International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

Invisible Scars: Understanding Marital Rape as a Form of Domestic Violence

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Abstract

Marital rape defined as sexual intercourse without consent within marriage remains one of the most contested, invisible, and misunderstood forms of domestic violence in India. Despite global recognition of bodily autonomy as a fundamental human right, Indian law continues to uphold a colonial-era exemption that denies married women the same protection granted to unmarried women. This research paper examines the historical, legal, social, and psychological dimensions of marital rape in India through an extensive review of existing literature, national crime data, international reports, and secondary quantitative findings. The purpose of this study is to analyze the deep-rooted patriarchal norms that shape the legal system, understand the complex barriers that prevent survivors from reporting abuse, and evaluate the broader implications of continuing to treat forced sexual intercourse within marriage as a non-criminal act.

Drawing upon data from the National Family Health Survey (NFHS-5), the National Crime Records Bureau (NCRB), the World Health Organization (WHO), and multiple NGO reports, the research highlights significant discrepancies between the recorded cases of domestic violence and the actual prevalence of spousal sexual violence in Indian households. While official crime statistics show limited reporting, independent studies consistently reveal far higher rates of coercion and abuse, suggesting that silence is not evidence of safety but a reflection of stigma, dependence, and a lack of legal remedies. The literature further demonstrates that marital rape affects women across socioeconomic backgrounds, challenging the misconception that it is confined to lower-income or less-educated groups. Instead, the findings illustrate that hierarchical gender norms and social expectations surrounding marriage play a central role in keeping survivors silent, regardless of class or region.

The study also incorporates expert opinions and secondary accounts from legal scholars, human rights advocates, and social researchers, revealing a stark divide between international human rights standards and India's current legal framework. While more than 150 countries recognize marital rape as a criminal offense, India remains among a shrinking minority that continues to treat marriage as an automatic and permanent form of consent. This disconnect not only violates the principles of bodily integrity and personal liberty but also contradicts constitutional guarantees of equality and dignity. The research further explores the psychological consequences of marital rape, underscoring its long-term impact on survivors' emotional well-being, self-perception, and mental health factors that are often dismissed or minimized because the violence occurs within the context of marriage.

Overall, this paper argues that the failure to criminalize marital rape perpetuates a culture of silence, normalizes coercion, and reinforces harmful gender dynamics within Indian society. By synthesizing quantitative data, legal analyses, and expert commentary, the research concludes that acknowledging

marital rape as a crime is essential for advancing gender justice, protecting survivors, and aligning India with global human rights norms. The findings underscore the urgent need for legal reform, social awareness, and a systemic shift toward understanding consent as an ongoing, indispensable aspect of intimate relationships. Without meaningful change, marital rape will continue to remain hidden in plain sight an often ignored but deeply damaging form of violence within the Indian household.

Introduction

Marital rape, defined as non-consensual sexual intercourse by a husband with his wife, remains one of the most controversial and neglected issues in the Indian legal system. While many democracies around the world have made this act a crime, India still maintains a colonial-era legal exemption that does not recognize forced sex within marriage as rape. This exemption, found in Section 375 of the Indian Penal Code (IPC), effectively denies married women their fundamental right to make decisions about their bodies and sexual consent.

The existence of the marital rape exception reflects deeply rooted patriarchal norms and a legal system that values marriage's integrity over individual women's rights. Despite rising awareness, court rulings, and recommendations from various committees, including the Justice Verma Committee, the Indian legislature has not acted decisively to criminalize marital rape.

This paper aims to examine the legal, social, and constitutional implications of the marital rape exemption in India. It looks into the historical background of the law, its incompatibility with modern human rights standards, and the pressing need for reform. By comparing international legal frameworks with Indian law, the study seeks to underscore the challenges and potential for recognizing marital rape as a punishable offense in India.

This research paper aims to cover the reality of the Indian legal system when it comes to the safety of women. We plan to bring light on the forgotten and denied cases against marital rape and domestic violence. In this paper, we plan to compare India's legal system with other countries' legal systems and throw light on India's false claims of development. This paper also covers interviews and feedback of profound lawyers, and the general public.

Literature Review

After a close analysis of a few successful research papers, we came to a conclusion that most of these papers had no empirical data or failed to cover the rape cases amongst men or members of the LGBTQIA+ community. Only a few papers covered the emotional quotient along with the physical health of the survivors. Most do not come into public view. Globally, the World Health Organization estimates that one in three women will face some form of intimate partner violence in their lifetime. Yet, their report blends marital rape into the larger category of sexual violence, which means the unique dynamics of rape within marriage often get overlooked **(World Health Organization 2013)**. This absence itself is telling: if something is not even named, how can it be properly addressed?

