

# PERCEPTION AND ATTITUDE TOWARDS MARITAL RAPE: A SOCIO-LEGAL STUDY AMONG THE STUDENTS OF BBAU, LUCKNOW

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## ABSTRACT

The present study was conducted with an objective to investigate the level of awareness among the students of one of the central university located in Lucknow. Marital rape implies that women who mostly are subject to sexual offences are not even safe in their homes. And the reluctance and willful ignorance of people and legislature to admit its presence makes it even harder for women who are actually subject of this heinous act to demand safety. That is why there should not be any act out of the purview of culpability under criminal administration which violates the integrity, consent and individuality of a person. The respondents, which are the students, are of the opinion that marital rape is not a very serious issue for women, as she has to live with husband and he has the responsibility to be her better half and stand with her in thin and thick, this view raises some concerns on the part of society.

**Key words:** rape by husband, criminalization, legal obstacles, spousal violence,

## INTRODUCTION

“A Murderer kills the body but a rapist kills the soul”<sup>1</sup>

Companionship is one of the many carnal needs of humans since the advent of time. That's why subsequently the concept of marriage, inheritance, family, clans and society eventually emerged. The very basis of marriage is mutual respect, trust, love, compassion, commitment and being with each other in thick and thin. In early human existence, no need for society formation was recognised as people use to wander and just collect eatables and make their survival in different climatic conditions. But as soon as civilization started, people started to settle down at one place and formed various settlements, and then promiscuity became the notion. So anyone could establish physical relations with whomsoever they desire. But this started to raise the question of paternity and heredity. Then marriage was given consideration as the

<sup>1</sup> Justice Krishna Iyer.

resolution of all the debates, as it clarifies the paternity, inheritance, family and clan issues. Marriage is a socially acknowledged and approved sexual union between two adult individuals.<sup>2</sup>

Marital rape can be seen in very minute detailing of the social perspective and dynamics. As early as men were given supremacy in all social domains, will and desire of women became irrelevant and secondary. This led to the unsatisfactory life of women and men getting everything they long for at the cost of unhappiness of the women. As promiscuity was the initial point of the marriage, so it is very clear that it remains the part of modern marital relationship too. Sexual desires and unaccountability towards the consent of women led to the sexual subordination of wives in marriage and demeaning their consent for it. Rape within marriage is a concept that agonies the wife to the very core. The offence against women, violating her dignity and self respect and when it occurs within four walls of matrimonial home, it reduces the women to the status of an object used merely for sexual gratification<sup>3</sup>.

Sexual violence does not necessarily include direct physical contact between perpetrator and victim, threats, humiliation and intimidation may all be considered as sexually violent. Marital rape raises many issues in various domains of society. When we consider it only as a social issue we come across the idea of a misery of a women or more specifically a spouse who have to tolerate such a heinous act upon herself or himself and adding more to it the burden of continuing the pathetic marital relationship with their so called better half for the social acceptance and social respect. Then when we move to the legal conundrum we notice marital rape as a potential crime against an individual which torment the victim both physically and mentally and is against the pious institution of marriage itself. But the legal exemption rendered for this severe heinous offence marks another level of traumatization for not only married individuals but the social norm of marriage itself.

India in 1994 ratified the Convention of the Elimination of all forms of Discrimination against Women (CEDAW) treaty. Article 2 of General Assembly Declaration on the Elimination of Violence against Women, 1993 recognizes “marital rape” to be an offence against women.<sup>4</sup> Report submitted by India give detailed articulation of state action and statutory steps taken by India for implementation of CEDAW, but it seems like just a façade because even though marital rape is embedded in Article 2 of Declaration on the Elimination of Violence against Women, 1993, India is reluctant to act on such legislation that could provide protection to the married women against forced sexual acts of their husband.<sup>5</sup> And again, in March

<sup>2</sup> Indian Society, Textbook in Sociology for Class XII, 156, (National Council of Educational Research and Training, 2017).

<sup>3</sup> Rajni Nanda, Marital Rape: Recent Position with The Criminal Law Amendment Act 2013, IJLJS :ISSN:2348-8212 Volume 1 Issue 6, 1.

<sup>4</sup> “Article 2: Violence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”

(Feb. 24, 2019, 6:17 AM). <http://www.un.org/documents/ga/res/48/a48r104.htm> (Feb. 24, 2019, 6:17 AM).

