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**“A CRITICAL LEGAL EXAMINATION OF MARITAL RAPE: AN ANALYSIS OF
ITS CAUSATIVE FACTORS AND CONSEQUENTIAL IMPACT”**

“Never force yourself on another. If you do this, then this is you trampling on your own
dignity without the external help”

ABSTRACT

Marital rape remains one of the most contested and under-recognized forms of sexual violence, situated at the intersection of law, culture, and deeply entrenched patriarchal norms. This study critically examines the causes, historical foundations, and multifaceted impact of marital rape, with particular emphasis on its socio-legal dimensions. It begins by conceptualizing rape as non-consensual sexual intercourse and challenges the traditional perception that confines rape to acts committed by strangers, highlighting instead the prevalence of sexual violence within intimate relationships.

The research traces the historical validation of marital rape to English common law doctrines,

particularly the theory of “implied consent” propounded by Sir Matthew Hale and the doctrine of coverture articulated by William Blackstone. These doctrines subsumed a woman’s legal identity into that of her husband, effectively denying her autonomy and rendering the concept of marital rape legally inconceivable. The notion of women as property further entrenched this immunity, reinforcing the belief that a husband could not be guilty of raping his wife. Such historical constructs continue to influence contemporary legal frameworks, including the persistence of the marital rape exception in jurisdictions like India.

The study further identifies and analyses key socio-cultural factors contributing to the acceptance and perpetuation of marital rape. These include patriarchal ideologies that subordinate women, societal expectations of female submission, victim-blaming attitudes, and the perception of marriage as a private sphere immune from legal intervention. Cultural prejudices and lack of awareness among women exacerbate the issue, often leading to underreporting and normalization of forced sexual relations within marriage. Additionally, the reluctance of legal systems to intervene, coupled with concerns about misuse of laws and preservation of the institution of marriage, has hindered the criminalization of marital rape.

The research also explores the profound physical and psychological consequences faced by victims. Marital rape leads to severe bodily harm, reproductive health issues, and long-term mental health conditions such as depression, anxiety, post-traumatic stress disorder, and suicidal tendencies. The trauma is often intensified due to the breach of trust inherent in intimate relationships. Furthermore, the impact extends beyond the victim to affect children, influencing their psychological development and perpetuating cycles of violence.

The study categorizes perpetrators into aggressive, coercive, and deviant offenders, each driven by distinct motivations such as anger, desire for control, or abnormal sexual impulses. This typology aids in understanding the varied dynamics of marital rape and underscores the need for nuanced legal and social responses.

In conclusion, the paper argues that the persistence of marital rape is rooted in systemic gender inequality and outdated legal doctrines. It calls for urgent legal reform, increased awareness, and societal transformation to recognize marital rape as a violation of fundamental human rights. Addressing this issue requires dismantling patriarchal norms, empowering women, and ensuring that the sanctity of marriage does not override the autonomy and

dignity of individuals within it.

1.1 INTRODUCTION

The word “rape” means forceful sexual intercourse or non-consensual sexual intercourse. It is a derivation of the word “rapio” which denotes seizure by force. “Rape” is sexual action of unlawful nature and sex which is performed for the most part with force or under danger of injury against the desire of the individual or with somebody who has not accomplished a specific time of assent or can't give legitimate agree inferable from “dysfunctional behaviour, mental inadequacy, inebriation, obviousness, or duplicity.¹” Simply put, rape is the forcible sexual intercourse. This word is usually read with women's depiction as victims. However, it is not exclusive to women only. Since, it is a form of domestic violence or abuse inflicted mostly upon women, the studies confine it to women as victims only. The lack of gender neutrality undoubtedly poses problems for people belonging to LGBTQ. The fact that it is a crime committed against women mostly is the reason behind reading the word

¹ Available at: <https://www.merriam-webster.com/dictionary/rape>

“rape” in context to women only. It is a common notion that the purpose of rape by the perpetrator isn't always the fulfilment of sexual desires. This assertion is backed by the reasons that sometimes, the rapist rapes women out of vengeance. Sometimes, the caste dominated factors also act as a reason. The Legal dictionary defines “marital” as related to the husband and wife.² Thus, the word “marital” as the name itself indicates is something which is identified with or akin to marriage.

