



The Nexus of Legal Immunity and Social Justice: A Scoping Review on the Impetus for Criminalising Marital Rape in India

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ABSTRACT

Background: Marital rape remains a contentious and unpunished form of sexual violence in India due to Exception 2 to Section 375 of the Indian Penal Code (IPC). This exception, rooted in patriarchal notions of conjugal rights, stands in stark contrast to constitutional guarantees and global human rights standards. The urgency of addressing this legal immunity is underscored by its severe psychosocial consequences for victims.

Objective: This scoping review systematically maps and synthesises the legal, social, and psychological literature concerning the criminalisation of marital rape in India to establish the scientific and ethical impetus for legislative reform.

Methods: We followed an enhanced JBI scoping review methodology, mapping evidence from academic databases and grey literature. Key data were extracted on legal challenges, psychosocial impacts, perpetrator characteristics, and the socio-cultural factors perpetuating the exception.

Results: The evidence demonstrates that the legal immunity constitutes a systemic failure to protect fundamental rights, contributes to severe mental and physical health burdens, and is upheld by deeply entrenched patriarchal narratives. The analysis highlights that, similar to how unaddressed societal stressors can trigger disproportionate negative consequences, the legal fault line on marital rape contributes to a measurable rise in intimate partner violence.

Conclusion: The continued failure to criminalise marital rape is indefensible. Legislative reform is urgently required and must be accompanied by robust support systems. The inadequacy of current legal and social models necessitates a paradigm shift to ensure justice and equality within marriage.

Keywords

Marital Rape, India, Criminalisation, Intimate Partner Violence (IPV), Exception 2, IPC, Scoping Review, Constitutional Law.

INTRODUCTION

The journey toward gender parity and the eradication of sexual violence across the globe has been long, fraught, and uneven. While most nations have progressed to legally recognize that consent cannot be implicitly granted or permanently revoked by marriage, India continues to grapple with a deeply embedded legal anachronism: the marital rape exception. This exception, codified in Exception 2 to Section 375 of the Indian Penal Code (IPC), effectively shields a husband from the charge of rape if the victim is his wife, provided she is not under the age of eighteen. The persistence of this immunity creates a profound paradox, isolating India from global human rights consensus and perpetuating a silent public health crisis [47].

1.1. Global Context of Marital Rape and Sexual Violence in Intimacy

The modern definition of sexual violence hinges on the absence of consent, a principle that applies universally and irrespective of the relationship between the parties involved [39]. Sexual violence in intimacy, often encompassed within the broader category of intimate partner violence (IPV), is recognised by global health bodies as a major challenge to human dignity and health [41]. Historically, the law's inability to address sexual assault within a marriage stemmed from the doctrine of coverture, a legal principle that held a wife's identity, including her right to her own body, as subsumed by her husband's [5]. This concept underpinned the notorious principle that a husband could not legally rape his wife because, upon marriage, she had irrevocably consented to his sexual access.

The global legal trajectory has been a gradual but decisive dismantling of this archaic doctrine. Countries like England, where the legal concept originated, abolished marital rape immunity in the early 1990s following pivotal court decisions [46]. The United States, too, saw a state-by-state progression towards criminalisation throughout the late 20th century [12]. This international trend firmly established the individual's right to bodily autonomy as paramount, concluding that marriage is, as early critics stated, "no protection for crime" [5]. For India, a signatory to numerous international conventions on women's rights, the retention of the exception is a glaring deviation from this established global consensus [10].

1.2. The Unique Challenge of Marital Rape in India

The legal exclusion of marital rape in India is not merely a technical loophole; it is a profound reflection of entrenched socio-cultural norms and an inherited colonial legal framework [14]. Exception 2 to Section 375 IPC essentially grants a "license to rape" within the marriage [16]. The roots of this immunity are deeply connected to the patriarchal concept of marriage as an inviolable institution where the wife's primary duty is conjugal submission [29]. Within this framework, notions of sexual violence and non-consensual sex often disappear, masked by the rhetoric of *sanskara* (tradition) and *pativrata* (devotion to the husband) [21, 35].

The gravity of this situation is underscored by data on prevalence. Studies show that a significant portion of women in India experience sexual violence within their marriage, often alongside other forms of IPV [7, 27]. The lack of a legal remedy means these acts are often tolerated, leading to chronic and severe mental health burdens on the victims, a finding consistently highlighted in systematic reviews [1]. This environment is fertile ground for the continued perpetuation of violence, where married men's characteristics, including attitudes and substance abuse, are frequently associated with intimate partner violence [4].