<sup>5</sup> Chhichhia, B. Gender rights in post-colonial societies: A comparative study of Kenya and India. AJPSIR, 6(8), 204, 205 (Feb. 24, 2019, 8:12 AM). <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.820.3913&rep=rep1&type=pdf>

2016, United Nations Development Program Chief Helen Clark went on record to say India would run afoul of the Sustainable Development Goals it has adopted if it does not amend this law.<sup>6</sup>

The definition of marital rape is not provided in any of the statutes in India. Marital rape refers to “unwanted intercourse by a man with his wife obtained by force, threat of force, or physical violence, or when she is unable to give consent.” It is a non consensual act of violent perversion by a husband against the wife where she is abused physically and sexually<sup>7</sup>. In this very judicial oral order following three types of marital were given elaborated meaning:

1. Battering Rape: In this type of case the wife goes through physical violence as well as sexual violence, where husband coerces the wife for sex and employ physical power over her.
2. Force Only Rape: In this type of rape the husband uses only that amount of force against wife which is sufficient to make the wife establish physical relations.
3. Obsessive Rape: this type of rape involves very brutal violence and/or perverse sexual act on the part of husband against wife.

## LAW RELATING TO MARITAL RAPE

The Indian Penal Code (‘IPC’) in Section 375<sup>8</sup> criminalizes rape, which provides penalization for several sexual acts against women but its Exception 2 render the sexual intercourse and sexual acts of a husband upon his wife out of the ambit of definition of rape. Thus, a wife under Indian law does not have recourse under criminal law if a husband rapes her and she had attained the age of 18 years although the age

<sup>6</sup> Rape is a crime in India - But there are exceptions, (Apr. 13, 2016, 5:29 PM). <http://www.npr.org/sections/goatsandsoda/2016/04/13/473966857/rape-is-a-crime-in-india-with-one-exception>

<sup>7</sup> Nimeshbhai Bharatbhai Desai v. State of Gujrat, R/CR.MA/26957/2017, 3, (Feb. 23, 2019) <https://drive.google.com/file/d/1zxjhwxA06q99QK1x-72XGX91Ws-vYTBL/view>

<sup>8</sup>Section375- A man is said to commit "rape" if he - penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any ~ of body of such woman or makes her to do so with him or any other person; or applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:

First - Against her will.

Secondly - Without her consent.

Thirdly - With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly - With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly - With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly - With or without her consent, when she is under eighteen years of age.

Seventhly - When she is unable to communicate consent.

Explanation 1 - For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2 - Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1 - A medical procedure or intervention shall not constitute rape.

Exception 2 - Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

mentioned in the Act is 15 years but with the landmark judgement of the Supreme Court of India<sup>9</sup> this age limit has been extended to 18 years in 2017.

This is usually contended that there is no need for separate criminalization of marital rape without any exception because the IPC have such provision with includes the facets of marital rape in it i.e. *Section 498-A : Husband or relative of husband of a woman subjecting her to cruelty*<sup>10</sup>. In the Explanation of this Section it is mentioned that whenever there is danger to life, limb or health (whether mental or physical) of the woman would be considered as cruelty. This above contention is wrong because it does not render any specific relief regarding sexual violation of woman's body; also it is not necessary that every time an injury may occur as a resultant of forced sexual relation between husband and wife; and as per the latest ordinance on the punishment of rape, death penalty could be granted for offence of rape but the punishment for cruelty which is said to include the crime of marital rape is imprisonment for term which may exceed to three years with fine. It doesn't seem reasonable at all that if a rape is done by a person other than marital partner it would be punished by capital punishment and if forced sexual relations are established by husband it would amount to imprisonment for not more than 3 years. Now let us consider us consider the following recent case where husband and his brother raped a woman in her matrimonial home on her wedding night for dowry.<sup>11</sup> Here his brother would be charged with the offence of rape but the husband himself holding the legal license to rape his wife would be free civilian if he get charged under the Section 498-A.

## LEGAL OBSTACLES

It is no doubt that the criminalization of marital rape is the need of the hour, and irrespective of the numerous oppositions it would happen sooner or later. So now the question arises why do we choose to be passive and ignorant for this serious and heinous act and not opt to be progressive and responsible for the well and good of ourselves? Now women are under a rock bottom of social pressure to maintain and keep alive the marriage that is the very root of their life and health threat in marital rape. Is this the legacy we want to carry?

Nonetheless this is a socio-legal problem; the legal issues are no less complicated and need rapid address. Some major legal obstacles are the following:

1. Is defining marital rape possible?<sup>12</sup>
2. Are the ages old colonial laws should be followed without revision and reconsideration?
3. Is the mentioned exemption of marital rape from the definition of rape in IPC justified?

