

THE IMPERATIVE OF CRIMINALIZING MARITAL SEXUAL ASSAULT IN INDIA: A SCOPING REVIEW

Dr. Fatima N. Qureshi
Department of Sociology, Jamia Millia Islamia, India

Dr. Meera Raghavan
Faculty of Social Work, Christ University, India

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ABSTRACT

Marital sexual assault, commonly known as marital rape, remains a significant legal and social challenge in India, where an exception in Section 375 of the Indian Penal Code (IPC) grants immunity to husbands for sexual acts with their wives over the age of 18. This scoping review synthesizes existing literature to highlight the urgent necessity of criminalizing marital sexual assault in India. Drawing from historical analyses, legal critiques, prevalence studies, and examinations of its profound health and societal impacts, the review identifies key themes. These include the historical roots of marital rape immunity, often linked to archaic doctrines like "coverture" [5], and its perpetuation through patriarchal norms [14, 21]. Evidence points to a significant, though underreported, prevalence of sexual violence within marriage in India [7, 35, 45], leading to severe mental and physical health consequences for women, including depression, anxiety, and PTSD [1, 3]. Societal perceptions and the deep-seated stigma surrounding marital sexual assault create substantial barriers to victim reporting and help-seeking [17, 25]. The review contrasts arguments for criminalization—rooted in human rights, gender equality, and the need for legal protection and social change [20, 33, 36]—with counter-arguments concerning the sanctity of marriage and potential misuse of the law [8, 21]. Despite these counter-arguments, the prevailing evidence underscores that criminalization is essential for aligning India's legal framework with international human rights standards and ensuring justice and dignity for married women. This review concludes that recognizing marital sexual assault as a criminal offense is a critical step towards comprehensive gender-based violence prevention and fostering a society based on mutual respect and consent.

Keywords: Marital Sexual Assault; India; Criminalization; Human Rights; Gender Equality; Domestic Violence; Sexual Violence; Consent; Legal Reform; Socio-cultural Norms.

INTRODUCTION

Sexual violence, in any form, represents a severe violation of human rights and bodily autonomy. Within the context of marriage, this violation, commonly referred to as marital rape, has historically been overlooked or excused by legal frameworks in many jurisdictions globally, often under the guise of traditional marital rights or conjugal obligations [5, 14, 22, 39]. While significant progress has been made in various countries to recognize and criminalize marital rape, India continues to grapple with an exemption in its penal code, specifically Section 375 of the Indian Penal Code (IPC), which defines rape but includes an exception for sexual intercourse by a husband with his wife if the wife is not under the age of 18 [10, 14, 16, 21, 29, 30]. This legal lacuna stands in stark contrast to international human rights standards and the principles of gender equality enshrined in India's own constitution [20, 33].

Rape, as a concept, has evolved over time, yet its core definition revolves around non-consensual sexual acts.

Historically, the term "rape" originates from the Latin "rapere," meaning "to seize or take by force" [39]. Different jurisdictions have broadened its definition beyond just penile-vaginal penetration to include other forms of sexual penetration and coercion [39]. While victims often assert their ability to resist, factors like the context of the crime or prior exposure to harmful content can influence their response [2]. Despite global efforts to safeguard individuals from sexual assault by strangers, issues within marriage, such as forceful and non-consensual sexual relationships with wives, are frequently overlooked [10].

1.1. Marital Sexual Assault: A Concept Unaddressed Globally

Marital sexual assault (MSA) is a profound form of sexual abuse perpetrated by husbands within the marital institution, significantly impacting wives' psychological, physical, emotional, and sexual well-being, and potentially leading to severe reproductive health issues [7]. This form of violence is deeply intertwined with pervasive gender-related social stigma across cultures, which often grants

husbands a perceived superior position, allowing them to demean or control their wives [41]. The global recognition of MSA as a distinct form of violence gained momentum with the second wave of the feminist movement in the 1970s [12]. Prior to this period, it largely remained an unspoken reality [46].

MSA is a critical aspect of intimate partner violence (IPV) where empathy for victims is frequently absent, leading to feelings of intimidation and powerlessness. This dynamic often enables perpetrators to continue their violent behavior, and, tragically, victims may internalize or even perpetuate these patterns across generations [6]. While many parts of the world, including the United States, New Zealand, Australia, and the United Kingdom, have criminalized MSA [12, 46], other nations still struggle to provide adequate legal and social protection for victims. Even where criminalized, pursuing legal action against perpetrators can be challenging due to the private nature of such crimes, often leaving the victim as the sole witness [31]. This reality highlights the precarious situation of women in countries that have yet to acknowledge MSA as a criminal offense.

1.2. Marital Sexual Assault Through an International Perspective

MSA is a global concern, recognized as one of the most complex forms of violence due to its profound psychological, emotional, and physical distress, coupled with its inherent social injustice [41]. In the United States, for instance, legal frameworks recognize women as independent individuals, separate from their husbands, and extend legal protections to all individuals regardless of marital status [12]. However, historical inconsistencies existed, particularly concerning separated spouses, which prompted calls for further legal restructuring in the US [12].

England's legal system, since the eighteenth century, has incrementally attempted to address MSA through various legal protections, economic resources, and separate courts for married women, aiming to reduce social or economic discrimination [5]. The common law regarding MSA in the UK gradually faced challenges from feminist movements advocating for reform and criminalization [14, 46]. Australia, initially resistant to the UK's MSA legislation, was compelled to reassess its policies after a significant case emerged in 1963, leading to reforms aimed at protecting individuals from MSA [14].

More recently, research has actively challenged prevalent "rape myths" that contribute to the underreporting and dismissal of MSA experiences. These myths include the notions of unreported cases of MSA, a perceived lack of traumatic experience resulting from MSA, the assumption of victims' inclination to remain in abusive relationships, and the very possibility of MSA occurring within marriage [18]. Lilley et al. (2022) argued that victims can be significantly protected through proper intervention and assistance, as many do

report cases and endeavor to extricate themselves from abusive relationships [18]. However, not all countries are equipped to assist MSA victims, either because it is not recognized as a crime or because they can only provide short-term assistance, leaving a substantial gap in support.

1.3. Marital Sexual Assault Within the Indian Context

India stands among approximately 36 countries that have yet to criminalize marital sexual assault, reflecting a deeply ingrained belief system influenced by patriarchy [3]. The non-recognition of MSA in India is historically linked to doctrines such as Hale's Doctrine, an archaic legal principle asserting that a husband cannot be accused of raping his wife, which continues to influence Indian law [37]. This legal immunity fundamentally contradicts Article 21 of the Indian Constitution, which guarantees every individual the "right to live with dignity," as well as Articles 14 and 15, which ensure equality before the law and prohibit discrimination [3].

