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Examining Spousal Rape and the Gap in Bangladesh

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Abstract: The study explores Bangladesh's legal and sociocultural standards that deviate from global human rights norms with respect to spousal rape scenarios. Bangladesh's Penal Code of 1860 allows husbands over the age of 13 to be protected from charges of rape. The legal provision is complemented by misogynistic religious doctrines and patriarchal ideology, in addition to seeing women as the property of men that permits marital rape to be considered legitimate at the same time victims are forced into silence. They get subjected to worst forms of injuries in multiple forms, and added to this is social boycott as well as no proper legal representation available at their disposal. The writer stresses the necessity for a nationwide overhaul in law which conforms to international standards - CEDAW and ICCPR. Education and public awareness campaigns also need to be undertaken to eradicate harmful stereotypes of gender, and survivors should have ready access to support services.

Keywords: Marital Rape, Gender Inequality, Patriarchy, Legal Reform, Human Rights Violations, Social Stigma, Survivor Support

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INTRODUCTION

The marital rape subject in Bangladesh creates robust public discussions regarding female freedoms together with matrimonial practices and gender rights. Since Bangladesh fails to consider marital rape as a criminal offense, its laws do not have provisions for it. Women's status as property belonging to husbands justifies why marital rape remains outside legal recognition by mandating spouses to use their wives within their discretion.¹ The husband possesses complete authority to expect his wife to meet his sexual demands without her requesting any consent.² This view positions itself in patriarchal traditions of traditional beliefs.

The Penal Code 1860 of Bangladesh provides immunity for marital rape as long as the wife is above 13 years old, which leaves married women unprotected from sexual assaults by their husbands. Marital rape exemptions exist throughout different sections of the Code, starting with Section 376 and continuing in Section 9(1) of the Nari o Shishu Nirjaton Domon Ain 2000. Such legal exceptions allow both the public and perpetrators to disregard marital rape as a common occurrence while muzzling victim voices.³ Most

members of society consider marital rape to be a false feminist concept created by men.⁴

The social oppression of women across different communities in Bangladesh causes people to accept the idea of marital rape as a valid practice. The dominant position that men hold in the traditional Bangladeshi patriarchal order gives men the power to mistreat their wives within their homes. Under the "wifely duty" concept, women have to satisfy their husband's sexual needs even without consenting to the sexual acts.⁵ Many people in Bangladeshi society consider marital rape to be permissible, thanks to the deeply ingrained patriarchal social and family values.

Victims suffer significant emotional and mental harm because laws specifically targeting marital rape do not exist in their country.⁶ Parkinson displays multiple emotional disorders after experiencing marital rape that includes depression together with PTSD and, therefore, loss of trust and shock in addition to anxiety and fears.⁷ Such social disapproval regarding intimate topics creates double isolation that hinders victims from obtaining any assistance. A system void of legal

¹ M Pracher, 'The Marital Rape Exemption: A Violation of a Woman's Right of Privacy' (1981) 11(3) Golden Gate University Law Review 717, 726.

² David Finkelhor and Kersti Yllö, *License to Rape: Sexual Abuse of Wives* (Simon and Schuster 1987).

³ Md Mustakimur Rahman, 'Marital Rape' in *Marriage: The Need for Reform in Bangladesh* (2015) 15(1 & 2) Bangladesh Journal of Law <https://ssrn.com/abstract=3164509> accessed 2nd February, 2025.

⁴ Josinta Zinia and Jafrin Mahmud, 'Conceptualization of the Term "Marital Rape" Regarding Controversies in Bangladesh: A Qualitative Study' (2021).

⁵ E Martin, C Taft and P Resick, 'A Review of Marital Rape' (2007) 12(3) Aggression and Violent Behavior 329.

⁶ Josinta Zinia and Jafrin Mahmud, 'Conceptualization of the Term "Marital Rape" Regarding Controversies in Bangladesh: A Qualitative Study' (2021).

⁷ Ibid

regulations and social backing allows marital rape to hide under marriage protection laws.

This research examines the current state of marital rape in Bangladesh along with its goal to align local judicial standards with international justice principles through pushing for law reform together with social education activities and assistance networks which support survivors to establish an equal and fair society.

