Marital Rape

Prelims: *Current events of national and international importance | Polity & Governance*

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 Sanhita (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

To know more about marital rape, click here

References

Indian Express | The marital rape exception in criminal law is a colonial relic.

SHANKAR IAS PARLIAMENT
Information is Empowering