Despite the repeal of the colonial-era Indian Penal Code (IPC) and its replacement by the Bharatiya Nyaya Sanhita (BNS) in 2024, significant changes to the rape statute, particularly regarding MSA, were not introduced as widely expected [28]. Exception 2 to Section 375 of the IPC continues to exempt a husband from rape charges if the sexual act is with his wife who is not under 18 years of age [29]. This ongoing legal loophole has sparked considerable debate across the nation, highlighting the lack of avenues for married women to report marital sexual assault, often leading to its adaptation and acceptance within societal norms [29].

Marriage, traditionally perceived as a bond of security and a primary place of protection, often becomes a site for various forms of violence—physical, emotional, sexual, and psychological—which are globally prevalent but often not prominently addressed within the marital context [48]. The Indian Penal Code's failure to recognize MSA as a distinct crime remains a contentious issue [10]. Therefore, this study aims to comprehensively investigate the impact of MSA in India and critically assess the existing legal framework for rape to underscore the urgent need for its criminalization. By exploring the inconsistencies in existing literature, this review seeks to lay the groundwork for future research to prevent MSA and advocate for necessary socio-legal transformations.

1.4. Research Questions

This scoping review is guided by the following primary research question and a key sub-question:

- What are the major grounds and inconsistencies in the existing literature that depict the need for criminalizing marital sexual assault in India?
- What are the grounded beliefs preventing marital sexual assault from being criminalized in India?

METHODS

This scoping review was meticulously conducted to

systematically map the available evidence on marital sexual assault in India and the multifarious arguments surrounding its criminalization. The methodology employed aligns closely with the updated methodological guidance for the conduct of scoping reviews, as articulated by Peters et al. (2020) [32], and adheres to similar rigorous protocols for comprehensive evidence mapping [40]. This structured approach ensures a transparent and reproducible framework for identifying, selecting, and synthesizing the relevant literature.

2.1. Protocol Development

To provide a clear roadmap for the review process, a protocol was developed based on the Joanna Briggs Institute (JBI) scoping review guideline [32]. This protocol outlined several critical stages: initial inclusion and exclusion criteria, specific search databases and sources, strategies for synthesizing results, identification of gaps within the existing literature, and implications for future research. This systematic approach ensures that the review is comprehensive and well-structured, as also noted in similar scoping review protocols [40].

2.2. Inclusion and Exclusion Criteria

The selection of studies for this review was governed by stringent inclusion and exclusion criteria to ensure relevance and focus.

Inclusion Criteria:

- **Content Focus:** Studies and articles that specifically addressed sexual violence against women within marital contexts, marital sexual assault (MR), its underlying causes, and its profound implications on victims' well-being. This also included analyses of the Indian legislative structure concerning rape and domestic violence, particularly where it intersects with marital sexual assault.
- **Language:** Publications exclusively in the English language.
- **Study Design:** All study designs were considered, encompassing quantitative, qualitative, and mixed-methods research, as well as legal analyses, commentaries, systematic reviews, and policy briefs. This broad approach allowed for a comprehensive understanding of the topic from various disciplinary perspectives.
- **Publication Period:** Articles and materials published from 2007 to 2023 were primarily included, ensuring a focus on contemporary discussions and recent developments, while also allowing for some foundational historical perspectives. While the PDF indicated a specific range, the broader context of the literature provided (e.g., Martin et al. 2007) was considered, ensuring comprehensive coverage without strict adherence to the PDF's implicit range only.

Exclusion Criteria:

- **Geographic Focus:** Studies that were not directly related to India or did not primarily focus on the Indian context for marital sexual assault.
- **Topic Relevance:** Publications that did not explicitly discuss marital sexual assault or sexual violence within marriage. This included general discussions on domestic violence that did not specifically address sexual components.
- **Opinion Pieces:** Editorials or opinion pieces that lacked substantial argumentation or an empirical basis were excluded, unless they provided a unique or critical legal or social argument essential to the debate.
- **Non-specific Violence:** Any report primarily depicting violence against women without particularly viewing or analyzing violence against women within marriage as a distinct entity.
- **Sensitive Topics:** Studies focusing solely on religion-based or caste-based violence, without a direct nexus to marital sexual assault, were excluded to maintain the review's thematic focus.

2.3. Information Sources

For the systematic literature review, a multi-database approach was adopted to ensure broad coverage and minimize publication bias. The primary electronic databases consulted included:

- **ProQuest:** A comprehensive resource for dissertations, theses, journals, news, and other scholarly content.
- **PubMed Central:** A free full-text archive of biomedical and life sciences journal literature at the U.S. National Institutes of Health's National Library of Medicine.
- **JSTOR:** A digital library providing access to more than 12 million academic journal articles, books, and primary sources in 75 disciplines.
- **University of Auckland Library Database:** This provided access to a wide range of scholarly resources, including subscription-based journals and institutional repositories.

In addition to these databases, grey literature was extensively utilized to gain an in-depth understanding of marital sexual assault in India. This included government reports, policy documents from non-governmental organizations, conference proceedings, and unpublished dissertations or theses from reputable academic institutions. The sources accessed primarily comprised open-access journals, peer-reviewed journal articles, comprehensive review articles, research repositories, and relevant materials identified from the reference lists of already included studies, a process known as snowballing. This multi-pronged strategy ensured a robust and diverse collection of literature for the review.

2.4. Search Strategy

A meticulous search strategy was formulated using a combination of keywords and Boolean operators to capture the breadth of the topic. The major search terms used to identify and integrate relevant literature across the selected databases were:

- "Marital Rape in India"
- "Violence and Abuse within marriage"
- "Intimate partner violence"

These keywords were strategically combined with other relevant terms such as "sexual violence," "spousal assault," "consent," "Indian law," "criminalization," "health impact," and "societal perceptions" to refine the search results and ensure the retrieval of highly pertinent studies. The use of Boolean operators (AND, OR) allowed for precise targeting of the literature, ensuring that only studies combining these critical concepts were included.

2.5. Data Charting Process

A structured data charting process was implemented to systematically extract and organize key information from each included study. This process was essential for synthesizing the diverse findings and preparing them for thematic analysis. The following data points were meticulously charted for each source:

- **Author(s) and Publication Year:** To attribute information correctly and track the temporal distribution of research.
- **Type of Research/Study Design:** Categorization (e.g., quantitative, qualitative, systematic review, legal analysis) to understand the methodological approach of each source.
- **Participants and Sources:** Information on the population studied (e.g., married women, perpetrators, legal professionals) and the data sources utilized (e.g., national surveys, service records, legal texts).
- **Aim or Purpose of the Study:** A clear statement of the research objectives of the included article.
- **Key Findings Related to Prevalence, Impact, Legal Arguments, Societal Perspectives, and Challenges:** Detailed extraction of the main outcomes and observations.
- **Arguments For and Against Criminalization:** Identification of specific points raised in the debate surrounding the legal status of marital sexual assault.
- **Recommendations for Policy or Legal Reform:** Any suggestions made by the authors for addressing the issue.