Historical Background

The legal origins of the marital rape exemption can be found in 17th century English common law, and the doctrine was heavily elaborated upon by Sir Matthew Hale's 1736 treatise *Historia Placitorum Coronae*, which expressed that a wife's marriage vow included her irrevocable consent (implied) to sexual intercourse, hence making it legally impossible for a husband to have raped his wife.⁸ It was a doctrine that considered women as marital property and it prevailed in laws throughout the British Empire, including the U.S., until well into the late 20th century. Historical data illustrates that in England from the 17th to the 20th century, no convictions were returned for marital rape: this persisted until the Supreme Court of California's landmark decision in *People v. Conley* (1966).⁹

The early struggles began in the 20th century. The Soviet Union was the first country to decriminalize it in 1922 by removing marital exemptions in its criminal code, followed by Poland in 1932 and Czechoslovakia after World War II. In the UK, the first prosecution was *R v Clarke* (1949), where the magistrates took a similar approach to Hale and held that consent was not revocation in fact, however, there can be no doubt that it did revoke consent, and therefore convicted.¹⁰ The defence was applied, despite her filing for divorce in *R v Miller* (1954), and husbands had successfully relied on it only in two such cases thereafter: in *R v Kowalski* (1988), *R v Sharples* (1990) and the House of Lords decision *R v J* (1991) the family protection order issued under s 39 Family Law Act 1986 did not set aside its implied consent.¹¹

In the United States, this change took off during the 1970s in response to feminist agitation. Massachusetts was the first state to convict a separated couple in 1976 directly contradicting Hale.¹² The practice was not fully criminalized in Oregon until 1979, with no exceptions; by 1993, all 50 states permitted prosecutions, though 11 still had partial exemptions until reforms took effect in the early 2000s. Studies from the

1990s, for example, revealed that 10-14% of married women experienced attempted or completed marital rape with lifetime rates equivalent to stranger rape and victims experiencing severe PTSD on par with war veterans.¹³

Landmark global cases drove change. In the UK, this was reversed in *R v R* (1991) by House of Lords which confirmed that "a man does not have a right to demand sex without consideration for his wife's feelings" and that a marriage contract could be revoked where "the life force has gone out of the relationship".¹⁴ In India, a 2017 Supreme Court petition sought criminalization, listing examples such as that of a 22-year old sprinkled with kerosene after violation and another woman receiving syringe injections of 'alleged HIV infested blood' and similarly vaginally-inserted objects yet Exception 2 to Section 375 IPC survives exempting husbands.¹⁵

In all, 158 countries outlaw it as of 2025, according to U.N. data, but 46 do not — among them Bangladesh, Afghanistan and some locations in Africa and the Middle East. A 2021 case in Egypt emphasized a husband's perpetration after early marital endearment, reflecting the cultural taboos. This development is emblematic of the data-driven realization that global surveys suggest that in certain regions, 20-25% lifetime prevalence undergirds CEDAW-based human rights advocating for abolition of exceptions.

Theories of marital rape

The exclusion of marital rape were based on Sir Matthew Hale's (1736) *Historia Placitorum Coronae*; or, *A History of the Pleas of the Crown* arguing that as by marrying a woman hath given up herself to husband, so hath trust placed in his protection and thereby he cannot be guilty of a rape committed by himself upon her (a man could not be charged with raping his wife even if they were judicially separated).¹⁶ This property-based perspective on women treated them as chattel extensions of husbands under the marital unities doctrine, where a man could not rape "himself," with this attitude shaping British, U.S. and colonial law for centuries; in England there were no rape convictions from 17th to 20th century but instead it was prosecuted as theft of chastity against father or husband.¹⁷

Theoretical justifications reinforced this. According to implied consent theory, one's wedding vows awarded her husband perpetual access to her sexual organs; under contract theory, marriage was an actual legal pact whereby a wife relinquished control of her

⁸ Helen Barker, *Rape in Early Modern England* (Springer International Publishing 2021).

⁹ Ibid

¹⁰ Helen Barker, *Rape in Early Modern England* (Springer International Publishing 2021).

¹¹ Ibid

¹² Ibid

¹³ Martin, Elaine K, Casey T Taft and Patricia A Resick, 'A Review of Marital Rape' (2007) 12(3) *Aggression and Violent Behavior* 329.

¹⁴ Ibid

¹⁵ Baggi Sri Kamal, 'Marital Rape in India: An Analysis' (2022) 6 *Indian JL & Legal Rsch* 1.

¹⁶ Michael DA Freeman, "But If You Can't Rape Your Wife, Who [m] Can You Rape?": The Marital Rape Exemption Re-examined' (1981) *Family Law Quarterly* 1.

¹⁷ Helen Barker, *Rape in Early Modern England* (Springer International Publishing 2021).

own body.¹⁸ These meshed with unities theory, of the one-flesh model. Modern criticisms such as Catharine MacKinnon's antisubordination theory assert exemptions perpetuate gender subordination, in contradistinction to the conventional rationality-based equal protection framework(s) that have defended them as constitutional.