<sup>9</sup> Independent Thought v. Union of India, W.P.(C) No. 382 of 2013 (Feb. 16, 2019). [https://www.sci.gov.in/supremecourt/2013/17790/17790\\_2013\\_Judgement\\_11-Oct-2017.pdf](https://www.sci.gov.in/supremecourt/2013/17790/17790_2013_Judgement_11-Oct-2017.pdf)

<sup>10</sup> 498A. *Husband or relative of husband of a woman subjecting her to cruelty.*—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. *Explanation.*—For the purpose of this section, “cruelty” means—  
(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or  
(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

<sup>11</sup> Mohd Dilshad, In UP, woman raped by husband and his brother in-law on wedding night over dowry The Times of India, March 15, 2019, (Mar. 16, 2019, 6:12 AM). <https://timesofindia.indiatimes.com/city/meerut/woman-26-gang-raped-by-husband-kin-on-wedding-night-critical/articleshow/68416443.cms>

<sup>12</sup> In brief submission on behalf of Union of India in the case of RIT Foundation v Union of India, W.P. (C) No. 284/2015, 1, (Feb. 24, 2019). <https://drive.google.com/file/d/0B1HsQbGINpEflUuOOW8yZEU1bWs/view>

4. Should court interfere in the matter where legislature could work and address the issue well?
5. Is the criminalization of marital rape of any concern to the religion or faith?<sup>13</sup>
6. Is India ready for such a law and change and can this nation cope up with this alteration?
7. How much likely is the misuse of the criminalization of marital rape?
8. Is there any other measure for preventing marital rape than its criminalization?
9. Can such procedure be established so that this specific offence could be tried in court of law smoothly and rapidly?
10. The fact that willingness of the spouse to be physical is subjective to so many factors. Does case of marital rape have a place in the court?
11. Is Blackstone's common law unity doctrine justified?<sup>14</sup>
12. As India is a nation which is full of diversity, does the type of marriage would be factor in cases of marital rape?
13. Is it even possible to prove marital rape by evidentiary aids in court? If yes, what would be those evidences?
14. Is only one amendment in the rape provision enough or we would need a whole statute on marital rape?<sup>15</sup>
15. Will a time come that this does not remain problem or is it going to be for eternity?
16. Is criminalization of marital rape is a legit need or just over the top demand of some extremist?<sup>16</sup>
17. Is it an offence against only women or we need gender neutral law in this regard?<sup>17</sup>

The above questions are not exhaustive in nature and as both the needs of society and the character of law are organic in nature, they are bound to change after a while.

Now the debate remains that is it possible for a nation to be progressive if some issues remain untouched due to their taboo nature and we continue to be developing only in few domains and remain and chose to be ignorant of severe matters. The major issue arises are the high rate of illiteracy and cultural tolerance of marital rape and accepting it as normal behavior.

Maneka Gandhi said in a written reply in the Rajya Sabha in response to a question on whether the government plans to criminalize marital rape<sup>18</sup>:

It is considered that the concept of marital rape, as understood internationally, cannot be suitably applied in the Indian context due to various factors like level of education or illiteracy, poverty, myriad social customs and values, religious beliefs, mindset of the society to treat the marriage as a sacrament etc.,

<sup>13</sup> The sordid reality of marital rape, (Jan. 17, 2019, 3:23 PM). <http://www.ndtv.com/opinion/the-sordidreality-of-marital-rape-760245>

<sup>14</sup> As per this doctrine the husband and wife are not considered two different entity so when they are same, husband could not be charged for an offence against his wife.

<sup>15</sup> Flavia Agnes, Section 498A, Marital Rape and Adverse Propaganda, EPW, June 6, 2015 Vol. L No. 23, 14

<sup>16</sup> Id.

<sup>17</sup> Government of India, Report of the Committee on Amendments to Criminal Law (2003), 439

<sup>18</sup> Marital rape cannot be criminalized in India, says Maneka Gandhi, (Nov. 28, 2018, 1:45 PM). <https://www.indiatoday.in/india/story/maneka-gandhi-marital-rape-criminalisation-312848-2016-03-11>

It clearly states the intentions of policy makers and their stand on the marital rape and gender sensitive issues. But the independence of judiciary has played very remarkable role in the development and forward steps towards criminalization of marital rape beyond and exemption and explanation.

It is generally mentioned that marital rape need no separate provision as it is provided in the IPC under Section 498-A and in the Protection of Women from Domestic Violence Act, 2005. But it is to be given consideration that civil remedy is not enough and appropriate for such a crime.

The main concern of culpability of marital rape is its misuse and its impact on the institution of marriage. The example given by Justice Deepak Gupta<sup>19</sup> is really intriguing that if the husband beats up the wife and then have sexual intercourse with her, he would be given immunity; even though this illustration is given in relation to the females of age less than 18, but it is not farfetched that the illustration would stand true in case of a major female i.e., above the age of 18 years. The only argument remains is that – is such a marriage could be held as sacred where the wife is being forced not only mentally but also physically to get intimate with the husband only on his terms? OR is such a marriage is worth of giving the term of pious and sacred? Also it is not that the Indian judicial system is so naive and new to the concept of misuse of any provision. As in a recent case<sup>20</sup> to combat the situation of misuse of the provision of Section 498-A of IPC, Supreme Court laid down measure; so why not such measures could be adopted in future with reference to marital rape laws.