1.2 THE BACKDROP BEHIND THE VALIDATION OF MARITAL RAPE

This part studies the background behind the existence of exemption. It incorporates the study regarding the doctrine of Hale and the commentary of Blackstone.

1.2.1 Tracing the roots of problem

This term can be studied in the background of statement made by Sir Matthew Hale. He was a prominent jurist, judge and barrister known for his work in development of English Common Law. He made a statement which led to the emergence of a sort of permission or license to Marital Rape.

His theory of “implied consent and contract” is based on the premise that marriage is nothing less than entering into a contractual relationship whereby wife’s consent or agreement to enter into sexual intercourse is presumed. There is nothing which constitutes “rape” in a subsisting marriage. Thus, “rape” was believed to be something occurring outside wedlock and having no roots in the relationship of marriage. This resulted in acknowledgement and acceptance of marital rape. This statement made by him gave wide acceptance to the notion that women when tied into the wedlock can be treated the way their husbands wish to. Expressing a wish not to have sex is out of question due to the existence of non- retractable nature of consent.

Another fundamental conception behind the recognition of legality of “marital rape” was equating women with a property or chattel. This meant that owner cannot steal the property that belonged to him. Since wife was considered property, husband was not capable of raping her.³It can also be deduced that the way a person could use his/her property as he desired,

² Available at: <https://legal-dictionary.thefreedictionary.com/Marital>

³*Id.* at 356

same was with “her” woman. Hence, accounting woman as his “article” or “personal possession”, she could be subjected to sexual intercourse even if she doesn’t agree to it.

1.2.2 Blackstone’s commentary as to the rights of women

William Blackstone was a noted English jurist whose famous work constitutes “Commentaries on Law of England”. He placed marriage on the same footing as that of a contract. Following is the excerpt from his text which shed light on the justification or impunity from marital rape-

*“By marriage, the couple are one individual in regulation: that is, the very being or legitimate presence of the lady is suspended during the marriage, or if nothing else is consolidated and united into that of the spouse; under whose wing, security, and cover, she performs everything; and is in this way brought in our regulation French a feme- clandestine, foemina viro co-operta; is supposed to be secret noble, or under the insurance and impact of her significant other, her nobleman, or master; and her condition during her marriage is called her coverture”.*³

According to Blackstone, the doctrine of coverture established that a married woman, referred to as a “feme-covert”, existed as a unified entity with her husband under the law. This concept ensured that the husband provided complete protection for his wife, but it also meant that her legal identity was largely merged with his. Consequently, husbands were dissuaded from entering into contractual agreements with their wives, as it would imply acknowledging her as a distinct legal entity. According to this doctrine, husband could buy any property as he desired whereas wife had no authority to purchase property in her own name. Wife could not be sued or sue in her own name She was dependent upon her husband for obtaining concurrence to sue.⁴

This is the notion of “Marital unity”.⁵ Encapsulating the excerpt of commentary by Blackstone, one could understand he placed emphasis on the - doctrine of coverture which implies once marriage takes place, wife is subjugated to her husband. The idea conceived was that a person cannot commit theft of his own property or could commit no wrong against his

³ William Blackstone, *Vol.1 Commentaries on the Laws of England (1765)* Available at: <https://www.lonang.com/wp-content/download/Blackstone-CommentariesBk1.pdf>

⁴*Ibid*

⁵ *Supra* note 5 at 357

own property. She completely banked upon her husband. She had no independent existence of her own and completely relied upon her husband for everything. Her rights got merged with that of the husband. She could not enter into contract individually. She did not have her distinct “self” And when wife is herself considered a chattel of husband or husband’s belonging, no question as to wrong against wife could ever arise. In the nutshell, ‘rape against wife’ is an absurd argument.