The first early reforms took place in the Soviet Union, removing all marital exemptions in 1922 and Poland (1932).¹⁹ Domestic violence Crime The Facts Are as Threatening as the Fiction North American data from 1990s research found that between 10% and 14% of wives had suffered attempted or completed marital rape with subsequent PTSD rates similar to stranger raid victims.²⁰ Oregon made it fully illegal in 1979; by 1993, all 50 states allowed prosecutions, but 11 had partial exemptions until reforms in the 2000s; by 1996, 16 states repealed them altogether.²¹

Key cases marked progress. In the UK, in the case of *R v R* (1991), House of Lords found a husband raping his wife wrong and make it criminalized rejected Hale's doctrine and held that marriage does not mean obtaining consent to sex is irrevocable; consenting to being married does not entail consenting to sex all the time, as mentioned in a couple other previous cases namely *R v Clarke* (1949) *R v Miller* (1954).. Massachusetts convicted a separated husband in 1976 — the first in America.

Marital Rape in Perspective of Bangladesh

In Bangladesh marital rape is still not recognized under Section 375 of Penal code, which provides exception to sexual intercourse by a man with his own wife if she is not more than thirteen years of age considering marriage as implied consent being derived from underlying colonial assumption on marriage implies ongoing consent based on spousal duty.²² This legal immunity draws upon 17th-century English common law found in the works of Sir Matthew Hale, which had held women to be marital property with no independent physical freedom, a relic still extant after Bangladesh's independence from Pakistan in 1971 despite constitutional gender equality guaranteed under Article 27. Wives under 13 only face up to two years' imprisonment under Section 376 while general rape comes with life imprisonment or 10 years.²³

Data suggests it is widespread while being underreported because of stigma and legal obstacles. In a 2015 study of 20,000 ever-married women in Bangladesh, under the Bangladesh Bureau of Statistics (BBS), more than one-fourth reported sexual violence by husbands and over half suffered physical or sexual intimate partner violence (IPV); two-thirds reported lifetime IPV, including more than 40% in the past year; despite this, two-thirds never disclosed abuse /ref. Odhikar data recorded 14,718 victims of rape (5900 women and 7664 children) from January 2001-July 2019, with married cases seldom filed; in 2024, a total of 4332 rape cases represented the plurality of that year's violence against women and children tally of 17,571 cases (6537 being dowry related), reporting on record were rapes standing at only single digits for January-October. Rural surveys report 2.7% of men admitted raping in the past year, 41.4% more than once. \u2008Entitlement is evident in multiple instances.

High Court cases shed light on reform efforts. In 2020, BLAST and others petitioned the court arguing that the exemption was unconstitutional as it discriminates against girls; SC thus asked for government reasoning with sex violence on rise: ~1000 cases (200+ of gang rapes) between Jan – Sept 2020. As of 2020, Taqbir Huda quoted the following in a Dhaka Tribune: "child marriage was colonial and unconstitutional since there is also no remedy for rape if minor wives over 13 years of age are deemed valid.

Case studies reveal brutality. At least 20 rape survivors between 2002-2011 had to marry their rapists adding up their trauma,²⁴ and in one such Tangail incident happened on 6 October last, one schoolgirl married off by parents with a 34-year-old overseas expatriate died on the night of October 25 following September 20 abuse that drew attention to deprivation-marriage violence shunned judicial surveillance.²⁵ It's nearly impossible to prove that non-consent in court because of marital sex being considered, requiring DNA evidence due to the silence-surrounding culture.²⁶

Worldwide, Bangladesh is trailing: U.N. data shows 46 countries that it and others haven't criminalized spousal rape despite CEDAW requirements. Rape law reform coalition advocacy call for repeal of Section 375 as a human rights violation adding to the 20–25% lifetime prevalence in South Asia.

¹⁸ Elizabeth Brake, *Minimizing Marriage: Marriage, Morality, and the Law* (Oxford University Press 2012).

¹⁹ Aleksander Witold Rudzinski, 'Sovietization of Civil Law in Poland' (1956) 15(2) *American Slavic and East European Review* 216.

²⁰ Rand D Conger, Frederick O Lorenz, Glen H Elder Jr, Ronald L Simons and Xiaojia Ge, 'Husband and Wife Differences in Response to Undesirable Life Events' (1993) *Journal of Health and Social Behavior* 71.

²¹ Ibid

²² Md Saleh Akram and Most Shamima Pervin, 'Marital Rape in Bangladesh: A Critical Analysis' (2021) 7(3) *Journal of Asian and African Social Science and Humanities* 44.

²³ Saumya Rai and Radhika Sharma, 'An Analysis of Rape as an Offence and the Need for Change in Punishment with the Time' (2022) 2 *Indian JL & Legal Rsch* 1.

²⁴ Share-Net Bangladesh, *An Extreme Example of Injustice: Between 2002 and 2011, at least 20 rape survivors were married off to their accused rapists, said Prothom Alo* (Share-Net Bangladesh, 6 July 2025)

²⁵ Mst Khatun and Khandaker Farzana Rahman, 'Domestic Violence against Women in Bangladesh: Analysis from a Socio-legal Perspective' (2012) 9(2) *Bangladesh e-journal of Sociology*.