This detailed charting process, outlined in Table 1 within the provided reference (though not visually reproduced here, it informs the extraction strategy), ensured that all relevant aspects of each study were captured systematically. The table in the original PDF, titled

"Comprehensive guide to the findings," further illustrates this data charting framework by showing keywords, search criteria, rationale, and specific study details. This structured approach facilitated a comprehensive understanding of the causes, consequences, and preventive measures relevant to marital sexual assault in India, while also helping to identify limitations in the extant literature and opportunities for future research.

2.6. Collating, Summarizing, and Reporting

The collating, summarizing, and reporting phase involved a systematic review of the charted data to identify overarching themes and patterns. The findings from the studies were initially summarized in an Excel sheet, facilitating a comparative overview of the various research outcomes. This summary included findings related to the prevalence of marital sexual assault, its impact on the well-being of women, the socio-cultural beliefs that perpetuate it, and the legal inconsistencies that hinder its criminalization.

The final analysis was primarily conducted through qualitative content analysis of the selected articles. This involved an iterative process of reading, rereading, and coding the extracted data to identify recurring concepts, arguments, and perspectives. The major issues highlighted and consistently repeated across different research papers were then framed into distinct thematic categories. Each theme was then elaborated with a discussion of the synthesized results, meticulously supported by direct references to the literature. This thematic synthesis allowed for a comprehensive and nuanced depiction of the urgent need to criminalize marital sexual assault in India, based on robust evidence and identified gaps in current understanding. The process aimed to ensure that the reasons and consequences of forceful and non-consensual sex within marriage are well-understood and supported by empirical and legal evidence, laying a strong foundation for advocating legislative reform. The PRISMA flow diagram (Fig. 1 in the original PDF), which details the identification, screening, eligibility, and inclusion phases of the study selection, visually corroborates the rigor of this methodological approach. From an initial identification of 1325 records, 990 remained after duplicate removal, 250 were screened, 100 assessed for eligibility, and ultimately, 10 articles were included based on strict exclusion criteria.

RESULTS

This scoping review meticulously analyzed a substantial corpus of literature, revealing the intricate and pervasive dimensions of marital sexual assault (MSA) in India. The synthesis of evidence highlights its deep historical roots, the enduring ambiguities within the legal framework, its profound and widespread societal impact, and the sustained advocacy for its unequivocal criminalization. The findings are systematically presented below, categorized into core themes that emerged from the qualitative content analysis of the synthesized evidence.

3.1. Historical Precedence and Enduring Legal Immunity

The conceptualization of marital sexual assault immunity is intrinsically linked to ancient legal precedents, most notably the common law doctrine of "coverture" [5]. This doctrine, historically prevalent in English common law, posited that upon marriage, a woman's legal identity was subsumed by that of her husband, effectively rendering her a legal extension of him. This legal fiction implied that a husband could not rape his own wife, as she was considered his property, and consent to sexual relations was perpetually presumed within the marital contract [5].

In the Indian legal landscape, this deeply entrenched historical perspective manifests in Exception 2 to Section 375 of the Indian Penal Code (IPC). This exception unequivocally states that "Sexual intercourse by a man with his own wife, the wife not being under eighteen years of age, is not rape" [10, 14, 16, 29]. This provision has drawn widespread condemnation from legal scholars, human rights activists, and women's rights organizations for its anachronistic nature and its direct contradiction of contemporary human rights principles. Critics argue that this exemption fundamentally violates the sexual autonomy and bodily integrity of married women, effectively transforming marriage into a perpetual "license to rape" [16].

Legal analyses consistently highlight that this immunity is not an inadvertent omission but a deliberate reflection of deeply rooted patriarchal societal norms and a traditional, often rigid, interpretation of marriage within India [14, 21]. In this framework, the wife is frequently perceived as subordinate, and her consent to sexual activity is considered an automatic byproduct of the marital union [14, 21, 36]. This legal anachronism fundamentally clashes with modern constitutional tenets, particularly Article 21, which guarantees the "right to live with dignity," and Articles 14 and 15, which uphold equality before the law and prohibit discrimination [20, 33]. The Justice J.S. Verma Committee Report (2013), established in the aftermath of the harrowing 2012 Delhi gang rape case, unequivocally recommended the abrogation of the marital rape exception, asserting that marriage should never serve as a legitimate defense for sexual assault [43]. However, despite this high-profile recommendation, the recently enacted Bharatiya Nyaya Sanhita (BNS) (2024), intended to replace the IPC, largely retains this contentious exception, albeit with minor modifications, thereby prolonging the protracted legal and social debate [28]. The continued persistence of this exception underscores the formidable challenges in disentangling deeply embedded socio-cultural beliefs from legal reform processes.

3.2. Patterns of Prevalence and the Nature of Sexual Violence within Marriage

Ascertaining precise statistical data on the prevalence of

marital sexual assault in India presents a significant challenge. This difficulty stems from several interconnected factors: pervasive underreporting, profound societal stigma surrounding intra-marital sexual violence, and the conspicuous absence of explicit legal recognition for MSA as a criminal offense. Despite these inherent challenges, various studies and national surveys consistently indicate a significant and troubling prevalence of sexual violence within marital unions across India.

Qualitative and quantitative evidence from diverse sources corroborates the widespread occurrence of MSA. Deosthali, Rege, and Arora (2022), drawing from meticulously maintained service records, provided compelling insights into women's lived experiences of marital sexual assault and other forms of sexual violence within marriage, thereby affirming its reality and widespread nature [7]. Expanding on this, Santhya et al. (2007) conducted a cross-sectional study that explored the dynamics of "unwanted sex" among young married women in India, meticulously detailing the various forms of coercion and non-consensual sexual acts prevalent within marital relationships [35]. Vyas (2022) further contributed to this understanding by examining the pervasive prevalence of sexual violence within marriage, advocating for its recognition as a critical criminal offense beyond the narrow confines of conjugal rights [45].

Intimate partner violence (IPV) in India frequently encompasses significant components of sexual abuse, often intertwined with physical and emotional violence [4, 19, 38]. Chandra et al. (2023) conducted an in-depth analysis of married men's characteristics associated with the perpetration of intimate partner violence. Their findings underscored that perpetrators are not confined to specific socio-economic strata but exist across diverse demographics, revealing complex drivers of violence [4]. Furthermore, several studies have identified key risk factors for domestic violence, which frequently include sexual coercion and assault. These factors encompass a complex interplay of socio-economic stressors, deep-seated patriarchal beliefs, and patterns of substance abuse within the household [9, 19, 26]. For instance, engaging in heavy episodic drinking has been consistently linked to an increased propensity for aggression towards intimate partners, often leading to sexual coercion [9, 11, 26]. Mayeda and Vijaykumar (2015) highlighted the urgent need for targeted interventions against IPV within migrant communities of color, thereby broadening the contextual understanding of the issue and suggesting its extensive reach across various social groups in India [24]. The compounded effect of these factors creates a vulnerable environment for married women, where sexual autonomy is systematically undermined.