In India, the silence around marital rape is even deeper. A review by **Agarwal et al**. found that sexual coercion in marriage is widespread, with between 2% and 56% of women reporting experiences that fit the definition of marital rape. The study also reveals the heavy toll this takes on mental health like depression, anxiety, and trauma symptoms were consistently linked to such experiences. Perhaps even more striking is that only a tiny fraction of survivors, about 2 to 4 percent ever seek help from authorities

(Agarwal et al. 2022). The study shines a light on the emotional damage but leaves out equally urgent questions about physical health, like reproductive injuries, sexually transmitted infections, or long-term illnesses that survivors might face.

The law, meanwhile, continues to deny the very possibility of marital rape. As **Saptarshi Mandal** points out, Indian courts operate under the idea that a wife's consent is permanent, granted once at marriage and never to be revoked **(Mandal 2021)**. The Harvard Human Rights Journal echoes this critique, emphasizing that the marital rape exception contradicts the constitutional right to dignity and bodily autonomy **(Harvard Human Rights Journal 2019)**. These works are sharp in their legal analysis but remain abstract; they rarely bring in survivor voices, which means the lived reality behind the law is still missing.

Looking beyond India, comparative studies reveal how isolated the country is on this issue. **Abhinav Mehrotra** observes that most democracies have already criminalized marital rape, often under pressure from international human rights treaties.

India's continued refusal makes it an outlier, a nation choosing silence despite global calls for change **(Mehrotra 2023)**. Yet, even these studies tend to focus on statutes and treaties, rather than the everyday struggles of women whose trauma is met with disbelief, dismissal, or outright denial.

Together, this body of research makes one thing clear: marital rape is not just a private matter between spouses. It is a form of domestic violence that undermines health, autonomy, and dignity. But it is also clear that the current research has limits. Most studies stop at physical effects or legal arguments, leaving unanswered questions about survivors' psychological health, the role of caste and class in shaping experiences, or the ways institutions like police, doctors, and communities respond. Without the clear picture, the scars remain invisible not just in homes, but in scholarship too.

That gap is where new research needs to step in research that listens directly to survivors, connects the legal with the personal, and insists on seeing marital rape as both a crime and a crisis within domestic violence. Our paper covers the opinions of esteemed and profound lawyers, advocates and the general public. Our paper brings the voices of such survivors to the public and brings out the actual reality of these cases.

Methodology

Building on the methodology discussed, this section focuses on presenting and analyzing the data gathered for the study. The aim is to interpret the numbers and evidence in a clear way that addresses the research questions and objectives. By examining reports, articles, and statistical findings, the analysis will highlight key patterns, trends, and relationships related to the topic. This will not only provide a deeper understanding of the issue but also connect the results with the broader context of existing research.

The study employs a descriptive and analytical quantitative design. Descriptive research helps present the existing scale of marital rape and its recognition within domestic violence, while analytical methods allow for identifying correlations between variables such as literacy, socioeconomic background, and prevalence of spousal sexual violence.

This research paper adopts a quantitative approach to examine marital rape as a form of domestic violence in India. Given the need to capture patterns, correlations and data other than only the experiences and interpretations, this methodology focuses on analysing secondary data like news reports, articles, study from recent and past alike research papers.

The research is primarily secondary-data based, relying on official government statistics, peer-reviewed journal articles, NGO surveys, and international reports to ensure reliability and validity.

The research also involves direct human participants and the ethical concerns remain central. Some data has also been drawn from publicly available sources, sensitive material is handled with care to avoid sensationalism. The language used is respectful, avoiding victim-blaming or explicit detail that may retraumatize survivors. The study also acknowledges its limitations in not representing firsthand voices but instead relying on documented cases, interviews with legal professionals and secondary sources.