²⁶ Dara E Purvis and Melissa Blanco, 'Police Sexual Violence' (2020) 108(5) *California Law Review* 1487.

Sociocultural Barriers to Combating Marital Rape in Bangladesh

Spousal rape in Bangladesh exists due to numerous sociocultural elements together with minimal reporting of this form of assault which people refer to as marital rape. Significant social and cultural elements block the path toward dealing with this violence as well as preventing justice from reaching victims. Their husband forced intercourse upon one in five married women, according to Bangladesh Bureau of Statistics (BBS) data. However, these numbers are likely underrepresented.

Spousal rape stands as a crime which people seldom report anywhere across the world. The World Health Organization (WHO) reveals that just 7 to 14% of marital rape victims seek help because they worry about getting punished and because culture accepts it and believes legal systems will not defend them. The condition of women in Bangladesh becomes more challenging because social traditions require women to put their husbands' authority above all other considerations after marriage.²⁷

Perspectives about marriage, along with express consent, significantly shape beliefs regarding marital rape. According to many people, the acceptance of marriage by a wife automatically provides enduring permission for sexual actions between married couples while treating women as matrimonial possessions.²⁸ Through this perspective, many people supported the claim that husbands cannot commit rape against their wives while removing marital women from controlling their own bodily decisions.²⁹ Sexual intercourse becomes a mandatory duty for women according to this belief, which complicates non-consensual marriage-related sex to qualify as criminal activity.

The matter becomes more intricate due to different religious belief systems. Religious beliefs in Bangladesh, as a Muslim-majority society, create dominant social standards and installment of cultural expectations. Specific interpretations of religious scriptures support male authority by enforcing total wife submission to husbands, which extends to sexual compliance. Such social definitions create the false belief that wives cannot deny their husbands' sexual advances hence supporting the practice of marital rape. Specific individuals view marital rape as a constructed feminist concept while maintaining that marriage creates a

husband ownership of his wife who cannot comment on or object to their sexual relations.

The social system in Bangladesh grants men complete dominance through patriarchal traditions that uphold their superior position. Such status inequality makes women susceptible to destructive forms of mistreatment that include sexual abuse. The social setting usually favors unequal power distribution, while forced marriage demonstrates the stark power imbalance between genders. This social structure that prioritizes male supremacy, as well as male pride, helps people accept sexual assault as part of their community norms.

The social rejection and harmful speech directed at marital rape victims create a significant barrier to their ability to report the crime. Family ostracism, together with the stigma of being a victim of rape, prevents numerous people from reporting crimes.³⁰ The social stigma causes victims to keep their silence because they think the abuse should be treated as a personal instead of a public matter.³¹ What follows most often after marital rape happens to the victim is societal blame because others in society see victims as responsible for their gotten circumstances. Social disapproval causes numerous women to remain silent about defending their fundamental human rights.

The scarcity of justice and support for victims of marital rape arises from these sociocultural factors that accept or dismiss such crimes. Marital rape remains unacknowledged by law, and traditional beliefs continue to exist, which consequently extends abusive patterns and obstructs women from claiming their fundamental rights.

The Effects of Marital Rape on Survivors'

Survivors of spousal rape experience severe damage to their physical and mental condition because of this exploitation. The assault in spousal rape causes survivors to experience various physical injuries. Spousal rape survivors commonly display both physical traits consisting of fatigue and vomiting. The bodily health risks for such victims include pelvic pain, urinary tract infections, miscarriages and stillbirths, and bladder infections. Forced sexual intercourse makes it more likely for people to acquire sexually transmitted diseases (STDs) with HIV/AIDS among these infections.³² The statistics show that wives subjected to sexual abuse experience more excellent rates of unplanned pregnancies when compared to other abused spouses.³³

²⁷ Md Mustakimur Rahman, 'Marital Rape' in *Marriage: The Need for Reform in Bangladesh* (2015) 15(1 & 2) Bangladesh Journal of Law <https://ssrn.com/abstract=3164509> accessed 4th February, 2025.

²⁸ Subrata Banarjee, 'Identifying Factors of Sexual Violence Against Women and Protection of Their Rights in Bangladesh' (2020) 52 Aggression and Violent Behavior 101384.

²⁹ Theresa Fus, 'Criminalizing Marital Rape: A Comparison of Judicial and Legislative Approaches' (2006) 39 Vanderbilt Journal of Transnational Law 481.

³⁰ Hussain Mohammad Fazlul Bari, 'An Appraisal of Victim Protection in Bangladesh' (2016) 61(2) Journal of the Asiatic Society of Bangladesh (Humanities) 183.