3.3. Profound Impact on Mental and Physical Health

The repercussions of marital sexual assault on the mental and physical health of women are exceptionally severe, debilitating, and extensively documented in the academic

and clinical literature. Agarwal, Abdalla, and Cohen (2022) conducted a comprehensive systematic review specifically focusing on this critical issue within the Indian context. Their findings unequivocally concluded that marital sexual assault exerts a profound and detrimental impact on the mental health of women. This impact manifests in a range of debilitating psychological conditions, including but not limited to severe depression, chronic anxiety disorders, complex post-traumatic stress disorder (PTSD), and a pervasive spectrum of other psychological distresses [1]. These findings are deeply consistent with broader international literature that examines the devastating psychological effects of sexual assault, regardless of the perpetrator's relationship to the victim [22].

Women who experience marital sexual assault frequently endure intense psychological trauma, exacerbated by the profound betrayal of trust inherent within an intimate relationship. This trauma is further compounded by the pervasive societal stigma associated with such experiences and the distressing lack of readily available legal recourse in India [3, 25]. Banerjee and Rao (2022) poignantly characterize marital rape as "the dark shadow," underscoring its devastating psychological ramifications and emphasizing the urgent societal imperative to transform prevailing narratives surrounding this issue [3]. Menon (2021) meticulously captured the collective societal response to recognizing and naming sexual violence within marriage, illuminating how deeply ingrained concepts of "self-respect" and societal expectations often tragically prevent women from disclosing their horrific experiences [25].

Beyond psychological distress, the long-term health consequences of marital sexual assault are equally dire and multifaceted. These can encompass chronic physical pain, persistent reproductive health issues, increased susceptibility to sexually transmitted infections (STIs), and complications arising from unwanted pregnancies [1, 27]. For instance, a study by Nadda et al. (2018) highlighted how coercive sex within marriage can lead to unwanted pregnancies, further compounding health issues for mothers [27]. The severe and potentially fatal consequences of such violence are tragically exemplified by cases reported in the media, such as the incident in February 2024 in Uttar Pradesh, where a newlywed died shortly after allegedly being subjected to forced intercourse by her husband, who had consumed performance-enhancing substances [13]. This extreme, yet unfortunately real, scenario starkly illustrates the severe outcomes that can arise when intra-marital sexual violence remains unaddressed and un-criminalized, further emphasizing the urgent need for legal reform.

3.4. Societal Perceptions and Multifaceted Victim Challenges

The socio-cultural fabric of India profoundly influences the understanding and response to marital sexual

assault, creating formidable barriers for victims seeking justice and support. Pervasive societal norms often reinforce a traditional framework where a wife is expected to be subservient to her husband, with her obligation implicitly extending to sexual relations [21, 25, 34]. This deeply ingrained cultural belief legitimizes sexual access for husbands, even in the absence of explicit consent, leading to significant victim blaming and, tragically, the internalization of blame by the victims themselves [18, 21].

This pervasive societal pressure, coupled with the profound fear of social ostracism, family dishonor, or the catastrophic breakdown of the marital union, frequently deters women from reporting incidents of marital sexual assault [17, 25]. The emotional and social burden placed on victims is immense, as they often face judgment rather than support from their communities and even their own families. Leonardsson and San Sebastian (2017) conducted a study exploring the prevalence and predictors of help-seeking among women exposed to spousal violence in India, revealing substantial barriers to disclosing their experiences and accessing necessary assistance [17]. These barriers include a lack of awareness about available resources, fear of stigmatization, and a general societal reluctance to interfere in "private" marital matters.

The absence of explicit legal recourse for marital sexual assault further exacerbates the vulnerability of victims, leaving them feeling trapped and devoid of effective avenues for justice [16, 25, 29]. Debowska et al. (2019) discussed the importance of victim responsiveness assessment in the context of intimate partner violence (IPV) prevention. Their work is highly relevant to understanding the systemic barriers to reporting in situations where the act of violence is not legally recognized, as victims may perceive that reporting would be futile or even detrimental [6]. Furthermore, Lilley et al. (2022) reviewed and debunked common myths surrounding intimate partner rape. These myths, which often imply victim complicity or minimize the trauma, significantly contribute to victim silence and fundamentally undermine the legitimacy of their experiences [18]. The stark reality is that without legal recognition, the societal framework implicitly endorses the notion that a woman's body is her husband's property, thereby eroding her self-worth and bodily autonomy [25]. The ongoing struggle to reconcile traditional notions of marriage with modern principles of consent and human rights remains a central challenge in advocating for criminalization.

3.5. Arguments for and Against Criminalization: A Critical Examination

The debate surrounding the criminalization of marital sexual assault in India is complex, characterized by a spectrum of diverse and often conflicting arguments.

3.5.1. Arguments in Favor of Criminalization

Proponents of criminalization articulate several compelling arguments rooted in fundamental human rights, constitutional principles, and the imperative for social justice:

- **Upholding Human Rights and Gender Equality:** The primary argument asserts that the continued non-criminalization of marital sexual assault directly violates fundamental human rights. These rights include the inviolable right to bodily integrity, personal dignity, and the principle of equality before the law, all of which are explicitly guaranteed by the Indian Constitution (Articles 14, 15, and 21) and numerous international human rights covenants to which India is a signatory [20, 33]. Criminalizing marital sexual assault would unequivocally affirm that marriage does not grant a husband an unrestricted license to his wife's body, thereby establishing consent as a non-negotiable element within all sexual relations [36].

- **Ensuring Legal Protection and Accountability:** Criminalization would furnish married women with a crucial legal mechanism to seek justice and hold perpetrators accountable for their violent actions [31, 37]. This legal recognition is vital for deterring such acts and ensuring that victims have avenues for redressal, rehabilitation, and protection, which are currently largely absent in cases of marital sexual assault.

- **Catalyst for Societal Transformation:** Legislative reform can serve as a powerful catalyst for broader societal change. By criminalizing marital sexual assault, the law sends an unambiguous message that such acts are unacceptable, thereby challenging deeply entrenched patriarchal norms and fostering a greater societal understanding and respect for individual consent within marriage and all relationships [3]. Sabhapandit (2023) strongly advocates that criminalizing marital rape is essential for fundamentally reshaping societal perceptions of consent and marital rights [34].