The consent of wife was considered unnecessary. This was not something new or exceptional but connected to their legal status generally due to which wives could not work, own property, enter into contract, the way their consent held no importance in case of sex with their husbands.⁶ Sexual relations were considered purely of private nature which abstained or deterred law to have a place in it and constrained the authorities or officials to prosecute or take legal action.⁷ Thus, an inference could be drawn that neither the law could be enacted nor could be implemented if enacted. This is the most commonly attributed factor to the acceptance of marital rape which prevents or restricts from providing any liability by considering it as a matter having privy nature which means that only the husband and wife are relevant parties and no third-party intervention can be there. This means even if the sex was of forced nature, no one had a say in it.

The reason behind maintaining the exemption was levelling of false allegations against wife that she in order to take revenge could resort to prosecuting husband for marital rape even if there was no occurrence of such act in reality.⁸ As awareness grew regarding the inviolability of women's rights, society began to question the concept of marital rape. A significant milestone in the United States was the case of *Oregon v. Rideout*, which marked the first instance where a husband was prosecuted for spousal rape. John Rideout faced trial for allegedly raping his wife, though he was ultimately acquitted. Nevertheless, this landmark case served as an initial step toward recognizing and addressing the issue of marital rape, paving the way for further legal developments. The issue of marital rape started gathering widespread attention of public. Consequently, the doctrine began to lose its significance. However, in certain countries the law has been enacted to criminalize it whereas certain

⁶ Saptarshi Mandal, "The Impossibility of Marital Rape- Contestations around Marriage, Sex, Violence and the Law in Contemporary India" Vol. 29 No. 81 *Australian Feminist Studies* 255(Oct, 2014) ⁷Jennifer A. Bennice and Patricia A. Resick, —Marital Rape: History, Research and Practice" Vol. 4 No. 3 *Trauma, Violence & Abuse*, Sage Publications 229 (July 2003)

⁸*Ibid*

countries still continue to retain the exemption. India is also one of those countries where it has not been criminalized yet.⁹

1.3 FACTORS THAT LEAD TO ACCEPTANCE OF MARITAL RAPE

The acceptance of marital rape can be attributed to several underlying factors that contribute to its prevalence. Here are some key causes that have been identified:

1.3.1 The notion of Patriarchy

Throughout history, societies have been plagued by a deeply rooted belief that men are superior to women, leading to harmful consequences such as the validation of marital rape. It is believed that women are meant to be controlled by someone until the end of their lives. They are regarded as objects who are to work and stay under the direction and command of their fathers while they are unwed. She is expected to be under the dominion of husband once tied into nuptial bond and under the control of sons once she gets old. The Indian mentality particularly rests on the belief that women are considered as a burden or liability which must be ridden off at the earliest. Women are imbued with the values of subordination by their families which result in no voicing of their opinions in marriage related matters. The lack of education amongst various sections of society leads to early marriages of girls which further worsen their problems and pose a threat to their reproductive choices even.

Family has been held to be a major source of oppression for women in various cases as women

are viewed as beings meant to adjust and sacrifice their own interests for others. The violence in marriage relationship is mostly read with the word wife thereby denoting women are mostly the victims. The inherent tendency in most men to have domineering control over “their” women provides trajectory to violence. On that account, one could infer that her individuality and identity is not recognized. It is believed that husband could run the family by asserting superiority and suppressing her wife.

⁹ Editorial, “The impunity of marital rape”, *The Indian Express*, Dec 20, 2020

1.3.2 Submission by wife shows reverence to her husband

Another stance which upholds marital rape is that a woman can show respect towards her husband by submitting her body to him without paying heed to the fact as to whether she consents or not. Her acceptance towards her husband is shown by having sexual intercourse with him and a denial towards having sex means non acceptance of her relationship with her husband which is considered morally incorrect. This viewpoint dissuades wife from even expressing her will.

The idea behind not denying even if she is unwilling to have sex is further substantiated by the fact that her husband would go out to other women. The fear that he would enter into adulterous relationships or visit brothels in case she refuses makes her a victim of forceful sex. This further escalates the problem of marital rape. Thus, denial is considered as nonperformance of duty or derogation from her responsibility or obligation.

