



## Are we a democracy worst than monarchy?

With the High Court calling domestic rape and unnatural sex legal, how are our women supposed to feel protected

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Recently, a High Court in India ruled that domestic rape and unnatural sex is not a legal crime. Where does that leave the common married woman of this country? Is she left to the mercy of the man who uses her when he wants? Are her wants, needs, or pleasures not important? Ahead of International Women's Day, we speak on this legal battle for women.

### Verdict on verdict

Adv. Virat Vilas Pawar, a family lawyer practising in Mumbai High Court, calls rape as forced sex intrinsically wrong. "However, there is 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. "By refusing to acknowledge marital rape, the law sustains a culture that prioritises perpetrators' rights over survivors' justice. This denial is rooted in deep barriers of shame, stigma, and silence – barriers that prevent survivors from seeking justice and enable violence to persist."

### Nothing serious

Dr Saba thinks laws put facts over emotions. But human sufferings get overlooked in the process. "Courts analyse the situation from a broader perspective, looking at the entire context of an event, and that's important in numerous instances."

She speaks on porn's role in promoting unnatural sex. "Porn is not the issue; the key issue is the lack of open conversations about sex. The term 'natural sex' needs to be clearly defined. Again, consent is key. Porn does play a role in normalising certain sexual acts, including anal sex, which some consider unnatural. However, the real issue is the lack of open discussions about sex, consent, and personal preferences. Rather than demonising porn, the focus should be on sex education that empowers individuals to make informed choices about their own bodies and desires. Women should be empowered to educate their sons that sex is not like what is portrayed in porn. Likewise, daughters should be encouraged to understand their own sexual needs and learn to express them."

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. Changing laws is one piece, but shifting the way we value women in society is the real work."

Smita mentions the NCRB survey stating nearly 30% of married Indian women face domestic violence. But the law still overlooks violations like marital rape. "This stems from patriarchy, where marriage is seen as erasing a woman's right to consent, and the public-private divide, which frames marital violence as a personal issue rather than a legal violation. We must take a survivor-centric, trauma-informed approach that prioritises empowerment, agency, and community accountability. We integrate socio-cultural nuances to ensure interventions resonate with communities."

Neeta (name changed) shares her story. "I left my partner because he always wanted to have anal sex. Despite knowing that it was affecting my digestive system and general health, he continued to demand it. Finally, I walked out of the relationship."

### Way ahead?

Clear and strong laws will punish the culprits and support women in healing and rebuilding their lives, mentions Gagandeep. "That includes access to education, financial independence, and emotional support."

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."

### What about men?

As per Rashida, men cannot be bystanders in this battle. "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 Indian women's marital safety and rights amidst their battle against domestic violence and marital rape, despite a setback via a court ruling.

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.

— Rashida Khilawala