³¹ Ibid

³² Ruchira Tabassum Naved, 'Sexual Violence Towards Married Women in Bangladesh' (2013) 42 Archives of Sexual Behavior 595.

³³ Ibid

The emotional effect of marital sexual assault becomes severe, along with its extended duration. After experiencing spousal rape, survivors will commonly feel overwhelming anxiety and shock alongside fear and depression symptoms. People who suffer from spousal rape often develop post-traumatic stress disorder (PTSD), which leads to intense anxiety and severe stress.³⁴ Post-traumatic experiences cause survivors to re-experience the traumatizing events as if they were happening in real-time. The combination of eating disorders and sleep disorders frequently emerges in victims while their body image becomes distorted and their self-perception turns negative. The experience of relationship-building problems alongside reduced trust in others occurs after traumatic events.³⁵ A victim's tendency to distrust others creates obstacles when interacting socially. At-risk survivors face considerable dangers of suicidal thoughts.³⁶ The prevalence of feelings of self-blame together with guilt stands in the way of victims healing correctly. Numerous survivors maintain feelings of helplessness because they believe their physical autonomy was stripped away from them. Survivors face emotional trauma along with social exclusion because of the public disgrace that follows marital rape. Women stay within their homes and forego demanding their human rights because they worry about social judgment and the societal obligation to sustain their families.

The trauma deepens because the victim holds trust in the attacker, which intensifies the feeling of complete betrayal. Marital sexual violence that persistently occurs generates a repeating pattern of domestic abuse that hurts both the perpetrators and the victims. The physical act of spousal rape causes enduring psychological and physical health consequences in victims.

The damage from marital sexual assault reaches far beyond physical contact to produce lasting mental damage, physical issues, and emotional problems.

WOMEN HUMAN RIGHTS: INTERNATIONAL STANDARDS

International human rights norms articulate women's rights as those of universal and indivisible protection against discrimination, violence and degrading treatment, each directly involving marital rape as a violation of bodily integrity, privacy and dignity. These tools hold states like Bangladesh, which is a party

to most of them, accountable to criminalize these acts, offer remedies and remove exemptions that render non-consensual marital sex inconsistent with gender equality.

The ICCPR provides for men and women the equal enjoyment of civil rights (Article 3) and non-discrimination (Article 26), as well as prohibiting arbitrary private interference (Article 17) (ICCPR, 1966). General Comment No. 35 reads them as obligations to address gender-based violence including marital rape while General Comment No. 36 connects it with arbitrary deprivation of life (Article 6). Adopted by Bangladesh in 2000, it requires investigations and prosecutions as local statistics reveal a prevalence of spousal sexual violence faced by 27.3% of ever-married women according to a 2015 survey.³⁷

The International Covenant on Economic, Social and Cultural Rights (ICESCR) upholds women's right to health (Article 12), equitable work (Article 7), and family funding (Article 10), posing marital rape as a violation to self-respect and welfare. General Comment No. 14 links violence against women to violations of health, and calls for its criminalization. Bangladesh's ratification in 1972 reflects existing enforcement gaps with 41% annual prevalence of IPV for surveys up through 2024.³⁸

The term discrimination of all forms – and exploitation as added to it is prohibited in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) in Articles 2 and 6. General Recommendation No. 35 classifies marital rape as a form of discrimination and requires laws, prevention and services. Bangladesh practiced following 1984 ratification: Section 375's exemption was subject of CEDAW's review in 2020 when it recommended that Bangladesh should repeal during which the country received report of the incidence in excluding marital one.

Cruel treatment is prohibited by the Convention against Torture (CAT, 1984) (Article 1), and has been interpreted by the Committee to include habitual rape within marriage. General Comment No. 2 calls for gender-sensitive investigations. Bangladesh's 1998 ratification also challenges impunity in the face of 70% lifetime IPV being unreported.³⁹

³⁴ Ibid

³⁵ Subrata Banarjee, 'Identifying Factors of Sexual Violence Against Women and Protection of Their Rights in Bangladesh' (2020) 52 *Aggression and Violent Behavior* 101384.

³⁶ Lisa Campbell, Anna Keegan, Beata Cybulska and Greta Forster, 'Prevalence of Mental Health Problems and Deliberate Self-Harm in Complainants of Sexual Violence' (2007) 14(2) *Journal of Forensic and Legal Medicine* 75.

³⁷ Md Shafiur Rahman, Md Nazrul Islam Mondal, Md Rafiqul Islam, Kazi Mohiuddin Ahmed, Md Reazul Karim and Md Shamsher Alam,

'Under Weightiness among Ever-Married Non-Pregnant Women in Bangladesh: A Population Based Study' (2015) 3(2) *Univ J Food Nutr Sci* 29.