Culture affects the rights enjoyed by women and the lives of women are dictated by norms of - *female modesty, difference, obedience and self-sacrifice*. The exemption to marital rape owes its existence to interpretation of some religious doctrines according to which providing sexual satisfaction to husband is donned as her duty. The conventional mind-set that exists in society relegates her to a lower position. A common view is endorsed that once woman gets married, she has to value his needs and meet his demands even if they are unreasonable. She has to blindly obey him in terms of sexual reverence irrespective of whether he is raping her. This can be further exemplified by the fact that an archaic custom of practicing sati existed which again was observed as duty of wife or religious observance in order to show loyalty and devotion to the husband. This kind of interpretation regarding the role of woman paved path to surrendering herself and her body to her husband as if it belonged to him. So, fulfilling sexual desires of her husband was a duty which emanated from this interpretation. This gave sanctity to the practice of marital rape.

Women are viewed as a sex symbol. There is a commonly held belief that upon a woman's marriage, her husband is granted implicit permission to engage in a sexual relationship with her, regardless of her personal desires or consent. Sex in marriage has always been recognized as a means to strengthen the marital bond. This same thinking has been inculcated in the minds of women. It is common to find this attitude of society towards any married woman when she is tutored that having sexual relations as per her husband's desire

will make their ties stronger and she has to completely satisfy him irrespective of the nature of sexual demands. The families of women mostly despise divorce and consider it as an evil. These refrain wives to come forward to discuss their marital disputes.

1.3.3 Victim-Blaming

Another philosophy that can be posited which supports marital rape is the “victim-blaming” theory in context to marital rape as women do not consider forceful sex by husband as rape. Women have reported they agree to forceful sex to avoid physical violence. This further exacerbates her already existing abysmal condition. Hence, a woman in order to avoid further kind of torture or physical violence makes her subject to marital rape. It can be further pointed out that there is a common conviction that when wife earlier had sex with her husband then there is no point in arguing that the husband becomes rapist in case force is used in the latter occasion.

It has been argued that whether every time before the couple goes to bed, an affidavit needs to be signed to prove consent. Women tend to believe their failure to perform their duty to submit to the husband will go against the norms of family due to which they start to blame themselves.¹⁰ Many wives view that they were sexually assaulted because of their own fault and they start questioning themselves instead that it is because of their inadequacy to perform their obligations as wives or because of their own problems of sexual nature.¹¹ Wives are also raped because they are not willing to have sex with their husbands. This is the other reason offered for raping by husbands. This leads to strengthening of victim-blaming theory. Such arguments tend to favour the men and fail to acknowledge the dignity of women.

1.3.4 The norm of privy nature

It is viewed that the forceful sex instances with husband is not actually a rape resulting in such instances becoming a normal element of marriage relationship. This kind of myth makes it difficult for woman to leave her sexually abusive husband. It is considered as a petty marital

¹⁰ Michael D. Freeman, "But if you can't rape your wife, Who[m] can you rape?: The Marital Rape Exemption Re-examined" Vol. 15 No.1 *Family Law Quarterly* 29 (1981)

¹¹ David Finkelhor and Kersti Yllö, *License to Rape: Sexual Abuse of Wives* 5 (The Free Press, A Division of Macmillan, Inc, New York, 1987)

dispute or difference which forms part and parcel of married life thus giving it a status of normalcy.

Sexual violence is not considered as a problem in marriage rather family is considered as a body where marital disputes can be settled by mutual settlement or counselling only within the confines of four walls. The wives would rush into the courts if the exemption is repealed is an easy way out to wriggle out from the argument in favour of criminalization.¹² It is the conventional excuse given by the opponent husbands.

Women even do not envisage the forceful sex as rape. It is believed that only if victim is forced to have sex with non-acquaintance, she is raped. The depiction in movies etc. of taking women in solitude forcefully and having forceful sex is termed as rape.¹³ This shows that woman cannot envision the idea that her husband in the room which they share with each other would rape her. There is lack of understanding or sensitivity amongst victim wives with regard to marital rape. This kind of depiction makes it harder for woman to have a sense of realization that she could be or has been raped by her husband.

A common argument to counter the criminalization is offered that other remedies could be resorted to by women such as by bringing the case of marital rape under the provision of cruelty which are adequate enough. It is argued that criminalizing marital rape would amount to intervention into the privacy of the institution of marriage. However, it must be understood that the gravity of the offence must not be ignored as the impact of rape upon the victim is always adverse irrespective of the fact as to who committed rape.

