of force and threat will not amount to rape and will be covered under the scope of the functional perspective of marriage.

It is said that a woman is said to consent only when she agrees to submit herself while in free and unconstrained possession of her physical and moral power to act in a manner she wanted and the consent should be an exercise of a free and untrammelled right to forbid or withhold what is being consented to. The consent should be voluntary¹⁷ but after the marriage, everything goes into vein and a woman is just a property of her husband.

In India, it is not new to say that after the marriage we put the freedom of women in the prisons of men. We traditionally strip women of their independence and put them in the male custodianship for their next surviving years. As one of the oldest cultures of the world, India had restricted itself from talking openly on the topic of sex. We have somewhere duped the women that denying or saying no to sex after marriage is against the customary practice and the role of traditional wife is to give pleasure to men and undoubtedly it is one of their sole duty. After such a dialogue, no room is left for the consent to come. Women due to fear of divorce non-wilfully submit themselves so as to protect the sanctity of marriage and at the other sidemen take this submission as an active and wilful consent. Women after marriage are curtailed behind the traditional shyness.

¹⁷ Uday v. State of Karnataka, 2003 4 S.C.C 46 (India).

This makes women a victim where she gets into a dilemma that whether the consent is active or it is a pre-founded notion.¹⁸

Basically, the traditional explanation for not allowing marital rape to come under the capacity of rape is that when the marriage is constituted, there is a blanket consent that is given by women to men for sexual intimacy which women can revoke only by asking for the divorce.¹⁹

The sanctity of consent that is widely prayed in the other laws as it the turning point and deciding factor in many cases turns out to be totally silent and may have no voice to echo. The concept of implied consent takes it to stand from the traditional times. With the changing time, we have to respect the dynamic factor of the constitution.

In the case of *Navtej Johar v. Union of India*,²⁰ it was held that The concept of transformative constitutionalism has at its kernel a pledge, promise and thirst to transform the Dravidian society so as to embrace therein, in letter and spirit, the ideals of justice, liberty, equality and fraternity as set out in the Preamble to our Constitution. The expression transformative constitutionalism can be best understood by embracing a pragmatic lens which will help in recognizing the realities of the current day. Transformation as a singular term is diametrically opposed to something which is static and stagnant; rather it signifies change, alteration and the ability to metamorphose.

Thus, the concept of transformative constitutionalism, which is an actuality with regard to all Constitutions and particularly so with regard to the Dravidian Constitution, is, as a matter of fact, the ability of the Constitution to adapt and transform with the changing

¹⁸ “Even If I Complain, Who’s Going To Believe Me’: The Truth About Marital Rape In India.” Youth Ki Awaaz, Youth Ki Awaaz, 23 Oct. 2018, www.youthkiawaaz.com/2018/09/need-define-consent-define-marital-rape/.

¹⁹ Hasday, Jill Elaine. “Contest and Consent: A Legal History of Marital Rape.” *California Law Review*, vol. 88, no. 5, 2000, pp. 1373–1505. JSTOR, www.jstor.org/stable/3481263.

²⁰ *Navtej Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).

needs of the times. It means that the concept of consent should with time needs to broaden up and a separate consent should hold good during the question of sexual intercourse in marriage.

Some of the arguments that are raised by the scholars and the judiciary are:

- a. There is no need to give legislative attention to marital rape, as it is quite uncommon.
- b. There is an implied consent to have sexual intercourse when a woman marries a man.
- c. Due to the near impossibility of proving marital rape, its criminalization would only serve as an increased burden to the already overburdened legal system.
- d. Dissatisfied, angry, vengeful wives might charge their innocent husbands with the offence of marital rape.

To answer these arguments, I would like to take a societal perspective. For the very first argument, this is not a valid argument that the legislative attention is not required just because it is quite uncommon. As per the reports, more than 25 percent of rape cases in the US is marital rape. In India, one out of five women had to face the wrath of marital rape. To bring more statistics in highlight, more than 50 percent of grounds for divorce are only on the ground of sexual violence. If the legislation brings the scope of marital rape in the judicature, a proper statistics can be brought out and the women who had been subjected to this kind of rape due to unavailability of the provision of marital rape may get relief.

On the very second argument, there is a need to question about what consent refers here. The disputed concept of implied consent does not stand good on the face of equity, a good conscience, and justice. The consent here was given just for the matrimonial relationship and the consent to live together under the same roof and to accept the other person as the party in a union that is formed under the specific personal laws. But, nowhere the consent

for sexual intercourse came into the picture. This blanket concept of consent is bad law in nature and shall be declared morally wrong and against natural justice.

The third argument which talks about the legal burden on the judiciary due to numerous cases comes into the direct contradiction to the first argument where they talked about no need for legislative interference and as this is not common. As we deal with the fundamental right, Article 14 talks about equality before the law and equal protection of the law. Keeping this category of woman who is married on a different footing from those women who are not married is not based on intelligible differentia and is arbitrary in nature. The twin test under the Article has two essentials which this classification fails to satisfy and hence it is in violation of it.²¹ So, the debate about the burdening of cases comes under the statutory and judicial functions of court and cannot be questioned on the factor of overburdening.

The last argument which talks about the false litigation by the wives on husband for their personal benefit does not qualify to be termed an argument. This is because it is the judicial function to find out that the litigation is a frivolous or malicious falsehood. In any law, there is a fear of malicious prosecution and for that reason; we have different layers of the judicial system so as to ensure the fairness in the justice system. So even this argument does not rest well in the eyes of law.

IV. CONCLUSION:

The debate of marital rape in India has been founded from the beginning of the 21st century or to be more precise from the late 20th century. These debates are crucial in establishing substantive equality for all the women in the country. Presently, married women are put on a different footing from those women who are unmarried. A woman as per the law can be raped only if she is unmarried. After getting married, she can still be raped but excluding his husband. If husband uses force to have intercourse irrespective of

²¹ E.P. Royappa v. State of Tamil Nadu and another, (1974) 4 S.C.C. 3 (India).

her non-willingness and non-consent; it will be covered under the scope of one or the other ritual of marriage and shall not be accountable to come under the definition of rape.

It is crucial to recognize that this is one of the major lacunas in our criminal law at present which clearly defeats the constitutional provisions that grant women equality and autonomy. The cultural, political and legal arguments are defeating the purpose of law in the society as it is discriminating that gender which constitutes 50 percent of the population of our country.

We have analyzed the validity of these questions that are being put forwarded on the non-recognition of marital rape based on the coated notions of family, marriage and the role of women in society. Though with the logical reasoning based on the societal perspective we have proved that such arguments do not stand good and such lacuna can be corrected only when the section 375 of I.P.C. which currently excludes marital rape shall include this in its definition. There is a need to question the constitutional validity of this exception that section 375 inherits. It is because it fails the equality test of article 14.

In light of the concept of blanket consent and traditional curtain in which the women have fallen in, I humbly propose that marital rape shall be included in the definition of rape and the exclusion clause shall be deleted. This will give more space to women in a patriarchal society and will be a step towards that society which talks and implements equality in society.