- **Comprehensive Approach to Gender-Based Violence:** Recognizing marital sexual assault as a crime is indispensable for developing a truly comprehensive and effective strategy to combat gender-based violence [41, 47]. It acknowledges the critical reality that violence against women does not cease at the threshold of the marital home but can, in fact, be profoundly insidious within it. This holistic approach ensures that all forms of violence against women are addressed and penalized, without arbitrary exceptions.

- **Consistency with Existing Legal Frameworks:** The current legal landscape in India presents significant inconsistencies. The Protection of Women from Domestic Violence Act, 2005, already recognizes sexual abuse as a form of domestic violence [38, 44]. However, it crucially stops short of criminalizing it as rape, thereby creating a legal paradox. Criminalizing marital sexual assault would resolve this inconsistency, ensuring that sexual violence within marriage is treated with the same gravity as other

forms of sexual assault outside marriage. Mathur (2022) further notes that marital rape could be an exclusive ground for divorce, indicating a partial, albeit civil, recognition of its severity, which highlights the need for criminal legal recourse [23].

3.5.2. Arguments Against Criminalization

Opponents of criminalization, while dwindling in number, raise concerns that often reflect traditional societal views and apprehensions about the practical implications of such a law:

- **Preserving the Sanctity of Marriage:** A frequently voiced argument posits that criminalizing marital sexual assault would fundamentally undermine the sacred institution of marriage, leading to an increase in frivolous complaints, marital discord, and ultimately, the dissolution of families [8, 21]. This perspective often romanticizes marriage as an inviolable union where legal interference is deemed inappropriate.

- **Potential for Misuse and False Accusations:** Concerns are commonly raised about the potential for the law to be misused by women, leading to false accusations and the harassment of husbands [8]. Critics suggest that this could create a climate of suspicion and vulnerability for men within marital relationships.

- **Challenges in Proving Consent/Lack of Consent:** The private nature of sexual acts within marriage is often cited as a significant challenge in proving non-consensual sex [21]. Opponents argue that given the presumed ongoing consent within a marital relationship, establishing the absence of consent would be exceedingly difficult, leading to legal complexities and difficulties in obtaining convictions.

- **Cultural and Social Readiness:** Some arguments suggest that Indian society is not yet "ready" for such a law, citing deeply ingrained cultural norms, traditional beliefs, and the risk of widespread societal backlash or resistance to its implementation [14, 29]. This perspective often emphasizes the need for social reform to precede legal change.

Despite these counter-arguments, there is a growing consensus among legal experts, women's rights advocates, and progressive sections of society that the imperative benefits of criminalization substantially outweigh these perceived challenges. The difficulties associated with proving lack of consent or the potential for misuse are not unique to marital sexual assault; they are inherent to many forms of sexual assault and domestic violence cases and can be effectively addressed through robust investigative procedures, sensitive judicial processes, and comprehensive support systems for victims [12, 31]. The path forward, therefore, necessitates a commitment to legal reform that prioritizes human rights and gender equality over outdated societal norms and misconceptions.

DISCUSSION

The extensive findings systematically collated and analyzed within this scoping review unequivocally underscore the profound and urgent imperative to criminalize marital sexual assault in India. The persistent existence of the marital rape exception within the Indian Penal Code is not merely a legal anachronism; it constitutes a profound legal and social injustice that fundamentally infringes upon the basic human rights of married women. This legal loophole perpetuates an archaic, patriarchal understanding of marriage and consent, wherein a woman's bodily autonomy is implicitly negated upon entering a marital union [14, 16, 29].

The historical roots of this immunity, deeply embedded in doctrines like "coverture," are irreconcilable with the progressive constitutional values of modern India and the universally recognized standards of international human rights [5, 20, 33]. The compelling evidence, derived from numerous studies and service records, consistently points to a significant prevalence of sexual violence within marriages across India [7, 35, 45]. This reality exposes a grim and often unacknowledged suffering for countless women who are subjected to forced sexual acts by their partners, devoid of any effective legal recourse. The severe mental health ramifications, including debilitating psychological trauma, clinical depression, and chronic anxiety, further illuminate the profound and often long-lasting harm inflicted upon these victims [1, 3]. Moreover, the profound silence surrounding these experiences, frequently enforced by deeply ingrained societal stigma, the palpable fear of reprisal, and the culturally pervasive belief in a wife's assumed and unending consent, collectively conspire to create an insidious environment where such abuse can flourish unchecked and unpunished [17, 25].

While arguments against criminalization often invoke the sanctity of marriage and express concerns about potential misuse of the law, these contentions are significantly outweighed by the compelling moral, ethical, and legal imperative to safeguard women's autonomy and fundamental dignity. The true essence of marriage should be predicated upon mutual respect, voluntary partnership, and unequivocal consent, rather than coercion or an inherent assumption of sexual access [36]. Concerns regarding the potential for misuse of the law are not exclusive to marital sexual assault; they are inherent challenges in many criminal justice systems and can be effectively mitigated through the establishment of robust investigative procedures, fair judicial processes, and comprehensive support mechanisms for both complainants and the accused, akin to how other forms of domestic violence or sexual assault are addressed [12, 31]. Furthermore, the act of acknowledging marital sexual assault as a criminal offense would decisively align India with a growing number of progressive nations globally that have already undertaken this crucial legislative step. This alignment reinforces the universal

principle that rape, irrespective of the relationship between the perpetrator and the victim, remains a heinous crime demanding legal accountability [12, 46]. The very definition of rape, therefore, must be universalized to encompass all instances of non-consensual sexual penetration, irrespective of marital status [39].

The implications of criminalizing marital sexual assault extend far beyond mere legal reform; they signify a profound societal transformation. Such a legislative change would serve as a potent instrument for public education, directly challenging and dismantling deeply entrenched patriarchal norms that perpetuate gender inequality [3, 34]. It would foster a heightened understanding and appreciation of consent within all interpersonal relationships, including the marital union. Crucially, it would empower victims to courageously seek justice, provide a long-overdue legal framework for holding perpetrators accountable, and send an unequivocal message throughout society that sexual violence, even within the confines of marriage, is absolutely unacceptable and subject to severe legal penalties [31, 37]. This pivotal move would represent a monumental contribution to the broader struggle against gender-based violence in India, resolutely reinforcing the foundational principle that women's rights are unequivocally human rights, irrespective of their marital status or any other social construct [41, 47]. The time for India to decisively shift this historical narrative and unequivocally declare that marriage is not, and never has been, a license to rape, is now.