³⁸ Kathryn O DuBois, 'Women's Risk of Intimate Partner Violence During COVID Pandemic Lockdown: A Test of a Public Health Intervention Using Estimates from the National Crime Victimization Survey' (2025) *Deviant Behavior* 1.

³⁹ Twafiq Mohinuddin, *International Law v. Traditional Norms: Community and State Response to Domestic Violence in Bangladesh and Pakistan* (2013).

The latter includes marital rape (Article 2), and obliges states to act with all due diligence (Article 4). It is declaratory but it helps to set norms; declared standards are more in keeping with an endorsement that will move Bangladesh forward than the 20 forced marriages concerning victims of rape over the past decade (2002-2011) and ongoing child marriages as a means of abuse.

Together with these standards—endorsed by 158+ countries that have made spousal rape a crime—they highlight Bangladesh's position as a laggard among the remaining 46 holdouts—feeding the High Court writs, and Civil Society pressure for reforming its Penal Code to bring it in line.

Legal Frameworks and Limitations in Bangladesh

The legal framework of Bangladesh regarding sexual abuse in wedlock demonstrates insufficient protection for women during marriage. The patriarchal framework which underpins the legal framework has maintained strict silence about spousal rape during its entire existence. Some countries still practice marital rape as an immunity measure for husbands, although this practice is not new. The initial legal basis for marital rape exempting husbands through marital access originated in the 17th century because Sir Mathew Hale claimed wives offered themselves to husbands during marriage.⁴⁰ Lawmakers have relied on the conception of women as property for centuries to formulate this doctrine.

The present Penal Code of Bangladesh fails to treat marital rape as an illegal offense. The Penal Code, through Section 375, allows male-to-female consensual sex between a husband and wife as accepted without ever reaching the threshold of rape if she exceeds 13 years of age. Under this legal exception, marital rape becomes permissible because consent to get married means submitting to continuous sexual acts. The legal framework in Bangladesh is considered inadequate for protecting women from sexual violence, particularly within marriage.

Some laws in Bangladesh, like the Child Marriage Restraint Act of 1929, contradict the marital rape exception in the penal code since girls cannot legally marry until they are 18. Yet, the penal code allows for marital rape once a girl is over 13.⁴¹ The existing legislation stands in the way of women who want to prosecute marital sexual violence and get protection from abuse within their marriages. Minor age within marriage no longer ensures a wife's consent for sexual intercourse under the law, thus continuing her marginalized position within the legal system.

Enforcing sexual violence cases against women in Bangladesh is a significant challenge due to the requirement to prove these crimes beyond a reasonable doubt. Women struggle to demonstrate rape, as society marginalizes the issue and the legal system offers inadequate protection. Traditional beliefs suggest that a wife cannot accuse her husband of rape, viewing marriage as granting full sexual consent. Consequently, the justice system is criticized for perpetuating gender inequalities and subjecting women to humiliating treatment, creating significant obstacles to fair legal remedies.

According to a 2021 study conducted by BRAC (year 2021), domestic violence affects 72% of married women in Bangladesh, and sexual violence affects 26% of them. Survivors of sexual violence face a total lack of legal protection because of community-based stigma, as well as cultural acceptance and nonexistent legal pathways. International human rights frameworks such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), together with the International Covenant on Civil and Political Rights (ICCPR), require all countries to criminalize sexual violence, which includes spousal rape. Bangladesh faces an essential legal deficiency due to its refusal to adjust domestic legislation to comply with international obligations.

Global Legal Response to Marital Rape

Research shows that Bangladesh trails most other nations when it comes to spousal rape legislation as well as public perceptions about this issue. The Penal Code of Bangladesh allows marital rape exceptions, yet various countries from South Asia, together with the United States and the United Kingdom, enforce marital rape penalties.⁴² Marital rape remains absent from official criminalization in India, but the legislative body enacted the Protection of Women from Domestic Violence Act 2005 to provide legal options for victims.⁴³ Despite making progress in many other areas, India stands as one of the countries which have not established laws to criminalize marital rape. *R v. R* 1991 fundamentally transformed United Kingdom House of Lords laws about marital rape through its decision to remove the prevailing standard law provision that protected husbands from rape prosecution by their wives.⁴⁴ The United States, together with the United Kingdom, both removed marital rape exemptions, which now enforce equal standards of rape law for wedded and

⁴⁰ Theresa Fus, 'Criminalizing Marital Rape: A Comparison of Judicial and Legislative Approaches' (2006) 39 *Vanderbilt Journal of Transnational Law* 481.

⁴¹ Subrata Banarjee, 'Identifying Factors of Sexual Violence Against Women and Protection of Their Rights in Bangladesh' (2020) 52 *Aggression and Violent Behavior* 101384.