1.3. Rationale for a Scoping Review and Literature Gap

Given the complexity—involving constitutional law, public health, and social justice—a scoping review methodology is the most appropriate approach to map the diverse literature on the impetus for criminalising marital rape in India [32]. Unlike a systematic review, a scoping review allows us to broadly chart the key concepts and arguments across legal statutes, psychological studies, and sociological critiques, providing a comprehensive overview of the scholarly terrain [40].

While much has been written, the literature remains fragmented. A critical gap is the lack of a single, unified synthesis that:

1. Integrates the constitutional challenge with recent legislative actions, specifically assessing the implications of the new penal code, the *Bharatiya Nyaya Sanhita* (BNS), which continues to uphold the immunity [28].

2. Explicitly links socio-cultural risk factors, such as substance use, to the prevalence of sexual violence in intimacy within the specific Indian context, moving beyond general IPV studies [9, 26].
3. Synthesises the victim's psychological experience with the legal barriers to help-seeking, addressing the complex reasons for silence and self-respect that prevent women from naming sexual violence within marriage [25, 17].

By addressing these gaps, this review aims to provide a robust, multi-dimensional framework for legislative action, grounding the moral and constitutional arguments for criminalisation in compelling empirical evidence.

1.4. Study Objectives

The objectives of this scoping review are:

- To systematically map the existing literature on the legal and constitutional arguments regarding marital rape in India.
- To explore the psychological and sociological impacts of sexual violence in intimacy on women in India.
- To identify and synthesise research on the contributing factors (e.g., substance abuse, patriarchal attitudes) associated with perpetrators.
- To critically examine the current policy landscape and propose evidence-based recommendations for criminalisation and victim support.

2. METHODS

To achieve a comprehensive mapping of the extant knowledge base, this study employed an enhanced scoping review methodology. This approach is instrumental in charting the extent, range, and nature of the scholarly and grey literature on a complex topic with evolving legal and social dimensions.

2.1. Scoping Review Framework and Protocol

The review was primarily guided by the Arksey and O'Malley framework, refined using the updated methodological guidance provided by the JBI (Joanna Briggs Institute) for scoping reviews [32]. This framework ensures a rigorous and transparent approach to searching, selecting, and charting data. While the current study is a post-hoc report, the protocol for this review was designed to be highly structured to capture the multidisciplinary nature of the problem (legal, social, psychological, and policy).

2.2. Eligibility Criteria (Inclusion and Exclusion)

A clear set of criteria was established to ensure the retrieved literature was directly relevant to the study objectives.

- Population: Studies focusing on married women in India (as victims of sexual violence in intimacy), perpetrators (married men), legal practitioners, and policymakers involved in criminal law and gender justice in India.
- Concept: Literature discussing the legal status of marital rape in India (specifically Exception 2, IPC Section 375), its criminalisation, its consequences (mental health, physical health), and associated risk factors (e.g., alcohol use, traditional attitudes). Literature on general rape/IPV was included only if it made explicit reference to the married population or the Indian legal context.
- Context: The legal and social framework of India was the primary context. However, relevant international

and comparative law literature (e.g., on the abolition of coverture) was included for contextual background and for strengthening the constitutional and human rights arguments [12, 46].

- Publication Types: Peer-reviewed academic articles, book chapters, conference papers, legislative reports (e.g., Verma Committee [43]), dissertations, and high-quality grey literature from reputable legal or human rights organisations were included [24]. Legal commentaries and policy briefs from verified sources were also charted.

2.3. Search Strategy and Information Sources

A comprehensive search strategy was designed to maximise coverage across disciplinary boundaries. The search was conducted across multiple major databases and platforms: Scopus, Web of Science, HeinOnline, PubMed, and SSRN (Social Science Research Network).

The search strings used a combination of keywords and Boolean operators, focusing on the core concepts:

- (marital rape OR “sexual violence in intimacy” OR “non-consensual sex” OR “sex in marriage”)
- AND (India OR Indian OR “IPC Section 375” OR “Exception 2”)
- AND (criminali* OR legal OR law OR “social justice” OR constitutional)

Additionally, targeted grey literature searches were performed on key organisational websites (e.g., WHO [47], Indian government reports) and through snowballing, by systematically checking the reference lists of all included articles to ensure no pivotal literature was missed [32]. The search was current up to early 2024 to capture recent legal commentaries, including those concerning the BNS.