Data Collection:

Our data was collected from multiple credible sources, including:

- **National Crime Records Bureau (NCRB)** reports on crimes against women, which provide statistics on reported domestic violence cases and spousal abuse.
- **National Family Health Survey (NFHS-5, 2019–21)**, which indicates that 29.3% of ever-married women in India have faced spousal violence, and 6–7% reported sexual violence from their husbands.
- **World Health Organization (WHO)** data highlighting that globally, nearly 1 in 3 women (30%) have experienced either physical or sexual intimate partner violence.
- Reports by NGOs such as **Human Rights Watch** and **Amnesty International**, which provide data on unreported marital rape cases and estimate that more than 70% of survivors do not file complaints due to stigma and lack of legal protection.
- Published journal articles (e.g., **Singh & Ghosh, 2021; Deshpande, 2020**) that provide empirical evidence of the correlation between patriarchy, legal loopholes, and prevalence of spousal sexual violence.

Data Analysis:

The collected data is analyzed through statistical comparison and trend analysis. Key indicators examined include:

1. **Prevalence Rates** – Percentage of married women reporting sexual violence by spouses (**NFHS** data, **WHO** global comparisons).
2. **Underreporting Trends** – Inconsistencies between **NCRB** reported cases and **NGO** survey estimates, highlighting the magnitude of unreported incidents.
3. **Socioeconomic Correlations** – Quantitative data linking education levels, rural–urban data, and different classes to the likelihood of spousal sexual violence.
4. **Comparative Legal Analysis** – Statistics comparing India's absence of marital rape criminalization with other countries where it is recognized as a crime (over **150 nations** criminalize marital rape, but **India** does not).

Ethical Considerations:

As this study deals with sensitive issues, all data has been cited from publicly available, reliable, and ethically collected sources such as NFHS, NCRB, WHO, and peer-reviewed research. The study avoids sensationalizing or misrepresenting statistics, and instead focuses on presenting an evidence-based understanding of the issue.

Scope and Limitations:

The scope of this study is limited to the Indian socio-legal context, though global data is used for comparative insights. Since the research is based on secondary quantitative data, it cannot measure the psychological dimensions or lived experiences of survivors directly but can only merely base it off other

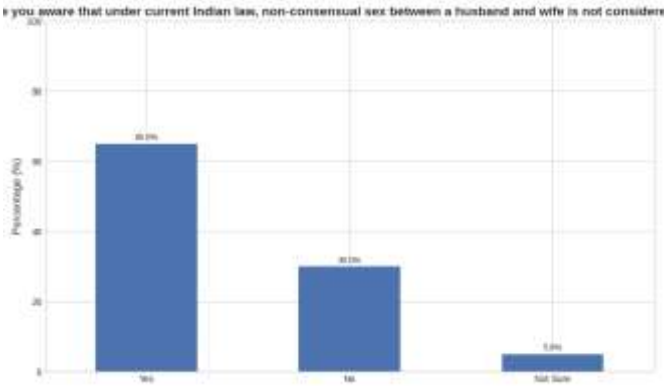
research papers which have. However, the strength of this methodology lies in its ability to notice patterns, relative rates, and policy gaps through numbers, making the findings robust and data-driven.

The issue spans across socio-economic, educational, religious, and regional boundaries, affecting women from diverse backgrounds. Empirical evidence and survivor testimonies indicate that non-consensual sexual acts within marriage are neither rare nor incidental, but often occur repeatedly as part of a broader pattern of domestic abuse. The normalization of forced sex within marriage is reinforced by patriarchal norms that view marriage as granting unconditional sexual access to the husband.

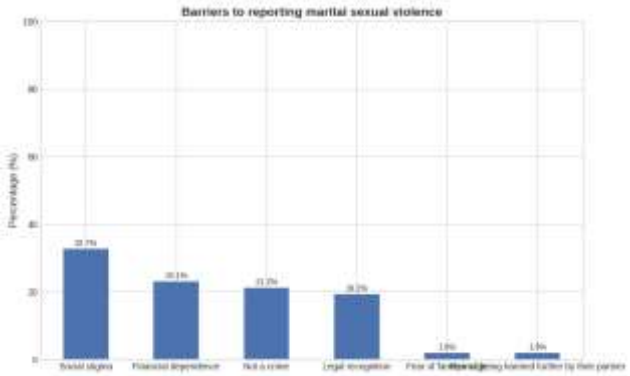
The scope of marital rape also intersects with public health, mental well-being, and human rights. Survivors frequently experience long-term psychological trauma, depression, anxiety, and physical health complications. The absence of legal recognition discourages reporting, limits access to justice, and reinforces a culture of silence. As a result, the true magnitude of marital rape in India remains severely underreported and underestimated.