They argue that people get socialized in families which impact public sphere. So, there is nothing such as private. They view the distinction leads to inequality and impact political and social structures.¹⁴

1.3.5 Cultural Prejudices

One could usually witness that “rape” is not associated with “marriage” rather with the strangers. This can be further highlighted by the fact we normally see that is it the rape by

¹² Krina Patel, “The Gap in Marital Rape Law in India: Advocating for Criminalization and Social Change”, Vol. 42 Issue 5 Article 7 *Fordham International Law Journal* 1532 (2019)

¹³ Jennifer A. Bennice and Patricia A. Resick, —Marital Rape: History, Research and Practice” Vol. 4 No. 3 *Trauma, Violence & Abuse*, Sage Publications 233 (July 2003)

¹⁴ Alon Harel, “Public and Private Law, *SSRN Electronic Journal* 11 (Jan, 2013)

strangers that is reported and not the one by the husband. This shows that the cultural prejudice continues to exist that “rape by husband” is non-existent idea.

Also, most studies have focused on stranger or acquaintance rapes. So, the studies have hardly focused on sexual assaults within intimate relationships. But it has been repeatedly shown that sexual assaults usually take place between intimate relationships more. Also, the perception of victims poses the real problem. Moreover, women who possess little knowledge and experience as to sexual experiences have a normalized notion as to forced sex and do not perceive it as rape.

Sexual violence by a stranger is viewed as more serious having a criminal tendency. This trivializes marital rape due to the attribution of seriousness accorded only to stranger rape. A marital rape victim reported that she never had much knowledge about sex. Also, she felt that the first time she had sex with her husband was probably the time when she was raped and she was so ignorant. Thus, these perceptions worsen the problems of women and make them subject to repeated acts of rape.

1.3.6 No Prosecutions pertaining to marital rape

The wife, who is experiencing marital rape, lacks awareness that non-consensual sexual acts imposed by her husband are not merely misunderstandings or differences of opinion within the context of their marriage, but rather constitute acts with criminal intent. There is lack of consciousness amongst women as to the fact that it constitutes crime in some jurisdictions where it is recognized explicitly or implicitly under cruelty provisions which ultimately lead to no prosecutions. When women themselves will not acknowledge this fact, consequently no reporting of it as a crime would take place. This further escalates the problem as women who experience forced sex once and accept it assuming they are discharging their obligation

as a wife are likely to experience it further.

On the contrary, when it comes to men, they think that if the wife is resisting to have sex with him on any occasion, she is trying to suppress him or overpower him. This hurts their male ego which eventually leads the husband to force his strength upon her leading to the subduing of wife, resulting in rape.

1.4 MYTH: LAW AND MARRIAGE CANNOT BE INTERMINGLED

The common idea which has been prevalent since time immemorial is marriages are made in heaven; a union which is indissoluble and supposed to continue for lifetime and even later births. Divorce was recognized as an exception. Marriages are recognized as an institution where law has no role. The society has the mind-set that any conflict between the spouses is expected to be sorted out or confined within the couple only and should not go beyond the boundaries of home. This has made the wives ignorant of their rights tending to make them adopt the stance that even forced sex is completely fine. They do not dub themselves as victim. So, it can be deduced that if wife does not agree, no question of prosecuting her husband for marital rape would ever arise.

The subject of sex is hardly talked about in open. This reason also accounts for non criminalization. The sexual rights of women are barely paid attention. It is considered as a topic which should not be discussed openly rather behind the curtains. Religion is considered as an obstruction in certain cases when it comes to law reform and even at the point when the Constitution was being made in India, religion was considered to have a significant position which often came in way of making changes in law, ultimately resulting in the embodiment of the concept of secularism. This makes marriage which is viewed to have sacramental nature immune from religion by secular law. The marital rape victims do not term the forceful sex as rape though they may name it as something they did not like. It is because of the distinction made between rape wherein a stranger invokes violence in a dark place and rape by spouse. It is also contended that Sec. 122 of Indian Evidence Act provides privilege as to disclosure of communication between husband-wife and marital rape has not been considered crime which would further result in conflicting provisions thereby creating ambiguities. The Indian Govt. has also expressed that the institution of marriage will get hampered if marital rape is criminalized bringing stress to the family

system.¹⁵

Thus, the view regarding the sacramental nature of marriage creates troubles in the reformation of certain laws which are against women. Addressing the criminalization of