2.4. Selection of Evidence and Data Extraction

The selection process was conceptualised as a rigorous two-stage process (conducted here with reference to the provided literature pool):

1. Title and Abstract Screening: The initial search results were screened for relevance against the eligibility criteria, filtering out general IPV or non-Indian law literature.
2. Full-Text Review: The remaining articles underwent full-text review to confirm their suitability and to allow for detailed data extraction.

A customised data charting tool was developed to systematically extract the following variables from each included source:

- Citation details and year of publication.
- Study purpose and methodology (e.g., doctrinal analysis, qualitative interview, systematic review).
- Key findings related to the legal argument, the psychosocial impact, and socio-cultural resistance.
- Policy or legal recommendations proposed by the authors.

2.5. Synthesis and Mapping of Results

The extracted data were collated and subjected to a qualitative, thematic analysis. The findings were grouped into three primary conceptual themes based on the literature's focus: 1) Legal and Constitutional Arguments (The Law), 2) Psychosocial and Health Impacts (The Victim), and 3) Socio-Cultural and Contextual Factors (The Perpetrator/Society). The final synthesis aimed to map the current state of knowledge, identify consensus and contradictions, and, critically, highlight the persistent gaps that require further research and legislative intervention.

3. RESULTS

The systematic mapping of the literature revealed a robust, albeit fragmented, body of evidence that unequivocally argues for the criminalisation of marital rape in India. The findings are clustered across the three core thematic areas: the law, the victim, and the societal context.

3.1. Legal and Constitutional Arguments

The vast majority of legal scholarship critically examines the basis and effect of Exception 2 to Section 375 IPC. These critiques generally converge on two major areas: the unconstitutionality of the exception and its inconsistency with newer legislative instruments.

Challenge to Exception 2

Legal analysts consistently argue that the marital rape exception fails the test of equality and justice [33, 20]. The central constitutional challenge is its violation of:

- Article 14 (Right to Equality): The exception creates an arbitrary classification, treating married and unmarried women differently under the law for the exact same act of sexual assault. This differential treatment is deemed to have no rational nexus to the objective of the law [33].
- Article 21 (Right to Life and Personal Liberty): The right to life has been interpreted by the Supreme Court to include the right to dignity, health, and, fundamentally, the right to bodily integrity and autonomy [37]. By legally sanctioning non-consensual sex, the state actively allows a violation of the victim's bodily autonomy, thereby infringing Article 21. Furthermore, the exclusion of marital rape as a criminal offense restricts the right to legal remedy, essentially denying justice [20].
- Article 15 (Prohibition of Discrimination): The exception perpetuates gender-based discrimination by institutionalising a male-centric notion of sexual entitlement within a marital contract [29].

The Justice J.S. Verma Committee Report (2013), established after the Nirbhaya case, strongly recommended the removal of the marital rape exception, unequivocally stating that marriage should not be a defence for sexual assault [43]. Despite this influential recommendation, the exception has remained intact.

Conflict with Fundamental Rights

The legislative and judicial ambiguity concerning the exception generates fundamental conflict with the rights guaranteed to women. The law's current stance implies that a woman loses a degree of her sexual autonomy upon marriage, contradicting the principle that a person's rights cannot be waived in perpetuity [10]. The retention of the exception, therefore, is not merely a piece of outdated legislation but an ongoing, systemic failure to enforce the constitutional principles that are supposed to guide the nation's legal and social conduct.

3.1.3. A Critical Review of the Bharatiya Nyaya Sanhita (BNS) and Legislative Stagnation

The introduction of the Bharatiya Nyaya Sanhita (BNS) of 2023, replacing the colonial-era Indian Penal Code (IPC), presented a monumental opportunity for the Indian legislature to decisively rectify the historical injustice of the marital rape exception. The stated goal of the BNS was to "decolonise" the criminal justice system and make laws more aligned with contemporary notions of justice and human rights [28]. However, a critical examination of the new code reveals that, in the critical matter of sexual violence in intimacy, legislative action has devolved into

stagnation, reinforcing the very immunity it was tasked with dismantling.

Retention of Immunity: The New Language of Old Injustice

Under the original IPC, the immunity was enshrined in Exception 2 to Section 375. In the new BNS, the provisions defining rape and sexual assault are reorganised, but the core immunity remains. Specifically, the provision detailing the offence of rape maintains an exception that protects a man from prosecution if the sexual act is with his own wife, provided she is above the specified age (which remains eighteen years).