Another contention which remains the highlight of the arguments that how such a crime could be proved which take place between two people between four walls, and there is one simple solution for that i.e. even though marital rape is not an offence in its own but it has few of its facets in the Section 498-A of IPC; and sexual exploitation till now come under the purview of this Section only, and it is very apparent that there are well established procedures for trial of the offence of cruelty. So with some changes and additions the procedure for trial of offence of marital rape could be framed which give protection to husbands against malicious accusations and ultimate redressal of grievances to married women. Also it was suggested by the Law Commission of India<sup>21</sup> that following provision should be added in Indian Evidence Act, 1872:

114A. Presumption as to absence of consent in certain prosecutions for rape.- In a prosecution for rape under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code (45 of 1860), where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and she states in her evidence before the court that she did not consent, the court shall presume that she did not consent.

<sup>19</sup> Independent Thought v. Union of India, W.P.(C) No. 382 of 2013 (Feb. 16, 2019). [https://www.sci.gov.in/supremecourt/2013/17790/17790\\_2013\\_Judgement\\_11-Oct-2017.pdf](https://www.sci.gov.in/supremecourt/2013/17790/17790_2013_Judgement_11-Oct-2017.pdf)

<sup>20</sup> Social Action Forum for Manav Adhikar v. Union of India Ministry of Law and Justice, W.P.(C) NO. 73 of 2015, (Feb. 25, 2018).

<https://drive.google.com/file/d/1PoFimO6EO5L8I51JXcVW9qlsZFhixI3e/view>

<sup>21</sup> *Supra* 17 At 37

Although in the same report it was put forward by the Law Commission that deleting the Exception of Section 375 of IPC would amount to excessive interference with the marital relationship.<sup>22</sup> But later on in the Justice Verma Committee on Amendments to Criminal Law it was recommended that such Exception should be deleted and relationship between the accused and victim of offence of rape and forced sexual relation should not be a determining factor for culpability, marital rape should be punishable.<sup>23</sup>

Many reasons and arguments are given for the criminalization of marital rape but these figures will actually demonstrate the status and situation of Indian women and marriages<sup>24</sup>:

1. 52% of women and 42% of men believe that a husband is justified in beating his wife.<sup>25</sup>
2. A husband is justified in hitting or beating his wife if she refuses to have sex with him, for this 13% woman and 9% men shared the same contention.<sup>26</sup>
3. The percentage of women who agree that women can refuse sex to their husband has remained virtually unchanged since NFHS-3, but this percentage has declined by 7 percentage points for men, from its level in NFHS-3 (i.e.70%).<sup>27</sup>
4. 17% of women and 15% of men do not agree that a wife can refuse sex.<sup>28</sup>
5. 18% of men do agree that a husband has the right to get angry and reprimand a woman if she refuses to have sex with her husband.<sup>29</sup>
6. Thirty percent of ever-married women have experienced spousal physical violence, with 23% experiencing this type of violence in the past 12 months. Seven percent have experienced spousal sexual violence, with 5% experiencing this type of violence in the past 12 months. Spousal emotional violence was reported by 14% of ever-married women, and 11% reported such violence in the past 12 months.<sup>30</sup>
7. Fear of husband and spousal violence are highly correlated. Women who say that they are afraid of their husband most of the time are most likely to have ever experienced spousal violence (58%), followed by women who are sometimes afraid of their husbands (32%). Among women who say that they are never afraid of their husband, 20 percent have experienced spousal violence.<sup>31</sup>

## THE STUDY ON MARITAL RAPE

The purpose of the study is- to explore the level of awareness regarding marital rape, to examine the behavioral pattern regarding marital rape awareness, to understand the views of students regarding marriage and marital rape, to comprehend the opinion on the need of understanding marital rape laws among respondents, to examine the seriousness of the issue in the mind of respondents, to understand the level of awareness to be spread to make respondents aware of the social menace of marital rape.

<sup>22</sup> Id. At 15

<sup>23</sup> Supra 17 At 117

<sup>24</sup> National Family Health Survey (NFHS-4), 2015-16: India. Mumbai: IIPS

<sup>25</sup> Id. At 514

<sup>26</sup> Id.

