

Marital rape in India

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In news- Recently, the Union government informed the Delhi High Court, which is hearing a batch of petitions on marital rape, that a consultative process was underway to bring amendments to criminal laws.

Key updates-

- Submitting a fresh affidavit in response to a clutch of petitions to criminalise marital rape, the Centre maintained that it is examining the issue of broad changes in criminal law of the country and that the petitioner could also give their suggestions to the competent authorities.
- In its affidavit, the centre has stated that the exception to **Section 375 of the Indian Penal Code (IPC)**, which exempts forceful sexual intercourse by a man with his own wife from the offence of rape, cannot be struck down at the instance of the petitioner alone.
- It also emphasized that Principles of natural justice require larger hearing of all stakeholders.
- It relied upon parliamentary standing committee reports in 2008 and 2010 and also cited the **172nd report of the Law Commission of India on "Review of Rape Laws"** in March 2000 that said that it would not recommend deletion of the exception clause in Section 375 "since that may amount to excessive interference with the marital relationship".

What is Marital rape?

- Marital rape or spousal rape is the act of sexual intercourse with one's spouse without the spouse's consent.
- The **lack of consent is the essential element and need not involve violence.**

- Marital rape is considered a form of domestic violence and sexual abuse.

Marital Rape in India-

- India is one of the 36 countries in the world where marital rape is not criminalised.
- In India rape by an outsider is a penal offense under section 375 and 376 of IPC.
- As per **exception clause in Section 375, sexual intercourse by a man with his own wife, with the wife not being under 15 years of age, is not considered rape.**
- It is often referred to as cruelty and domestic violence under **Section 498-A of the Indian Penal Code** in which the convict will get a bonus of having less punishment if the perpetrator is the husband of the victim.
- **The Justice Verma committee was set up** to propose amendments in criminal laws in the wake of Nirbhaya case in December 2012.
- This committee proposed that “the exception for marital rape be removed” and the law must “specify that a marital or other relationship between the perpetrator or victim is not a valid defence against the crimes of rape or sexual violation”.
- The committee recommended the criminalization of marital rape, since the state of being married does not generate automatic consent to sexual acts.
- **In 2017, a Supreme Court judgment read down an exception to Section 375 only to the extent of criminalising rape** with a minor wife but clarified at the same time that it has not expressed any view on the issue of marital rape.
- In 2018, a private Bill called the Women’s Sexual, Reproductive and Menstrual Rights Bill, 2018, introduced by Congress MP Shashi Tharoor in the Lok Sabha, sought to criminalise marital rape, got lapsed after failure to garner support from the government.

- **The marital rape victims have the option of seeking help through the Protection of Women from Domestic Violence Act, 2005 (PWDVA)** which came into force in 2006, outlaws marital rape as well as other form of domestic violence. However, it offers only a civil remedy for the offence.