

## Marital Rape

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### Why in News?

Shashi Tharoor has recently introduced a private member's Bill in the Lok Sabha to remove the marital rape exception in criminal law.

- **Marital Rape** - The act of sexual intercourse with one's spouse **without the spouse's consent**, usually done to a wife or woman by her husband.
- It is also referred to as '**spousal rape**', which is not a crime in India.
- **National Family Health Survey (NFHS-5, 2019-2021)** - It found that approximately **6%** of ever-married women aged 18-49 in India reported having experienced sexual violence by their husbands.
- The survey also indicated that nearly one in three women had experienced some form of spousal physical or sexual violence.

### Provisions related to Marital Rape

- **Section 63 of Bharatiya Nyaya Sahita (BNS), 2023** (Section 375 of the IPC) - Marital rape is **not a specific criminal offence** under the penal code if the wife is over 18 years of age.
- **Protection of Women from Domestic Violence Act (2005)** - Marital rape is treated as a form of domestic violence, and prescribes a lighter penalty compared to non-marital rape.

### Legal provisions that guaranteed women's rights

- Provisions that guarantee women the fundamental rights to dignity, liberty, safety, etc, are under **Articles 14, 15, 19 and 21**.

### Justice Verma Committee Report (2013)

- The committee explicitly called for the removal of the marital rape exception in IPC Section 375.
- It argued that marriage cannot be a license to violate a woman's bodily integrity.

India ratified the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** in 1993, committing to eliminate discrimination against women in law, policy, and practice.

## Related Judgements

- **Independent Thought v. Union of India, 2017** - The SC ruled that sexual intercourse with a wife under the age of 18 constitutes rape, thereby striking down the marital exception in IPC Section 375 for minor wives.
- **Joseph Shine v. Union of India (2018)** - The SC decriminalized adultery, holding that a wife does not forfeit her individuality or constitutional rights upon entering marriage.
- **Other Relevant High Court Cases**
  - **X v. State of Uttarakhand (2024)** - Addressed marital rape allegations in the context of cruelty under IPC Section 498A.
  - **Manish Sahu v. State of Madhya Pradesh (2024)** - Examined forced sex within marriage under domestic violence frameworks.
  - **S v. State of Maharashtra (2024)** - Raised questions about marital rape in criminal proceedings.

To know more about marital rape, click [here](#)

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## References

[Indian Express | The marital rape exception in criminal law is a colonial relic.](#)