<sup>27</sup> Id. At 515

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id. At 568

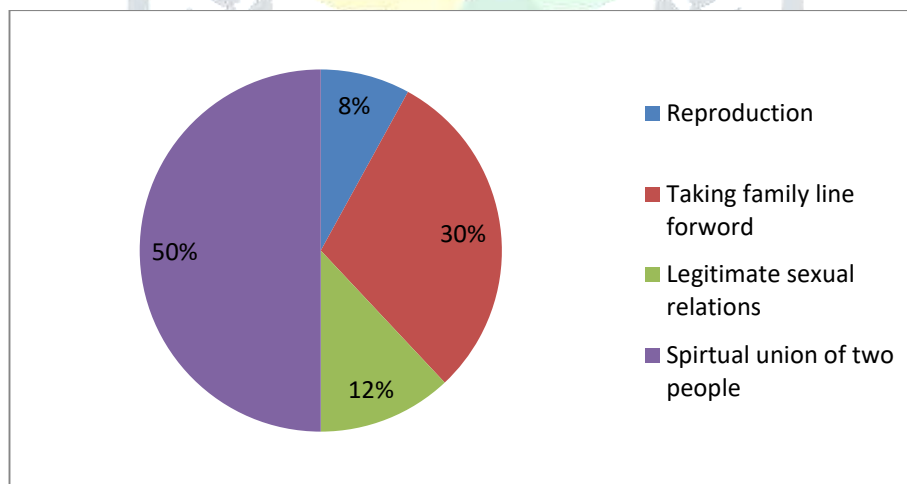
<sup>31</sup> Id. At 571

## METHODOLOGY

The present survey was conducted in Babasaheb Bhimrao Ambedkar University, Lucknow because this is the one of the premier central university in the country, accredited “A” Grade by NAAC in 2015. The present study being an empirical (non-doctorial) research and is to be carried out in a very limited time with an intention to collect most authentic data. The data was collected through the surveys based on questioner. Well-designed questionnaire was filled-up by personal visits to the respondents during November-December 2018. Data analysis has been done by using excel. The core objective of this survey is to investigate about the level of marital rape awareness among the students. The response given by respondents has been analyzed and produced in a structured format in the form of questionnaire for easy and logical understanding. Analysis of every question has been made along with the question. Finally, in the end, conclusion has been drawn. Suggestions have been made. The Ashoka Boys’ Hostel and Yashodhara Girls’ Hostel of Babasaheb Bhimrao Ambedkar University, Lucknow was selected for this research. Since this aims at examining the level of awareness regarding marital rape so students enrolled in undergraduate, postgraduate and Ph.D. programs are selected randomly for response. The limitations of research are as follows:

- The number of respondents for research are 100, among 50 of them are Males and other 50 are Females.
- The research has been completed in a limited time.