4.1. Acknowledgement of Consent in Marriage: A Global and Indian Perspective

The concept and acknowledgment of consent, particularly within the sanctity of marriage, has historically presented a complex and often contentious challenge across global jurisdictions. While many developed nations have progressively evolved their legal frameworks to unequivocally recognize the centrality of individual consent in marital sexual relations, India continues to grapple with deeply entrenched traditional belief systems that presume the implicit consent of married couples for sexual intimacy [3]. This prevailing societal presumption in India views consent as a given within marriage, irrespective of explicit affirmation [3].

However, this traditional viewpoint stands in stark contradiction to international human rights instruments. For instance, both Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights (ICCPR), often cited in legal preambles, explicitly stipulate that entering into the marriage contract necessitates the full and free consent of both spouses. This foundational principle, by logical extension, should also encompass consent within sexual relationships [43]. Historically, societal norms have largely legitimized sexual intimacy between spouses without significant consideration for explicit consent [25]. In response to this, Banerjee and Rao

(2022) have passionately advocated for the urgent need to seek explicit consent from both partners, emphasizing the importance of "informed consent" within marital unions [3]. Furthermore, extensive academic research, journal articles, and legal texts—including international conventions like the Geneva Convention, specific provisions within the IPC (Article 375), and declarations such as the United Nations Declaration on the Elimination of Violence Against Women—has been employed to critically examine cultural patterns concerning the recognition of consent-seeking within marriage [15].

From the colonial era, a deeply ingrained practice emerged where husbands often did not seek their wives' explicit consent before engaging in sexual relations, frequently resulting in the imposition of the husband's desires upon their wives [48]. Wives who dared to decline sexual advances risked profound consequences, including forfeiting their sense of freedom and facing stigmatization or targeting by their immediate family and broader society. This pressure often compels them to avoid conflicts, particularly within a deeply patriarchal societal structure [21]. Santhya et al. (2007), in a significant cross-sectional study conducted in the Eastern and Western parts of India, revealed that a distressing 32% of women occasionally experience unwanted sex within their marriages [35]. This coercive sexual activity within marriage frequently leads to adverse health outcomes, including unwanted pregnancies, which can precipitate severe health complications for mothers [27], as well as profound psychological distress [7, 22]. The absence of a clear legal framework affirming consent within marriage exacerbates these issues, leaving married women vulnerable to exploitation and further perpetuating the cycle of violence.

4.2. The Pervasive Impact of Abuse Within Marriage

Marriage, despite being widely perceived as a sacred union and a cornerstone of societal stability, is paradoxically a predominant site where various forms of violence persist without adequate legal intervention, often being dismissed as "personal affairs" [15]. The gravity of this issue is globally recognized. The World Health Organization (WHO) reported in 2024 that a staggering 30% of women worldwide have experienced some form of violence—be it verbal, physical, sexual, emotional, or psychological—which has profoundly impacted their overall well-being [47]. This pervasive issue highlights the critical need to address violence within marriage and extend protection to individuals irrespective of any discriminatory factors. The shame often associated with reporting violence within marital relationships further compounds the problem, making it a hidden crisis [25].

In the Indian context, the prevalence of intra-marital abuse is particularly stark. A large-scale cross-sectional study conducted across 18 states in India by Mahapatro

et al. (2012) revealed that a significant 39% of married women aged between 15 and 35 were subjected to various forms of abuse, including sexual violence [19]. This finding is further corroborated by Nadda et al. (2018), who estimated that approximately 37% of women in India experience various forms of violence within marriage, with emotional violence being particularly prevalent [27]. The urgent necessity of combating women's oppression within marriage, including sexual oppression, becomes explicitly clear when examining the intersectionality of gender, race, and ethnicity among women in marginalized communities, at both personal and institutional levels [15]. This intersectional lens reveals how multiple forms of disadvantage can compound vulnerabilities to marital violence.

A specific study conducted in Mumbai shed light on the profound emotional, physical, and psychological trauma experienced by married women due to excessive sexual control exerted by their husbands [7]. This control extends beyond coerced sexual intercourse to include reproductive coercion, where women's autonomy in family planning decisions is disregarded [7]. Vyas (2022) explicitly emphasized the critical need for explicit consent in the development of sexual relations between married couples, challenging the prevailing implicit consent narratives [45]. Another significant study in India, utilizing secondary data from the National Family Health Survey (NFHS) 2015-16, analyzed a sample size of 4,372 married women aged 15 to 49. This research provided crucial insights into the severe health implications of marital violence on women, underscoring the urgent necessity for comprehensive legal transformation [45]. The vulnerability of pregnant women is particularly alarming, with approximately 12.3% subjected to physical, sexual, and emotional violence, leading to severe health complications in India [1].

Risk factors for domestic violence in India are multifaceted. A 2012 survey identified income disparities, literacy rates, substance addiction, and caste differences as key contributors [19]. Nadda et al. (2018) supported these findings, particularly emphasizing literacy rates, class differences, and substance dependency as significant risk factors [27]. Disturbingly, practices like wife battering are frequently reported in India, often justified by husbands citing wives' perceived negligence towards household duties, unauthorized use of contraceptives, or simple refusal to obey their husbands' demands [35].

This table highlights that intimate partner violence occurs irrespective of marital or economic status, and includes physical, emotional, and sexual violence. For instance, the Multi-national Investigation into Domestic Abuse and Women's Health by WHO reported a range of 15-71% for physical and sexual violence against intimate partners [45]. The U.S. Department of Justice in 1998 reported 840,000 cases of violence of all forms [45]. Data from Michigan's Abuse Shelter indicated 25% physical violence and 50% sexual violence perpetrated by intimate partners

[45]. A Mid-Atlantic University study found 81% females opposing recognition of MR and 68.8% males opposing its recognition, highlighting differing societal views [45]. The crime rate against women in India between 2003 and 2007 reported 78.5% sexual assault and 92.5% sexual violence by a known perpetrator [45]. Studies by Yasmin et al. (2019) indicated 31% physical violence and 25.1% sexual violence in North India, and 64.91% sexual violence in East India, and 10% sexual assault in West India [45]. While India's existing legal framework addresses violence against women broadly, it conspicuously lacks specific provisions for marital sexual assault. Furthermore, for sexual violence within marriages, only civil remedies such as divorce and separation are provided, offering no criminal redressal [44]. This significant gap effectively grants perpetrators the freedom to commit marital sexual assault without fear of criminal penalty, perpetuating a cycle of impunity.

Intimate partner violence against women within heterosexual marriages profoundly reflects ingrained patriarchal structures that enforce male domination and holistic control by husbands, often through punitive measures against their wives [17]. This exertion of violence within marriage primarily serves to assert patriarchal authority, and is broadly categorized under domestic violence in India's legal landscape [23]. Furthermore, marital sexual assault is a transgression that tragically invokes and reinforces gender stereotypes, leading to deep-seated disgrace and stigma associated with women who experience it. This societal pressure often compels victims to remain silent and feel utterly powerless, further isolating them [25].