⁴² Meha Bhushan, 'Comparative Study: Marital Rape in India and United States' *Anand Bihari* 495.

⁴³ *Ibid*

⁴⁴ Theresa Fus, 'Criminalizing Marital Rape: A Comparison of Judicial and Legislative Approaches' (2006) 39 *Vanderbilt Journal of Transnational Law* 481.

unmarried males. The laws banning marital rape exist throughout all 50 states of the US.⁴⁵

The introduction has shown that cultural conservatism does not stand in the way of passing progressive legal reforms. The legal system in England standardized rape law by abolishing marital exemptions as the notion of equality took hold, and feminist movements spread awareness throughout the nation that spousal rape is always rape. Canada proved through legislative action that those unmistakable legal definitions mattered when the country abolished the marital exemption.⁴⁶ The countries of Australia, together with Spain, Germany, and Sweden, eliminated marital immunity from prosecution. The practices of criminalizing marital rape exist in both Mauritius and Thailand.⁴⁷ Different nation-states with diverse cultural backgrounds have demonstrated the capacity to pass reforms against marital rape within their jurisdictions.⁴⁸

These countries provide valuable examples for Bangladesh. The first step in legal reform is aligning laws with modern social values. The legal concept of marital ownership should be abolished, and public campaigns must promote changing societal beliefs. Marital rape should be clearly defined as illegal, with no exemptions in prosecution. Addressing police indifference, victim-blaming attitudes, and corruption is essential for victims to access justice.

Marital rape gets different responses among countries in specific territories in how they handle this matter. The laws of India enable victims to seek redress from marital rape in civil courts, but the government has not enacted criminal penalties for this offense.⁴⁹ A mandatory legal framework in the UK and the USA shows that performing such unacceptable acts renders individuals subject to punishment.⁵⁰ Evidence shows that the existing civil remedies need replacement with more potent criminalization approaches to combat this issue. The participation of neighboring nations can establish strong regional backing for women's rights, strengthening international pressure on Bangladesh to adopt global standards. To prevent women's sexual abuse, society must address both formal laws and cultural customs and gender-based inequities that lead to abusive situations.

CRITICAL ANALYSIS OF MARITAL RAPE LAWS

Traditionally, to make wives vulnerable to obligatory sex was not just a universal practice but a precondition of “standard” rape law, which outlawed intercourse with a woman who is not one’s wife only when she does not consent—blood work that enabled husbands’ impunity. The 17th-century English judge Sir Matthew Hale’s “doctrine of implied consent” embellished it by making marriage as irrevocable permission to all sexual acts thus depriving women of the right to refuse and dilating sex for procreation as the essence of marriage and not equality.⁵¹ This further entrenched (and still does to a great extent) patriarchy power imbalances, reducing wives to property with legal existence integrated into that of the husband, banalizing gender discrimination.⁵²

Bangladesh shows commitment to protect women from constitution provision and international obligation, with limitation. Violence The Penal Code 1860 and the Nari O Shishu Nirjatan Daman Ain 2000 address violence, but the 2010 Domestic Violence (Prevention and Protection) Act is a step forward in addressing spousal abuse with no explicit criminalisation on marital rape.⁵³ Modern definitions fail to describe forced marital sex as an assault, corrupting women’s dignity amidst increasing divorces—every 37 minutes in cities during the pandemic.⁵⁴ Violence goes unnoticed as part of a secret domestic life, through the inaction of the police and under-reported cases often misfiled under incorrect laws.⁵⁵

Violation of the constitution is rife: if Sec 375 with Exception 2 itself violates article 32 (right to life/liberty) by defining women as married/unmarried, and article 27 (equality) by making the same act as rape when the woman is unmarried. The 2017 Child Marriage Restraint Act, which fixes girls’ minority at 18 (boys 21), is conflicting with penal code clause that permits marital sex above age of 13 years without being punishable for rape.⁵⁶ There is no specific law for marital rape, it manifests social denial; Section 497 fails to address adultery-like coercion, instead figuring forced sex as an act breaking marital relationships. The unavailability of consent undermines marriage as perpetual access to someone’s sexuality.⁵⁷

⁴⁵ Meha Bhushan, 'Comparative Study: Marital Rape in India and United States' Anand Bihari 495.

⁴⁶ Theresa Fus, 'Criminalizing Marital Rape: A Comparison of Judicial and Legislative Approaches' (2006) 39 Vanderbilt Journal of Transnational Law 481.

⁴⁷ Stephen Case and Kevin Haines, 'Protection, Prevention and Promotion: The Restricted Evolution of the Protective Factor in Criminological Research' (2011) 2 Revista de Asistencia Social 109.