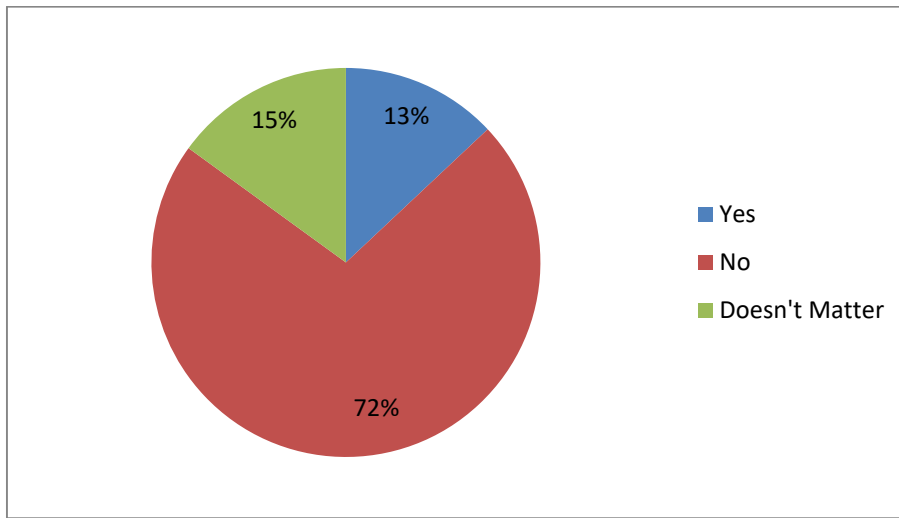
## DATA ANALYSIS AND INTERPRETATION



**Figure 1: OBJECTIVE OF MARRIAGE**

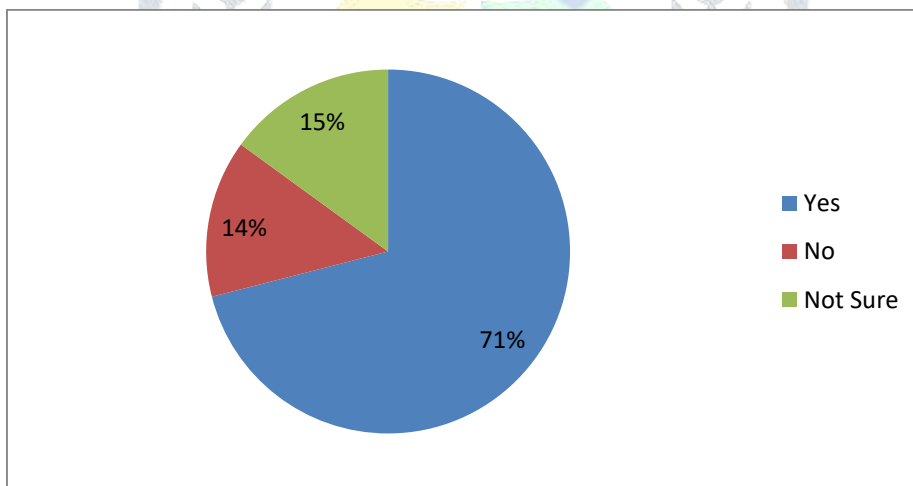
The above figure depicts that 50% of the respondents possess the view that object of marriage is spiritual union of two people, 30% reflect on taking family line forward, while 12% render views of legitimate sexual relations as the object of marriage whereas only 8% provide reproduction as response. This imply that people in India are vastly influenced by spiritual, religious and cultural beliefs, which in few matters turn off the logic and only state a particular way of living for men and women; and this eventually create differences among both the sexes and give birth to power struggle.





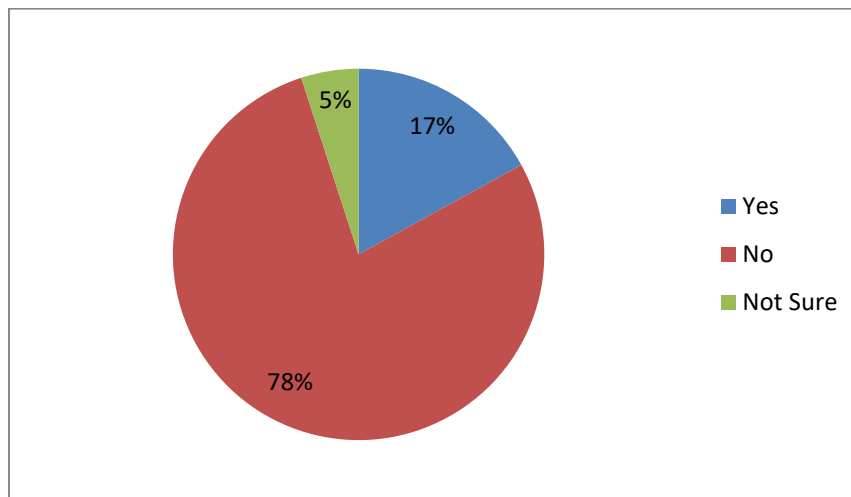
**Figure 2: WILL YOU ALLOW YOUR SPOUSE TO HAVE SEXUAL INTERCOURSE WITHOUT YOUR WILL?**

The whole debate is of consent and when liberty to dissent from any act is taken away from any relationship, it becomes mere a relation of master and servant. Since ages men are construed as superior and the one who will look upon the needs and wants of women; his led to the dependency of females on males to a very great extent. And when a woman have to be a recipient of the mercy of a man for food, clothes and shelter; it violates the freedom of woman an haunts its dignity too. The above figure shows that 72% of the respondents won't allow their spouse to have sexual relations without their will, while for 15% it doesn't create a concern and whereas 13% will allow their better half to have sexual intercourse without their own will.



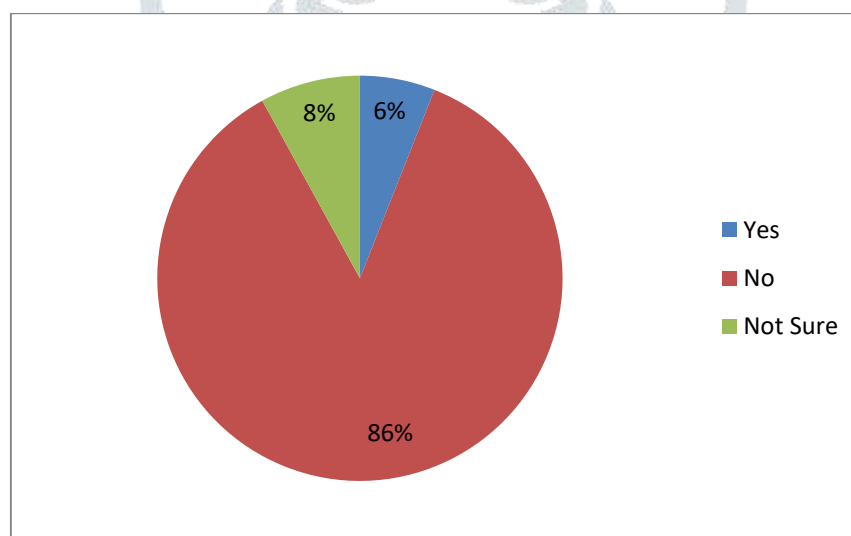
**Figure 3: CAN RAPE BY HUSBAND IS POSSIBLE?**

The above pie chart elaborate on the awareness of the respondents regarding marital rape by husband, and in this regard 71% of the people are aware and think that marital rape by husband is possible, while 14% resent the notion. 15% are not sure about the phenomenon or the menace of marital rape by husband in the society.