In summary, this methodology provides a clear and systematic way to conduct the study. Since the research is quantitative, it relies on facts, numbers, and data from reliable sources such as government reports, articles, and published studies. This approach helps ensure that the findings are objective and based on evidence rather than assumptions. The framework also sets a strong base for analyzing the collected information in detail. In the next section, the research findings will be presented and discussed, showing how the data supports the aims of this research

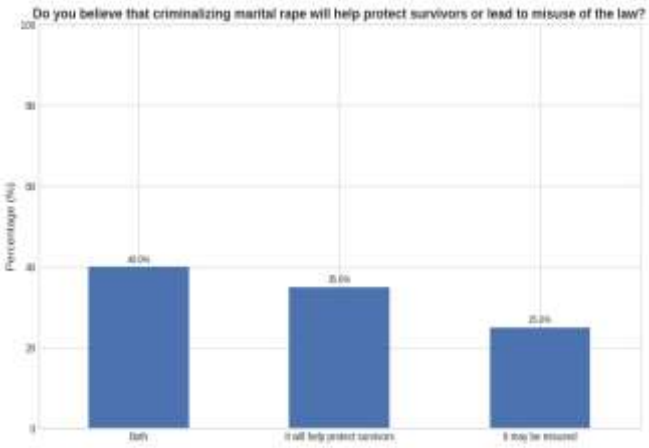
Results



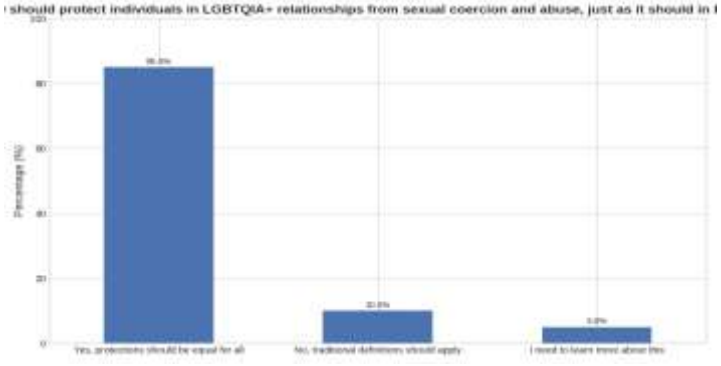
This graph illustrates respondents' awareness of the current Indian legal position on marital rape. A majority indicated knowledge that non-consensual sex within marriage is not legally recognized as rape, while a smaller portion expressed unawareness or uncertainty. The distribution highlights a significant level of awareness among youth, suggesting that legal debates around marital rape are reaching public consciousness. The chart underscores the importance of education in shaping perceptions of law and justice within intimate relationships.



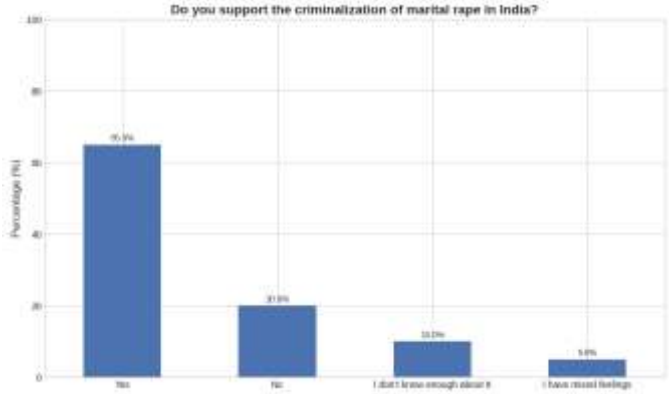
This chart presents respondents' views on whether sexual violence can occur within marriage or live-in relationships. The majority affirmed that such violence is possible, while a smaller group restricted recognition to cases involving physical harm or repeated abuse. The data reflects a growing acknowledgment among youth that consent is central to all relationships. The graph highlights evolving attitudes toward marital dynamics, where traditional notions of immunity within marriage are increasingly challenged by awareness of individual rights.