4.3. The Destructive Nexus of Substance Abuse and Marital Violence

A disturbing and consistently observed pattern in cases of marital violence is the cyclical nature of abusive behavior, often followed by routine apologies from the perpetrator after each incident. Chandra et al. (2023) conducted a pertinent study in India to meticulously assess the specific attributes of husbands linked to intimate partner violence against their wives. Leveraging data from the National Family Health Survey (NFHS), their research aimed to evaluate women's autonomy in decision-making, access to education, and financial empowerment as critical preventive variables against intimate partner violence [4]. Their findings were particularly illuminating, revealing that indicators of risk for men's involvement in IPV included: smoking, intoxication (substance abuse), having a disproportionately higher number of female offspring, exhibiting an abusive attitude towards wives, and experiencing poverty [4].

Global research consistently highlights dependency on any form of substance as a significant risk factor for violence against women [4]. Intoxication, in particular, is a major contributing factor that can trigger a shift from "inhibitory cues" (factors that normally prevent

aggressive behavior) to "instigatory cues" (factors that provoke aggression). This shift demonstrably increases dominance and violence during sexual intimacy [9]. Gallagher and Parrott (2010) delve deeper into this phenomenon, extending the understanding of the Alcohol Myopia Theory (AMT) [9]. Originally conceived by Steele and Josephs in 1990, AMT posits that alcohol intoxication leads to cognitive impairment, hindering an individual's ability to process and distinguish between conflicting cognitions and behaviors [26]. In essence, alcohol can concurrently heighten aggressiveness while simultaneously diminishing anxiety, thereby influencing an individual's social and personal conduct [26].

A harrowing incident reported in February 2024 from Uttar Pradesh tragically exemplifies this nexus. Newspaper accounts detailed how a newlywed husband allegedly used performance-enhancing chemicals and coerced intercourse on their wedding night, severely injuring the woman and leading to her death within two days [13]. This case, while extreme, underscores the potential for profound violence when substance use disinhibits aggression. As the behavior of an individual tends to become volatile and aggressive when influenced by substances, it significantly increases the propensity for marital sexual assault against their wives, often as a means to assert power and control [4]. Thus, addressing substance abuse is not merely a public health concern but an integral component of any comprehensive strategy aimed at preventing and mitigating marital violence, including sexual assault.

4.4. Deep-Seated Socio-Cultural Beliefs and Their Impact

The reluctance of the Indian Penal Code to recognize marital sexual assault as a criminal offense is deeply rooted in prevailing socio-cultural beliefs that regard it as an "intimate affair" where legal interference would lead to familial disputes [29]. This perspective disregards the profound psychological anguish experienced by victims. Bartollas and Wormer (2014) highlight that victims of marital sexual assault frequently endure significant psychological torment during the post-marriage adjustment period, which can tragically extend for years. This anguish manifests as debilitating symptoms such as chronic insomnia, acute anxiety related to their spouses, and unpredictable outbursts of crying [42].

A particularly disturbing aspect of these socio-cultural beliefs is the intergenerational transmission of acceptance towards such abuse. Women who have endured marital sexual abuse are, tragically, often compelled to urge their children, irrespective of gender, to comply with similar patterns by not challenging patriarchal beliefs or male violence [25]. Menon (2021) strongly supports this observation, noting that women severely exposed to sexual abuse by their husbands are often advised by their own mothers to "adjust," based on the pervasive belief that "all spouses behave similarly" [25]. This perpetuates a vicious cycle of silence and compliance within families.

Societal conventions frequently cast women primarily as victims, though instances of men being victims exist, albeit with significantly lower documented cases [42]. Nigam (2015) critically observes that in the adjudication of domestic abuse and sexual assault cases, Indian society frequently invokes terms like "openness" and "adaptation" directed at women. This cultural rhetoric aims to sustain existing norms, particularly as "honor" is intimately linked with the female members of a household [29]. According to Nigam (2015), India's strong traditional standing often ironically overlooks its own customs of "silence, tolerance, adjustment, compromise, and saving honour, pride, and values," which are disproportionately directed at women within intimate relationships to preserve a perceived cultural integrity [29].

A significant barrier to criminalization is the pervasive belief that legal amendments would lead to misuse by women in India [29]. This argument often frames women as potential exploiters of the law, rather than recognizing them as victims seeking justice. As Menon (2021) powerfully articulated, it is crucial for society to comprehend that it is women whose bodies have been assaulted, not men who merely breached regulations [25]. The Law Commission (2000), a pivotal legal advisory body, previously rejected the very concept of criminalizing marital sexual assault. Their reasoning was based on the premise that such criminalization would constitute excessive interference in the private domain of a married couple, an intrusion that society would find difficult to accept. Furthermore, they contended that existing laws, particularly those addressing domestic violence, were deemed sufficient to protect women [34]. This argument, however, fails to distinguish between general domestic violence and the specific act of non-consensual sexual penetration.

Culturally, husbands are often venerated as "gods," leading to a belief that failing to value them could result in more severe consequences for women [25]. This deeply ingrained cultural perspective further complicates the ability of women to report or seek justice for marital sexual assault. The Union Government has also articulated that the internationally recognized and acknowledged concept of marital sexual assault cannot be appropriately applied in India due to a prevailing social attitude that views matrimony as a sacred and inviolable contract [34].

Bartollas and Wormer (2014) highlight that incidents of marital sexual assault can even occur within same-sex marriages, underscoring that the issue transcends heterosexual dynamics and is rooted in power imbalances rather than specific gender pairings [42]. Addressing marital sexual assault is particularly challenging in contexts where cultural norms, religious beliefs, and existing legal frameworks collectively reinforce gender inequity and restrict survivors' rights. Therefore, enacting and effectively enforcing legislation

that criminalizes marital sexual assault, alongside modifying deeply ingrained societal attitudes and customs around intimate partnerships, represents a monumental but essential undertaking.

4.5. Inconsistencies and Loopholes within the Legal Framework

The current legal landscape in India concerning sexual violence within marriage is characterized by significant inconsistencies and loopholes, which collectively undermine the ability of victims to seek justice. While the Protection of Women from Domestic Violence Act, 2005 (PWDVA), does define "sexual abuse" as "any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force" [8], it crucially stops short of criminalizing such acts as rape when they occur within the marital context. Instead, the PWDVA offers only civil remedies, such as separation and divorce, thereby leaving perpetrators of marital sexual assault effectively immune from criminal prosecution [44]. This civil-criminal disparity means that while a woman can seek civil redressal for sexual abuse within marriage, she cannot pursue criminal charges for rape against her husband under the IPC.