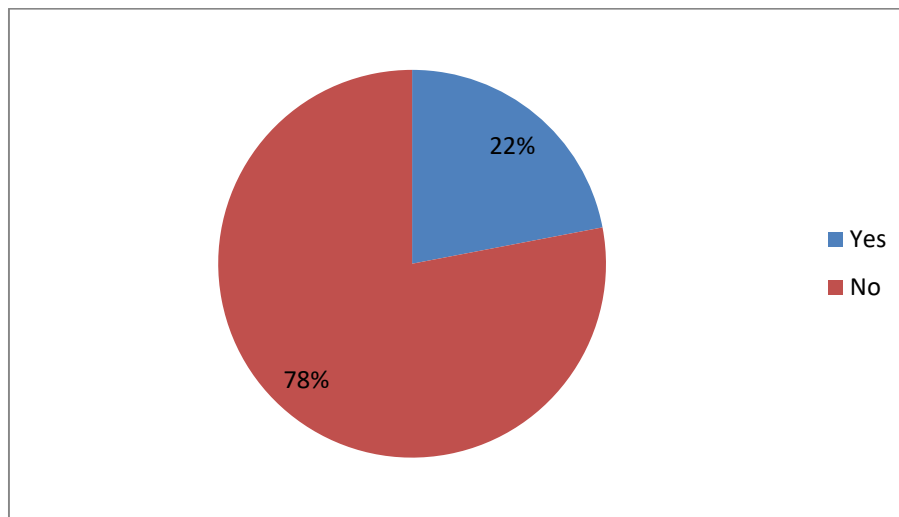
**Figure 4: WHETHER HUSBAND HAS A RIGHT TO HAVE SEXUAL INTERCOURSE WITHOUT THE WILL OF WIFE?**

The response on this question is of a lot importance, as this gives an impression of the mindset of the respondents. 78% of the people gave negative response to the question, while 17% say that husband has the right to have sexual relations with wife without her will. While 5% are not sure and cannot give a definite response.



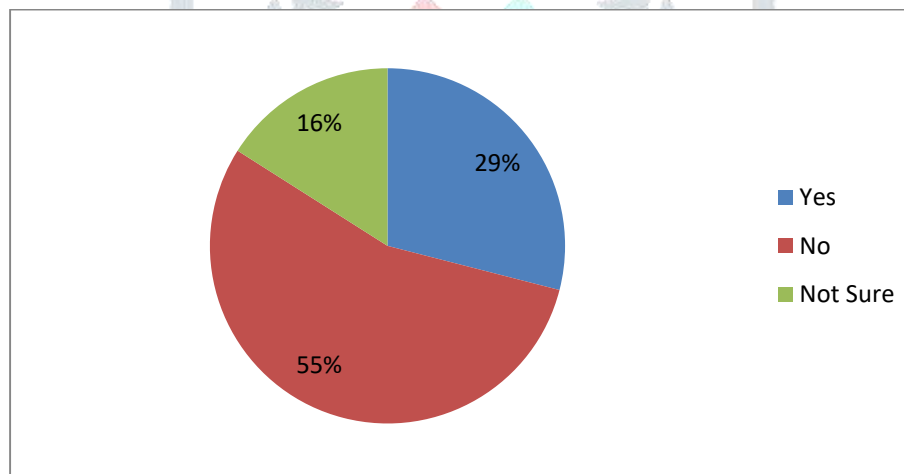
**Figure 5: IS MARRIAGE A LICENSE TO RAPE?**

The above figure shows that 86% of the people are of the view that marriage is not a license to rape the spouse, whereas 6% gave affirmative response. While 8% are not sure. The response to this question raises many concerns, legal as well as social. The responses like this demonstrate the willingness of the people for the government to take rapid and optimum steps for the socio-legal menace of marital rape.



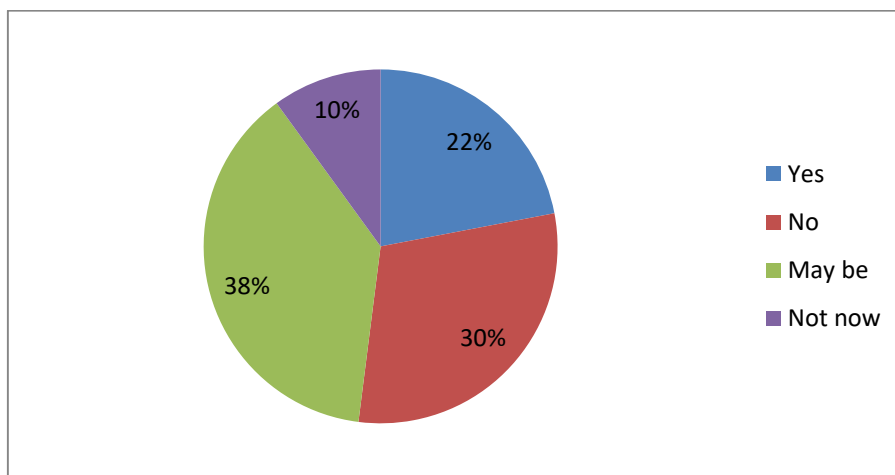
**Figure 6: IS WIFE A PROPERTY OF HUSBAND?**