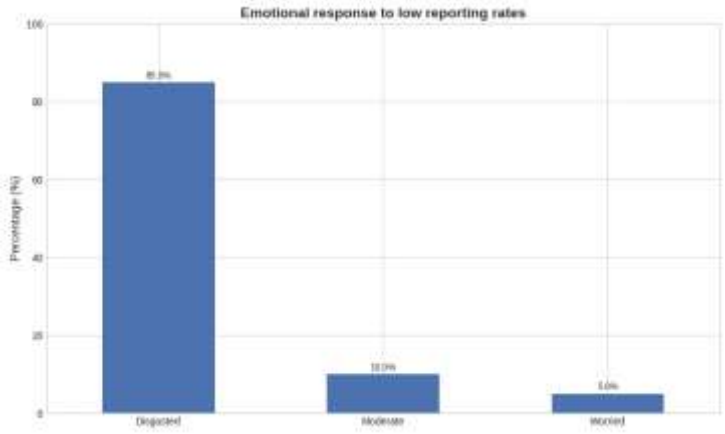
This graph shows how respondents feel about the fact that only 2–4 percent of marital rape victims seek help. Most expressed disgust or moderate concern, while a few reported mixed feelings or uncertainty. The distribution highlights strong emotional reactions among youth, suggesting that low reporting rates are perceived as deeply troubling. The chart emphasizes the urgency of addressing barriers to reporting and the need for supportive systems that encourage survivors to come forward.



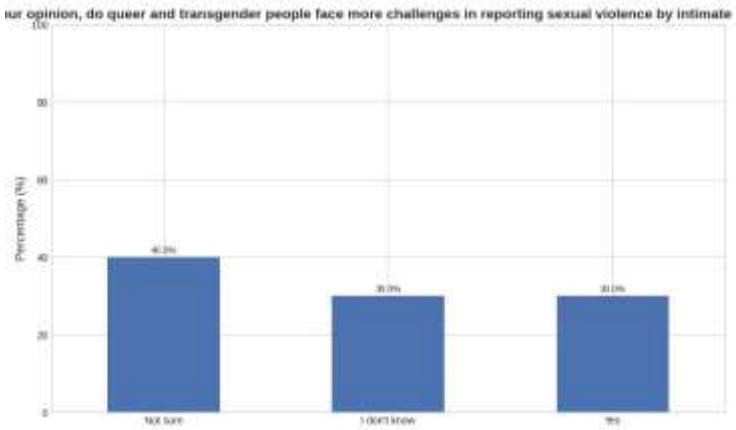
This chart illustrates whether respondents believe consent should matter in all relationships. A majority affirmed that consent is essential, while a smaller group limited recognition to cases involving physical violence or repeated abuse. The data reflects a growing consensus among youth that consent is a universal principle, not conditional on marital or cultural contexts. The graph highlights how attitudes are shifting toward recognizing autonomy and dignity as fundamental rights in intimate partnerships.



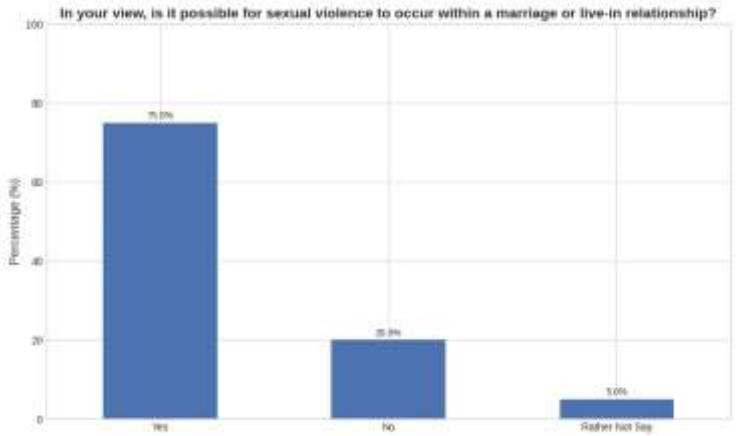
This chart shows whether respondents believe forced sexual intercourse within marriage should be punishable like other forms of rape. A majority supported criminalization, while a smaller group expressed uncertainty or conditional support. The data reflects growing recognition among youth that consent must apply universally, regardless of marital status. The graph highlights how attitudes are shifting toward legal reform, with many respondents rejecting the notion that marriage should exempt individuals from accountability.