¹⁵ Jagriti Chandra, "Key judgments puncture government's defense on marital rape", *The Hindu*, Jan 23, 2022 available at <https://www.thehindu.com/news/national/key-judgments-puncture-governments-defense-on-marital-rape/article38267927.ece>

marital rape becomes challenging in the presence of persistent societal attitudes that normalize such behaviour. Consequently, husbands abused their wives as of right without any fear of prosecution.

1.4.1 Impact of Marital Rape

Marital rape affects women tremendously. Women often endure enduring physical and psychological repercussions following instances of non-consensual sexual encounters, including forced sex or marital rape. Disturbingly, these negative effects can persist over time, as women may find themselves subjected to ongoing harm inflicted by their husbands. This ongoing mistreatment can be perpetuated by societal acceptance or validation, exacerbating the suffering experienced by these women. The dire repercussions of marital rape can be traced as follows:

1.4.2 Physical harm

- It causes injury to private parts, lacerations, fatigue etc. Women who are battered may experience nose from blood, broken bones, wounds etc.³¹
- The mentioned activity can also lead to harm in the vaginal and anal regions, causing various bruises that may go untreated and not properly heal. The marital rape also ensues gynaecological problems like miscarriage, still birth, sexually transmitted diseases.

1.4.3 Psychological impact

1. How it affects women?

- It ensues long term effects like insomnia, eating disorders. It causes anxiety, shock, depression etc. She might experience suicidal thoughts. This can cause more problems if she commits suicide when she has children to look after behind¹⁶

¹⁶ *Ibid.*

- Marital rape is likely to leave women in despair and distress. Women are likely to develop inferiority complex because of the false victim-blaming myth also. It can also bring a sense of guilt and she might blame herself for the egregious conduct of husband.
- It is not necessary that each act of forced sex accompanies physical violence. Rather, it has been reported by various women that they agree to forced sex to avoid physical violence in case they resist. Victims of marital rape are likely to get stuck in a dilemma as to whether she should withdraw from marriage or consider it as a part of married life which makes her hollow inside. This thinking might disrupt her normal life because of the inability to acknowledge her victimization or come in terms with the act.
- She is likely to recall and visualize the frightful scene she experienced and this will stress her time and again. This post-traumatic disorder will make her fearful of her husband thus making her fall prey to repeated acts of marital Rape despite her reluctance.
- The fact that the perpetrator is none other than her husband is likely to deepen her miseries and ultimately lead to loss of trust and confidence in her relationship with her husband.
- It might make such women feel that they are devoid of power and she might not be able to share her story with anyone because of the fear of being judged.
- In case, she makes a choice to end her married life, it is likely to cause difficulty in accepting any other relationship or moving on in her life. She might become dubious about everyone and might desire to keep herself isolated from everyone.

- Pregnancy from marital Rape also affects women like the stranger rapes where the victim is stuck in dilemma to abort or not. However, in case of marital rape, her problem might get aggravated if her husband refuses permission to abort. On the other hand, if she wants to abort, she is likely to question or blame herself for aborting. It might give a sense of remorse, humiliation and disgrace to her.
- It has been studied that the survivors of marital rape suffer more psychological consequences due to rape as compared to those cases where the perpetrator is the stranger.

2. How it affects children?

Marital rape, in addition to its psychological effects on children, has been observed to significantly impact their lives. It is commonly believed that children too might have knowledge of the kind of treatment meted out to their mothers by their fathers by sexually assaulting her. Children must have heard their mothers screaming, crying and resisting to the forcible sexual intercourse. This definitely leaves a bad impression upon children regarding their father which is likely to create feelings of distrust and dislike towards their father. In case of female girl child, she is likely to develop feelings of anger, disrespect and fright against her father.