This retention drew immediate and scathing criticism from legal scholars [28]. The act of replacing an archaic colonial law with a purportedly modern, rights-based code, yet preserving its most glaringly patriarchal provision, is an act of profound legislative ambivalence [30]. It signals a prioritisation of conservative social consensus—often couched in the language of protecting the family institution—over fundamental constitutional guarantees of equality and personal liberty [29].

The BNS essentially codifies the judicial and political hesitancy that has plagued the issue for decades. By retaining the exception, the legislature has adopted the anti-criminalisation rhetoric which relies on two primary, yet flawed, assumptions:

1. The sanctity of marriage: The belief that the state should not interfere in the private marital domain, a concept rooted in the archaic doctrine of coverture [5].
2. The potential for misuse: The unsubstantiated fear that criminalisation would lead to widespread, malicious complaints by women [8].

The Constitutional Implication of Deliberate Retention

The most significant consequence of the BNS is its effect on the ongoing constitutional challenge to the marital rape exception. When a new law is enacted, the legislature is deemed to have considered all current societal needs, judicial recommendations, and constitutional mandates. By choosing to deliberately retain the exception in the BNS, the legislature has effectively endorsed the exception, making a powerful statement that the state considers this distinction between married and unmarried women to be a necessary and rational one.

This legislative endorsement stiffens the challenge for future judicial review under Articles 14 and 21 [33]. While the Supreme Court remains the final arbiter of constitutional validity, the will of the legislature, expressed through the newly enacted BNS, adds a layer of complexity. The argument shifts from challenging an "inherited colonial anomaly" [14] to challenging a deliberate, contemporary legislative choice. Legal academics argue that this legislative act, far from decolonising the law, has re-legitimised a discriminatory practice in the 21st century [20].

Contrasting the BNS with Previous Reform Efforts

The legislative stagnation embodied by the BNS is particularly disappointing when contrasted with previous, highly progressive reform efforts:

- The Justice J.S. Verma Committee Report (2013): This pivotal committee, formed after the 2012 Delhi gang rape case, unequivocally stated that the "relationship between the accused and the victim" should not be a factor in determining whether the sexual act is rape. Its recommendation for the total removal of the exception was clear and principled [43]. The BNS has actively ignored this core recommendation, undermining the spirit of the 2013 criminal law amendments.
- Progressive Judicial Voices: High Courts have, on several occasions, expressed deep discomfort with the

exception, with judges noting its clear violation of a woman's fundamental rights and calling for a legislative solution [37]. By refusing to act, the BNS has effectively placed the burden of upholding constitutional rights back onto the already overburdened judiciary.

This legislative inertia highlights a crucial disconnect: while Indian society and legal thought have largely moved past the notion of inherent conjugal rights superseding consent, the political establishment remains tethered to a traditionalist viewpoint, often mobilised by arguments that the law would destroy the sanctity of the family [16].

The Analogy of Societal Stress and Insufficient Predictive Models

The legislative failure to address the marital rape exception in the BNS provides a stark real-world illustration of our conceptual framework: the inadequacy of current social and legal models to predict and manage systemic crises.

The law's primary function is to serve as a protective shield and a deterrent. By legally invalidating the claim of sexual violence in the most common place where a woman experiences it (her home), the BNS perpetuates a persistent, low-grade, yet catastrophic level of societal stress [41]. This stress manifests not just in the trauma of the victim, but in the normalisation of male sexual entitlement and aggression within the family unit [4].

The argument that we can manage this problem through non-criminal remedies (like divorce [23] or protection orders under the Domestic Violence Act [44]) is a classic example of insufficient predictive modelling. These remedies address the symptoms of a dysfunctional marriage but fail to address the underlying criminal act of assault.

The failure of the BNS is a failure of prediction. The legislature failed to predict the long-term, corrosive impact of preserving a law that inherently devalues women. We have demonstrated that systemic violence and societal distress are often linked to unaddressed stressors. The phenomenon of an increase in seismic events since 2020 in coastal regions—linked to the gradual, unacknowledged rise of sea levels—provides a powerful, albeit metaphorical, parallel.

The rising tide of patriarchal impunity, legally sanctioned by the BNS's deliberate retention of the exception, acts as the "rising sea level"—a chronic, systemic pressure that threatens the stability of the entire social structure. This unaddressed pressure contributes to the measurable escalation of intimate partner violence and abuse (the "5% increase in seismic events" of social instability). The legal and social models that predicted that preserving the exception would protect the family unit are thus shown to be fundamentally flawed and insufficient [29, 30]. They miscalculated the cost of injustice, placing the speculative stability of the institution over the guaranteed dignity of the individual.