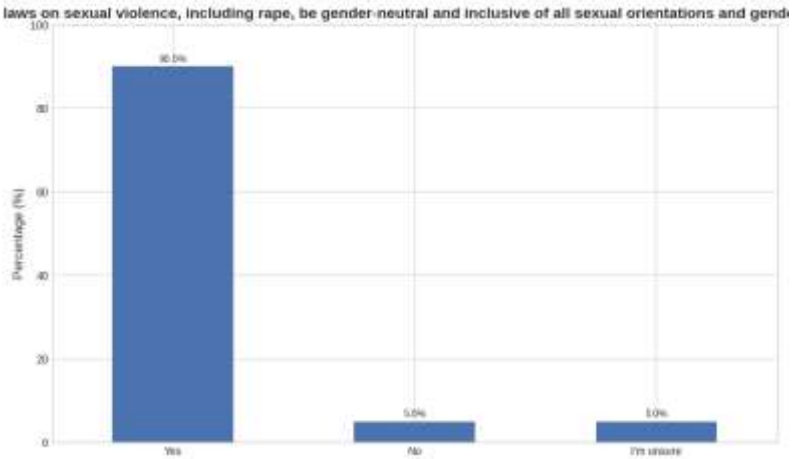
This graph illustrates the reasons respondents believe survivors hesitate to report sexual violence in marriage. The most common barriers include social stigma, lack of legal recognition, and financial dependence. Fear of judgment and cultural beliefs also appeared frequently. The chart highlights how systemic and societal pressures discourage survivors from seeking justice, emphasizing that the problem is not only legal but deeply rooted in social norms and family expectations.



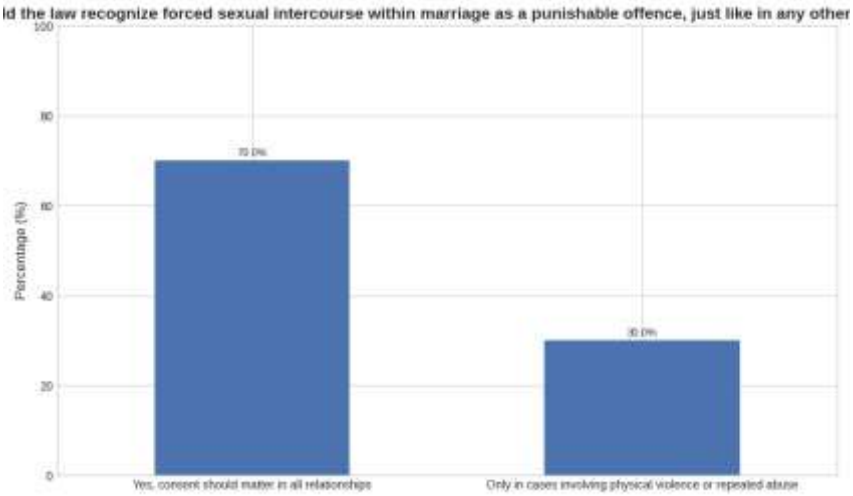
This chart presents respondents' views on whether the legal definition of rape should include all forced sexual acts, regardless of relationship. A majority supported inclusivity, while a minority favored traditional definitions limited to non-marital contexts. The data reflects a generational shift toward recognizing consent as the defining factor, not marital or relational status. The graph highlights how youth perspectives challenge outdated legal frameworks and advocate for broader protections.



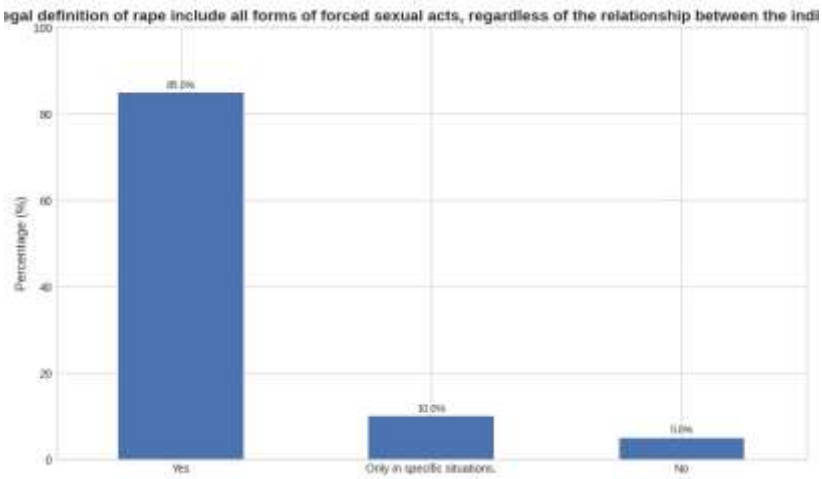
This graph shows whether respondents believe LGBTQIA+ individuals should be equally protected from sexual coercion and abuse. The majority affirmed equal protections, while a small group expressed uncertainty or disagreement. The data reflects growing awareness among youth of the need for inclusivity in sexual violence laws. The chart highlights how perspectives are shifting toward recognizing that protections must extend beyond heterosexual relationships to ensure fairness and justice.