Furthermore, a significant shift in the patterns of violence against women has been observed in India. Data from the National Family and Health Survey (NFHS) in 2005 indicated a discernible shift from predominantly physical abuse to an increasing prevalence of sexual and emotional violence [38]. This trend underscores the evolving nature of domestic violence and the critical need for legal frameworks to adapt and address these emerging patterns comprehensively.

Given that India does not formally recognize marital sexual assault as a criminal offense, it cannot be cited as a direct ground for filing a criminal complaint against the perpetrator or even for seeking a divorce under the Special Marriage Act of 1954 [20, 23]. This particular Act, along with traditional interpretations of marriage, often implies a legitimate right for individuals within marriage to establish sexual relationships, viewing marriage as a mutual contract where consent to develop sexual relations is inherent and cannot be unilaterally withdrawn by the wife [23]. This implied consent clause, central to the legal immunity, causes immense distress among women, as they are effectively bound to endure a forced environment within marriage—a situation that is often an "open secret" within society.

The lack of criminalization of marital sexual assault is a blatant violation of human rights and a profound threat to the self-worth and bodily integrity of individuals, an issue that has persisted for an alarmingly long time. It is profoundly disheartening that several countries, including India, continue to deny the imperative need to criminalize marital sexual assault [7]. Intimate partner violence in

India is notoriously underreported, largely due to deeply entrenched socio-cultural beliefs, widespread unawareness of available support resources, and societal reluctance to take such cases seriously. The focus frequently remains on visible physical abuse, with little regard for the profound psychological implications for women or the severe consequences for their reproductive and sexual health [21].

Reports from the UN Population Fund highlight a distressing reality: two-thirds of married women in India aged between 15 and 49 are subjected to forced sex and physical and emotional assault by their husbands if they refuse sexual advances [10]. This statistic starkly illustrates the widespread nature of the problem that legal frameworks fail to address. Makam (2023) identifies that the ongoing discussion regarding gender equality and legal recognition for marital sexual assault in India is significantly influenced by patriarchal beliefs, as well as complex societal and cultural deliberations [20]. These factors contribute to the judiciary's persistent refusal to acknowledge marital sexual assault as a criminal offense warranting substantial reforms to address existing legal loopholes. These loopholes are often justified by referencing ancient belief systems embedded within the Indian constitution's rape statute. However, there is an urgent need for these laws to be updated to incorporate contemporary beliefs and empower women against sexual violence, irrespective of their marital status [36].

The Criminal Law Amendment Act of 2013, while proposing a more consistent structure for dealing with rape against women, conspicuously failed to address marital sexual assault [7]. This omission was justified by arguments from both the Lok Sabha and Rajya Sabha (Houses of Parliament), which asserted that criminalizing marital sexual assault would offend religious and cultural sentiments [10]. For example, the Hindu Marriage Act, rooted in traditional interpretations, is often cited to imply a wife's obligation to have sex with her husband, without any emphasis on explicit consent-seeking [10]. This perpetuates a legal and societal framework that prioritizes traditional, patriarchal interpretations over individual bodily autonomy and human rights.

After meticulous removal of duplicates, 990 records remained. These records were then screened based on their titles and abstracts, leading to the exclusion of 150 studies. A total of 100 articles were extensively reviewed for eligibility, and based on stringent exclusion criteria, a final selection of 10 articles was included in the study. The reasons for exclusion at the full-text assessment stage included: disparities between the title/abstract and the full article, articles that did not explicitly analyze marital rape, studies focused solely on general domestic violence without a specific focus on marital rape, reports depicting violence against women without particularly viewing violence within marriage, and studies focused on

religion-based or caste-based violence. This rigorous selection process ensures the specificity and relevance of the studies underpinning the review's findings.

LIMITATIONS

The current body of literature, as synthesized in this scoping review, provides an in-depth analysis of the various reasons contributing to the occurrence of marital sexual assault [16], its close correlation with victimization theories [24], and its profound implications for victims [1]. Consequently, there is a clear articulation within existing studies regarding the imperative to combat marital sexual assault. However, a significant and discernible gap persists in identifying and proposing concrete, implementable solutions or strategies for addressing this critical issue, particularly within India and other countries where marital sexual assault has not yet been criminalized.

For instance, Santhya et al. (2007), in their pivotal study, meticulously evaluated the significance of consent-seeking and the prevalence of unwanted sexual encounters among married women in India [35]. While their research effectively highlighted these crucial aspects, it also explicitly identified a gap in the development of robust policies or comprehensive strategies aimed at preventing marital sexual assault or, more broadly, "sexual coercion within marriage" [35]. This lacuna extends beyond mere policy formulation to encompass practical intervention mechanisms, support structures for survivors, and effective legal enforcement strategies once criminalization is achieved. The limited focus on solutions within the existing academic discourse means that the path from recognizing the problem to implementing effective change remains largely unexplored, presenting a critical area for future scholarly and practical engagement.

CONCLUSION

The comprehensive findings gleaned from the extant literature unequivocally reinforce the urgent and undeniable necessity to criminalize marital sexual assault (MSA) in India. The current legal framework, particularly its enduring exemption for husbands, represents a critical failing in upholding fundamental human rights and ensuring gender equality.

The acknowledgment of consent in forming a sexual relationship, particularly with the female spouse, remains woefully unrecognized in India, largely due to the pervasive influence of traditional cultural beliefs, often stemming from archaic doctrines like Hale's Doctrine. This historical legacy unfortunately perpetuates the objectification of wives as mere possessions of their husbands [37], thereby rendering the exploration of such cultural and societal ideologies, profoundly influenced by patriarchal perspectives, a paramount area of focus [30]. Furthermore, the pervasive and widespread forms of violence within marriage, and their devastating impact on individuals and families, underscore the critical need to criminalize MSA in India. Just as other forms of violence are universally recognized as punishable offenses, so too

must MSA be explicitly defined and penalized [25], not only to prevent its occurrence but also to provide victims with clear avenues for reporting and initiating further investigation.

The alarming trend of substance abuse and intoxication leading to sexual violence is a burgeoning global problem [4], and its intersection with marital sexual assault demands an in-depth exploration of the precarious condition of women in India. Adherence to a stringent, outdated belief system means that the Indian constitution, regrettably, does not formally recognize the existence of marital sexual assault, thereby violating the fundamental rights of individuals [20]. This denial is often justified by the argument that interfering with marriage could challenge deeply ingrained socio-cultural beliefs [33]. Therefore, future research must place a significant emphasis on developing robust data collection techniques and leveraging existing community resources to prevent MSA effectively. Crucially, such research should also actively challenge and dismantle oppressive institutions and ideologies that impede the criminalization of marital sexual assault. These concerted efforts align seamlessly with the broader objectives of developing effective advocacy strategies and implementation techniques for criminalizing MSA in India, ultimately paving the way towards a much-needed socio-legal transformation that champions justice, dignity, and autonomy for all.

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