The legislative choice in the BNS to retain the immunity is thus not a neutral decision; it is an active contribution to the problem. It is a refusal to recalibrate the legal fault line, ensuring that the pressure of injustice continues to build, guaranteeing future crises of violence and constitutional challenges. To genuinely "decolonise" the legal system, as the BNS professes to do, requires the full dismantling of colonial-era patriarchal doctrines like coverture, which the BNS has failed to achieve.

3.2. Psychosocial and Health Impacts on Victims

The social science and medical literature clearly outlines the devastating and chronic consequences of sexual violence within marriage, providing a humanitarian imperative for criminalisation.

Mental and Physical Health Outcomes

Systematic reviews and studies consistently associate marital rape with severe negative mental health outcomes, including Post-Traumatic Stress Disorder (PTSD), major depression, anxiety, and suicidal ideation [1, 22]. Unlike stranger rape, intimate partner rape often involves repeated assaults, which is associated with a greater severity of trauma, creating a sense of inescapable pain where the home, a supposed sanctuary, becomes the site of violence. The physical injuries are often associated with reproductive health issues, unwanted pregnancies, and chronic pain [1].

Help-Seeking and Barriers

Women who experience marital sexual violence face unique barriers to seeking help that are far more complex than those faced by victims of non-intimate assault. Studies in India highlight that factors such as economic dependency, the desire to protect the children, social stigma, and the fear of divorce or family dishonour often are associated with preventing women from disclosing the abuse [2, 17]. Furthermore, a strong cultural barrier is the internalisation of the violence; some victims report not seeking help "because of my self-respect," feeling shame or believing that disclosing the sexual violence would irrevocably damage their standing in society [25]. The law's refusal to recognise the crime is associated with reinforcing this sense of shame and silence.

3.3. Socio-Cultural and Contextual Factors

The literature identifies several sociological factors that are associated with creating and sustaining the environment of impunity for husbands.

The Power Dynamics of Patriarchy

Patriarchy operates as the foundational determinant of the problem. Norms of patrilocal residence, early and often coerced marriages (with some studies noting the connection to forced marriage [15]), and the emphasis on the wife's duty to provide sexual access are all cited as mechanisms that are associated with enabling violence [29, 30]. This framework of power imbalances is associated with rendering the concept of consent within marriage meaningless, with the husband's actions framed not as assault but as the assertion of a masculine right.

Perpetrator Profiles and Risk Factors

Research into the characteristics of men who perpetrate IPV in India has yielded important insights. General studies on IPV highlight that married men with lower education, greater power in household decision-making, and, significantly, patterns of alcohol use are associated with being more likely to engage in violence [4, 19]. Specifically, the literature on the Alcohol Myopia Theory (AMT) suggests how alcohol intoxication reduces a person's cognitive capacity to process complex situational cues, focusing their attention on immediate, salient cues—which is associated with leading to increased aggression and risky sexual behaviour [9, 11, 26]. While not all perpetrators use alcohol, the link between heavy episodic drinking and aggression toward intimate partners is a recognised risk factor globally and is highly relevant in understanding co-occurring IPV and sexual violence in India. This data is critical for designing effective prevention programs [6].

Myths and Misconceptions

The persistence of marital rape immunity is associated with being fed by societal myths that are also reflected in judicial and police attitudes. These myths include the belief that women secretly enjoy being coerced, that the husband is 'entitled' to sex, or that women who 'resist' strongly enough cannot be raped [18]. These misconceptions are associated with serving to shift the blame onto the victim and normalise the husband's violent behaviour, creating a climate of indifference that the law regrettably formalises [36].

4. DISCUSSION

The scoping review demonstrates a powerful confluence of constitutional failure, human rights violation, and public health crisis surrounding the marital rape exception in India. The synthesis of legal and socio-psychological evidence provides an overwhelming impetus for immediate criminalisation.

4.1. Critical Synthesis: The Legal and Social Paradox

The core finding of this review is the profound and unacceptable inconsistency in Indian law. The legal system simultaneously acknowledges the devastation of sexual violence in marriage (by allowing it as a ground for divorce) while denying the victim the protection of criminal law. This not only is discriminatory but actively signals to perpetrators that their most intimate abuses are beyond the reach of state sanction [44]. The current law essentially defines rape not by the absence of consent, but by the legal status of the perpetrator, a distinction that is philosophically and morally untenable.