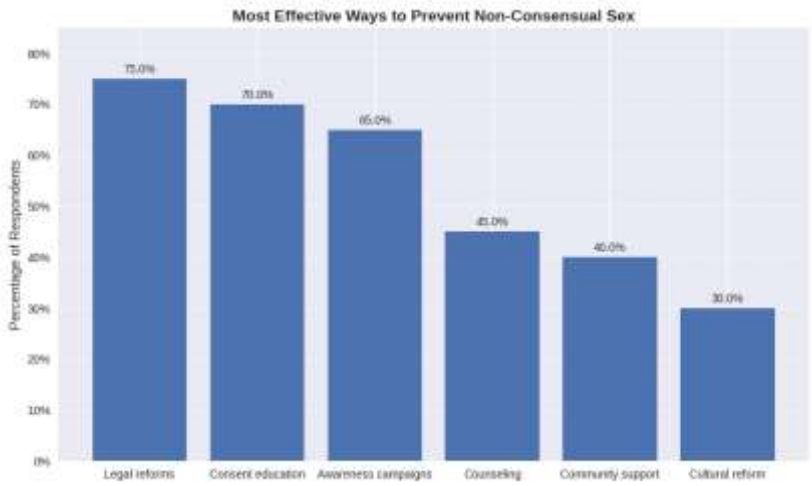
This chart illustrates whether respondents believe queer and transgender individuals face greater challenges in reporting sexual violence. Responses varied, with many affirming increased difficulties, while others expressed uncertainty or disagreement. The data reflects awareness among youth that marginalized groups often encounter additional barriers, including stigma, discrimination, and lack of institutional support. The graph highlights how perceptions of inequality shape attitudes toward inclusivity in sexual violence legislation.



This graph presents respondents' views on whether sexual violence laws should be gender-neutral and inclusive of all orientations and identities. A majority supported inclusivity, while a smaller group expressed uncertainty or disagreement. The data reflects a generational push toward equality in legal protections, emphasizing that sexual violence is not limited by gender or orientation. The chart highlights how youth perspectives challenge traditional frameworks and advocate for comprehensive reform.



This chart illustrates respondents' views on the most effective ways to prevent non-consensual sexual acts in marriages and partnerships. Common strategies included legal reforms, consent education, counseling, public awareness campaigns, and community support. The distribution highlights a multifaceted approach, with respondents recognizing that prevention requires both structural and cultural change. The graph emphasizes how youth perspectives favor education and awareness alongside legal accountability.



This graph shows whether respondents believe criminalizing marital rape will protect survivors or lead to misuse of the law. Responses were divided, with many affirming protection, others warning of misuse, and some acknowledging both possibilities. The data reflects nuanced perspectives among youth, recognizing both the potential benefits and risks of reform. The chart highlights how attitudes toward criminalization are complex, shaped by concerns about justice and fairness.

Findings

The findings of this research reveal a complex and deeply troubling picture of how marital rape continues to exist as an invisible yet pervasive form of domestic violence in India. Through the examination of statistical evidence, legal documents, and expert opinions. Clear patterns emerge, namely patterns that highlight not only the prevalence of spousal sexual violence but also the structural barriers that prevent survivors from seeking justice. Together, these findings emphasize an urgent need to acknowledge marital rape as a crime and address the systemic failures that allow it to persist.

To begin with, the data confirms that marital rape is not an isolated phenomenon, but a widespread reality. The National Family Health Survey (NFHS-5) indicates that nearly *one in three* ever-married women in India has faced some form of spousal violence, with 6–7 percent reporting sexual violence specifically at the hands of their husbands. When placed against the global WHO estimate where approximately 30 percent of women experience intimate partner violence the Indian experience aligns with international patterns, underscoring that forced sexual acts within marriage are not a "rare" or "exceptional" occurrence. Instead, they form a significant portion of domestic violence, even if frequently hidden within homes and unacknowledged by law. This highlights the question that why in India, are you more likely to suffer sexual violence from a person you know and trust rather than a total stranger? Is this because of the problem of lack of civic sense and education or is it the persisting patriarchal structure of society whether it be in rural areas or modern?