The victims of marital rape report they fear that if they scream, the child sleeping in the other room might wake up and sometimes when the child is next to them, he/she is filled with fear. Family forms the foundation for the development of personality of every child and such kind of violent behaviour will affect the shaping of personality of every child and male children may adopt such kind of behaviour where they may indulge in such acts. So, it is not only the woman who gets affected but marital rape puts profound impact on child also.

1.5 KINDS OF PERPETRATOR

Three categories of rape and rapist have been provided by Growth who studied typology of rape perpetration and identified as "Anger" rape, "Power" and "sadistic".

- Aggressive rape: This type of sexual assault is driven by an aggressive attitude and a sense of anger. The perpetrator aims to degrade the victim through their actions.

- Coercive rape: In this form of assault, the offender seeks to exert control and power over the victim, using force or manipulation to achieve their objectives.
- Deviant rape: This category involves acts of sexual assault stemming from unusual or abnormal sexual desires or impulses. The offender's motivations are rooted in these atypical feelings.

The mentioned classifications bear resemblance to the categories put forth by renowned psychologists Finkelhor and Yllo, namely "battering rape," "force-only rape," and "sadistic rape." So, accordingly the perpetrators can be classified as:

1.5.1 Aggressive offender

It is a kind of "battering rape". In this case, husband rapes not out of sexual feelings rather out of aggression and anger. The purpose of such rapist is to show his feelings of anger and not sexual satisfaction. It is his irritable attitude which makes the wife prone to his act. He rapes wife out of fury, rage, hostility, acrimony. He is likely to get more infuriated & exasperated if the wife resists resulting in more violence. He abuses wife, beats her and have sexual intercourse. He rapes her to hurt or humiliate her. Under this category, sexual violence is a dimension of various kinds of abuse or violence.

1.5.2 The "coercive" offender

This kind of perpetrator falls under "power rape" or "non-battering rape".

The underlying purpose of this particular husband rapist is to dominate his wife. Under this category, there is less use of physical violence. There are certain sexual issues involved which drive men to rape his wife. Here, the husband does not batter wife. Though, he may end up battering her in case she resists.

In this way, this category varies from the other one. It is the sexual dispute between the couple which leads to rape and using force gives him a feeling of satisfaction because he feels authoritative and powerful upon exercising control. So, certain sexual conflicts are

involved due to which he overpowers his wife while having sex.

1.5.3 The Deviant offender

These offenders have unusual thinking about sex. They are the ones who are fanatic and obsessive about sex. Consequently, they demand strange, bizarre sexual acts. They are the ones who show keen interest in porn and fantasize sex. Hence, the perpetrators under this category have abnormal degree of requirement for sex and are completely fascinated with the idea of sex. Thus, their motive is to fulfil their uncontrolled and unusual sexual desires. It is read with the last category of rape.

In the case of *Nimeshbhai Bharatbhai Desai v. State of Gujarat*, the court identified three distinct types of marital rape, namely battering rape, force-only rape, and obsessive/sadistic rape.

This classification was employed by the court to categorize different forms of sexual violence within the context of marital relationships. Sometimes it may happen that the husband is under the influence of intoxication and lacks understanding, he forces his wife upon him notwithstanding that wife is not consenting to have sex with him. She may refuse due to any reason. It could be because he is intoxicated or any other reason. However, it is important to distinguish this type of sexual activity from a situation where a husband engages in sexual intercourse with his wife while under the influence of alcohol, and the wife consents to engage in sexual activity with him.

1.6 CONCLUSION

It can be concluded that the underlying causes mainly revolve around the notion of women being considered as weaker sex. This drives her to victimization. She has to bear the brunt of unfortunate consequences due to marital rape. Her inability to seek help augments her unpleasant state. The infliction of force in forceful sex is outrageous. The apprehension of getting mortified or humiliated lands her in hardship.

Also, the kinds of offenders so discussed show that they differ from each other on the basis of purpose with which they perform forceful sex. It has now become the need of the hour that women should take a step forward and be vigilant in their approach. They must raise the voice against this menace. Society must also change its approach of viewing women as inferior.

The social biases against women must stop.