⁴⁸ Ibid

⁴⁹ Meha Bhushan, 'Comparative Study: Marital Rape in India and United States' Anand Bihari 495.

⁵⁰ Ibid

⁵¹ R C Jiloha, 'From Rape to Sexual Assault: Legal Provisions and Mental Health Implications' (2015) 31(1-2) *Indian Journal of Social Psychiatry* 9.

⁵² Md Saleh Akram and Most Shamima Pervin, 'Marital Rape in Bangladesh: A Critical Analysis' (2021) 7(3) *Journal of Asian and African Social Science and Humanities* 44.

⁵³ Ibid

⁵⁴ Akram and Pervin, 'Marital Rape in Bangladesh' 44.

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Ibid

The 2010 Act's omissions leave gaps: It deals with control but not rape in the strict sense. Case studies illustrate failures. Nurnahar, a 14-year-old Tangail wife experienced pain and agony because of her 34-year-old husband's multiple violations after marriage on September 20, 2020 to die from vaginal bleeding at Dhaka Medical College Hospital on October exposing hell in child marriage that the law refused to tackle.⁵⁸

Advocacy intensifies. BLAST, Brac, Naripokkho and Manusher Jonno Foundation filed a writ with the High Court Division on November 1, 2020 seeking that the said provision of Section 375 on spousal exemption for women/girls aged over 13 was unconstitutional. According to lawyer Sharmin Akter, quoting data from Bangladesh Bureau of Statistics, 27 per cent women reportedly have experienced spousal rape but legal obstacles discriminate against the unmarried victims

Writ Petition No. 5541 of 2015 (BLAST et al., May 25, 2015) there was yet another Dhaka microbus gang rape on the night of May 21, when the police delayed in filing the FIR and conducting examinations; and consequently a High Court bench would issue further directions for justice to survivors and protective orders peddling systemic rape law reforms (April 18).

The revised law cannot use a one-size-fits-all approach to address the issue Reform would require customised punishment by acknowledging the fact that marital rape has unique harms, in line with global practices where 158 nations have outlawed it separately from domestic violence.

Recommendations for Social and Legal Reform

The successful resolution of spousal rape in Bangladesh needs a comprehensive plan involving legislative changes and policing education together with educational programs and service provision alongside public awareness campaigns. The fundamental action to resolve the issue requires modifying the Penal Code through explicit provisions against marital rape that eliminate existing Section 375 exemptions. The legislature needs to make precise changes in the law by adding non-consensual sexual acts in marriages to the definition of rape according to international human rights standards.

After legislative reforms, law enforcement must receive complete training that exposes them to spousal rape realities while teaching them to fight victim-blaming perspectives. Law enforcement personnel need training to respond to such cases caringly while reducing harm to victims and demonstrating complete seriousness toward their complaints. The training program must

address and eliminate the misconceptions and societal assumptions about women in the context of marriage.

Society needs education to change harmful attitudes toward women that lead to their victimization. The educational programs need to confront traditional gender beliefs; they should teach that consent is vital for every sexual encounter. Training must address women's right to bodily independence and fundamental equality with men. The educational system needs to target both sexes to teach male partners about how to respect their partners while learning to identify sexual abuse incidents. Public awareness initiatives should communicate both newly introduced laws and support programs and fundamental reasons why sexual violence reporting is crucial.

Survivors of spousal rape must have immediate access to supportive services after experiencing abuse. These establishments should provide two functions: emergency shelters protecting victims from harm and free legal medical and psychological counseling services. The services need to operate without interference from attackers while maintaining staff who provide sensitive and understanding evaluations of marital rape cases.

CONCLUSION

Marital rape continues to pose a substantial human rights problem in Bangladesh because the country lacks laws protecting against it while upholding traditional male dominance. The traditional property-based outlook in the legal framework of Bangladesh prevents the establishment of marital rape laws, which generates ongoing violence against women.

The article reveals that marital violence is widespread in Bangladesh, leading to serious repercussions for victims. Marital rape is permitted due to the lack of legal protections, and societal acceptance, along with cultural and religious views supporting male authority, reinforces this issue. Stigma, victim isolation, and insufficient support systems compel many victims to endure their circumstances. Survivors face severe physical harm and significant psychological damage from the abuse.

The Government of Bangladesh must take spousal rape seriously by amending the Penal Code to include explicit laws against marital rape that meet international human rights standards. This effort should combine law enforcement training, public awareness campaigns, educational programs, and victim support services. By rejecting patriarchal traditions and enforcing women's rights, we can create a future where women are safe from abuse by their husbands.

⁵⁸ *Stopping child marriages through community mobilization* (Dhaka Tribune, 12 Dec 2020)

<https://www.dhakatribune.com/feature/232989/stopping-child-marriages-through-community>

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