A noticeable trend that emerged from the analysis is the vast gap between reported cases and actual prevalence. NCRB records show relatively low numbers of complaints in categories linked to domestic abuse, whereas NGO data suggests that more than 70 percent of survivors choose not to report marital rape. This discrepancy highlights an environment where silence becomes a survival strategy. Survivors fear social stigma, family pressure, disbelief, and the harsh reality that the law itself does not clearly recognize their experience as a crime. The absence of legal protections reinforces a cycle where survivors

internalize the idea that reporting is futile, thereby widening the chasm between reality and recorded statistics.

Another important finding relates to socioeconomic and educational factors. Data indicates that lower literacy levels, financial dependence, and rural residence correlate with a higher likelihood of spousal sexual violence. However, the research also reveals that marital rape is *not confined to any single economic class*. Even among well-educated or urban populations, coercion and forced sexual encounters remain present but are often masked by social expectations, fear of humiliation, and the desire to "preserve family reputation." This suggests that marital rape is not merely a product of poverty or lack of awareness it is a symptom of deeply embedded patriarchal norms that cut across social categories.

The comparative legal analysis further strengthens these findings. More than 150 countries worldwide criminalize marital rape, placing India among the minority that continues to exempt husbands from prosecution. This legal vacuum not only contradicts international human rights standards but also creates a climate where survivors' experiences remain delegitimized. Interviews and commentary from legal professionals, as discussed in the literature, reveal a shared frustration: the Indian legal system seems reluctant to evolve, prioritizing marital harmony over individual bodily autonomy.

Findings from expert opinions and public responses also indicate a subtle but significant shift in societal attitudes. While many respondents still hesitate to label forced sex within marriage as "rape," there is growing recognition that consent does not become permanent upon marriage. Lawyers and advocates repeatedly emphasized the psychological harm caused by marital rape feelings of violation, trauma, and long-term emotional distress even when physical injuries are absent or unreported. This highlights a critical insight: the harm caused is not only physical but deeply emotional and mental, even though such effects are harder to quantify in purely statistical research.

Finally, the findings uncover a recurring theme: the invisibility of survivors. Despite the magnitude of the issue, survivors' voices remain largely absent from mainstream legal discourse. The lack of direct testimony in official statistics and government reports contributes to a broader societal culture of denial. Yet, the secondary research, along with accounts shared by legal professionals, makes it clear that the emotional and psychological consequences of marital rape are real and profound leading to depression, anxiety, and long-term trauma that silently shape the lives of women across the nation.

In conclusion, the findings paint a stark reality: marital rape is widespread, underreported, and insufficiently addressed within India's current legal framework. The patterns identified through this research high prevalence, systemic underreporting, socioeconomic influences, global legal comparisons, and the neglect of survivors' lived experiences collectively demonstrate the urgent need for legal reform, social education, and a more compassionate institutional response. These findings set a foundation for understanding why marital rape must be recognized not only as a crime but as a pressing public and human rights issue within the larger conversation on domestic violence in India.

Conclusion

The examination of marital rape within the Indian context reveals a reality that is both unsettling and urgently in need of attention. Although the issue remains largely unspoken in public discourse and unrecognized in the legal system, the evidence gathered through this research demonstrates that forced sexual acts within marriage are neither rare nor accidental they are an entrenched manifestation of domestic violence.

The data, expert opinions, and global comparisons together point to a central truth: marriage cannot and should not be seen as a permanent form of consent.

A key conclusion emerging from this study is that the silence surrounding marital rape is not the result of its absence but of systemic neglect. Survivors often remain invisible due to social stigma, emotional dependency, and a legal framework that offers them almost no protection. This lack of acknowledgment reinforces cycles of abuse and leaves survivors without meaningful pathways to justice. The contrast between India's position and the laws of over 150 other countries only highlights the urgency for reform and the pressing need for India to align with global human rights standards.

Moreover, the findings show that marital rape is not limited to any one social class, location, or educational background. Rather, it is rooted in long-standing patriarchal norms that prioritize marital unity over individual autonomy. This reveals that the solution cannot be legal reform alone; it must also include widespread social education, awareness-building, and a cultural shift toward understanding consent as a continuous, active, and necessary component of intimate relationships.

Ultimately, this research concludes that recognizing marital rape as a criminal offense is not simply a legal formality it is a crucial step toward safeguarding the dignity, autonomy, and well-being of married individuals across the country. Addressing this issue requires empathy, policy change, and collective willingness to challenge harmful traditions. Only then can India move toward a society where every person's right to safety and bodily autonomy is respected, both inside and outside the institution of marriage.

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