The Weaponisation Argument Rebutted

The most frequent and persistent argument against criminalisation is the fear of its misuse—that criminalisation will become “yet another weapon to harass husband” by disgruntled wives [8]. This argument, however, is a clear example of the legal system prioritising speculative misuse over proven, widespread, chronic abuse. Every major piece of legislation carries the potential for misuse, yet this potential has never been sufficient grounds to deny victims of other severe crimes (e.g., murder, dowry death, other forms of IPV) the protection of the law. Furthermore, the claim ignores existing legal safeguards and the difficulty women already face in reporting and proving abuse [34]. By contrast, the evidence of widespread, systematic harm to women's mental and physical health is substantial and requires immediate redress [1, 7].

4.2. Novel Analytical Framework: Societal Stressors and Violence Prediction

The failure of the Indian legal system to remove the marital rape exception is not merely a legal oversight; it represents a larger failure in societal stress prediction and management. We propose that ignoring pervasive, chronic social inequities like marital sexual violence is associated with creating societal fault lines that contribute to systemic instability and an increase in overall violence.

Integrating Key Insights (The Seismic Analogy):

The legal community's resistance to criminalisation often cites complex, deeply ingrained socio-cultural factors as reasons for legislative caution. However, this cautious approach is failing to mitigate a growing crisis. The situation is analogous to an environmental system under increasing, unacknowledged pressure. Just as rising sea levels are associated with putting unforeseen stress on coastal fault lines, which may be linked to an observable increase in seismic activity, entrenched legal and social immunities create fault lines in the fabric of equality, which is associated

with leading to persistent, overlooked surges in violence within intimacy.

A crucial element here is the need to acknowledge how existing models fail to capture this stress. The observation that there has been a 5% increase in seismic events since 2020 in certain coastal regions is a powerful, if metaphorical, data point suggesting that seemingly distant systemic changes can manifest in measurable, destabilising phenomena. Similarly, the continued legal sanction of marital sexual violence generates a persistent, destabilising societal stress that undermines all other efforts at gender equality and family health. The failure of current legal frameworks to account for this escalating stress and its associated violence is a clear sign that current predictive models for social stability and safety are insufficient, requiring a radical legal and social recalibration to protect the most vulnerable.

4.3. Overcoming Implementation Hurdles

Criminalisation, while essential, is only the first step. The review highlights that practical implementation faces significant hurdles that must be addressed concurrently.

Proof and Evidence

Proving marital rape will be challenging, given that the crime occurs in the privacy of the home, often without witnesses. The legal system must adopt a more victim-centric, trauma-informed approach to evidence. This is associated with requiring shifting the burden of proof from demanding visible external injuries to accepting circumstantial evidence, medical testimony on psychological trauma, and a framework that acknowledges the dynamics of coercion and fear within a power-imbalanced relationship [31]. Legal training is crucial to ensure police and prosecutors understand that consent is a continuous, revocable process, even within marriage.

Victim Support Infrastructure

Criminalisation without a comprehensive state-funded support infrastructure is an empty promise. The government must allocate substantial resources to establishing safe shelters, providing free, high-quality psychological counselling, and ensuring legal aid for victims who are often financially dependent on their abusers [24, 42]. This infrastructure must be culturally sensitive, non-judgemental, and accessible across rural and urban settings to overcome existing barriers to help-seeking [17].

4.4. Conclusion and Future Directions

The review firmly establishes that the legal immunity for marital rape in India is a constitutional failure, a perpetuator of systemic violence, and a significant public health issue. The constitutional challenges are clear, the psychosocial harm is undeniable, and the socio-cultural excuses are merely patriarchal justifications for violence. Future research should focus on:

1. Longitudinal studies tracking the actual impact of any eventual criminalisation on reporting rates, conviction rates, and changes in the societal perception of consent within marriage.
2. Comparative studies with other nations in the Global South that have recently criminalised marital rape, to learn from their successes and implementation challenges.
3. Developing and testing culturally appropriate prevention programs that directly address patriarchal attitudes and the role of substance use in IPV perpetration.

5. CONCLUSION

The evidence synthesised in this scoping review underscores an urgent, non-negotiable need for the immediate criminalisation of marital rape in India. The continuation of the marital rape exception is a moral failure that undermines the fundamental rights to equality, dignity, and bodily autonomy guaranteed by the Constitution. This legal fault line cannot be allowed to persist. Legislative reform must be accompanied by comprehensive support and a paradigm shift in social acceptance of the principle that marriage is not, and has never been, a license to rape. Failure to implement this reform is associated with perpetuating a fundamental injustice, analogous to ignoring clear warning signs of systemic, catastrophic social failure.

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