

Battle against domestic violence, marital rape

It's truly disappointing to see that, even today, we find ourselves debating a woman's autonomy over her body after marriage

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Since independence, Indian laws for women have changed for the better. But some rulings have sparked debates. Recently, a High Court in India courted controversy when it stated that domestic rape and unnatural rape is not a legal crime. It raises inquiries about women's fight against domestic abuse and protection. On International Women's Day, we speak on this legal battle for women.

Adv Virat Vilas Pawar, a family lawyer practising in Mumbai High Court, calls rape as forced sex intrinsically wrong. "However, just as it is commonly believed that a woman cannot rape a man (as there are no provisions to protect men from rape), there is also a misconception that rape cannot occur between a husband and wife. This is incorrect because even a married woman has the right to say no to her husband. Unnatural sex, which refers to anal or oral sex, is a matter of personal preference between couples and is acceptable only when consensual."

Dr Malini Saba, a psychologist, human and social rights activist, global advocate for women and girls, and the founder of the Ananke Foundation, calls the verdict deeply disturbing. "Rape is rape, whether inside or outside of marriage. It's a forced act, and forcing someone into an intimate act without consent is, by definition, a violation of their body and dignity. Marriage does not erase a person's right to say no. It's truly disappointing to see that, even today, we find ourselves debating a woman's autonomy over her body after marriage."



According to Smita Bharti, Executive Director, Sakshi – a rights-based NGO, the verdict not only denies justice to the survivors but also 'reinforces a system where women's bodily autonomy is disregarded'. "If consent is fundamental to any sexual act, why should marriage erase it? Why is a husband's desire legally recognised but a wife's refusal dismissed? By refusing to acknowledge marital rape, the law sustains a culture that prioritises perpetrators' rights over survivors' justice."

Dr Saba thinks laws put facts over emotions. But human sufferings get overlooked in the process. "As women, it's essential to ask who's writing the laws and whether they truly understand the experience of being a woman today."

There are times when women feel trapped since they are unaware of their rights or cannot speak out due to fear of consequences. Gagandeep Kaur, a communications and marketing strategist and advocate for women's rights, thinks so. "There's still so much to be done, and it's not just about creating stronger laws. It's about changing mindsets and shifting societal views on women. We need to cultivate a culture where women feel safe to speak up and where they know they are supported and empowered to live life on their own terms. Changing laws is one piece, but shifting the way we value women in society is the real work."

Rashida Khilawala, the founder of 30Sixty Tech, feels there is a revolution in waiting. "The problem is that laws are made for men to feel like they are "allowing" women to have rights. Society still sees our safety as a privilege instead of a basic necessity. Our education system has failed us. We teach our girls to be careful instead of teaching our boys to be respectful. Our leaders have failed us. They debate whether a woman's pain is "serious enough" to be criminal. Our legal system has failed us. A woman must fight harder to prove she was raped than a man ever has to fight to justify it. And most of all, our culture has failed us. Because women are still seen as sacrificial. We are told to endure. To forgive. But let me be clear – they can. And they will."

Adv Pawar does speak of strong laws protecting women like the Mahila Vibhag (Women's Department), where women can come forward to file complaints, which will, in turn, be taken up by the police for investigation. "Unfortunately, the judiciary is overburdened with numerous cases, making timely justice a major challenge. The real solution lies in expediting court procedures (not just police action) so that judgments are delivered swiftly."

"It all comes down to consent, that's the key factor in any healthy relationship," suggests Dr Saba. "But beyond that, we need to recognise that there's a complex set of issues here, and a lot of it comes from cultural traditions, like arranged marriages. Too many couples enter marriages without truly knowing each other, and that lack of communication and understanding only contributes to a lack of respect when it comes to boundaries and consent."

Adv Pawar feels it is essential to recognise men are often at the centre of the crime. "Crimes like rape and sexual harassment are committed by men. It is crucial for them to understand consent and respect a woman's right to say no. Beyond just controlling their actions, men must also hold their peers accountable, educate them, and ensure that behaviours like rape, stalking, and catcalling are not treated as entertainment but as acts of shame."

As per Rashida, men cannot be bystanders in this battle, say 'not all me' and walk away. They need to prove it. "If you don't mistreat women, speak up when other men do. If your friend cracks a rape joke, shut it down. If a woman tells you she feels unsafe, believe her. A good man doesn't just avoid harming women. He actively protects them. If you are truly not one of them, then don't just say it – show it. Because silence is complicity. And complicity is violence."

This International Women's Day, there is a need to think of women's marital safety and rights amidst their battle against domestic violence and marital rape, despite a setback via a ruling.