The above figure shows that 78% of the respondents are of the view that wife is not the property of husband, whereas gave an affirmative response to this question. The behavior of society and expectations from women in household are clear illustration of the notion of society that wife is a chattel and supposed to be controlled by husband. Although Indian ociety has come a long way in giving women the respect they deserve, but many serious efforts are required as well; as it is usually said that Rome was not built in a day.



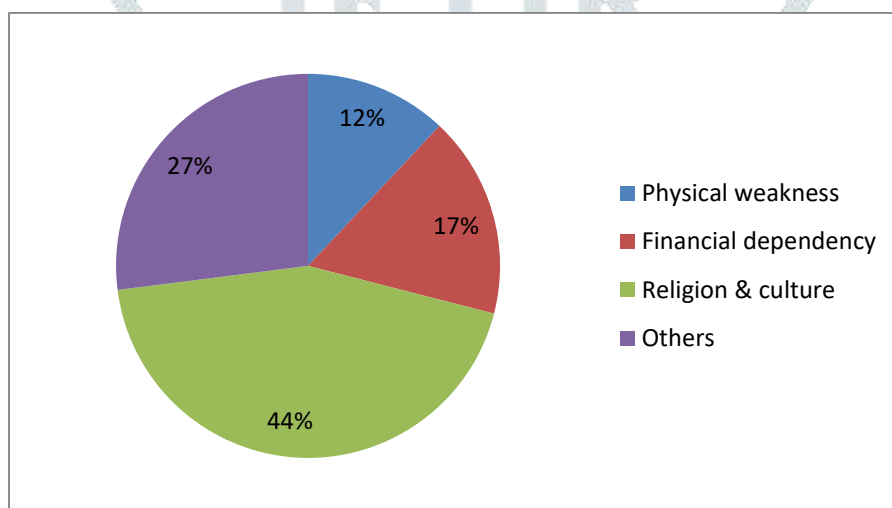
**Figure 7: WHETHER MARITAL RAPE IS A RECENT PHENOMENON?**

The above figure elaborates the percentage of the people who are of the view that marital rape is a recent phenomenon. 55% of the people say that it is not, while 29% say it is. On the other hand 16% are unaware and not sure. Majority of people are of the view that it is not a recent phenomenon and after taking this belief as correct and views of majority, it calls for the immediate address from appropriate authorities.



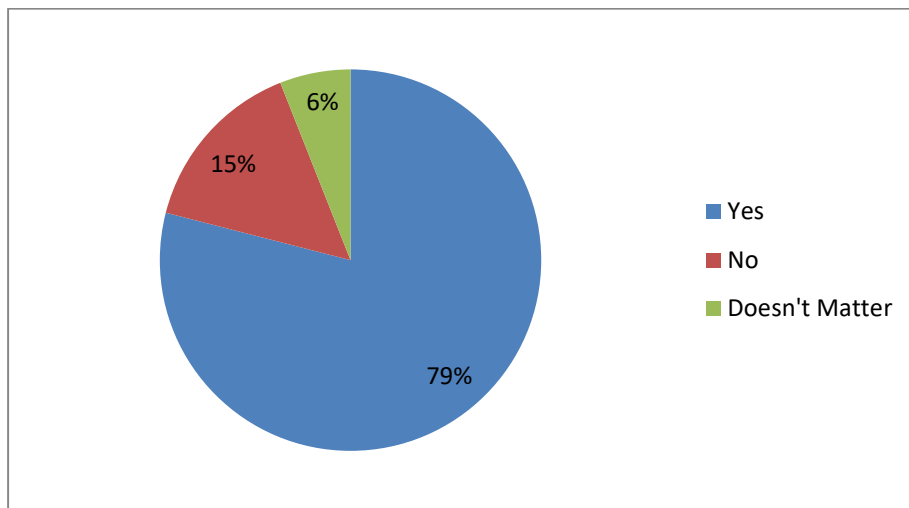
**Figure 8: IS MARITAL RAPE A GENDER NEUTRAL ISSUE?**

The above pie chart shows that 38% of the respondents are not aware and unsure about the fact whether marital rape is a gender neutral issue. While 30% state that it is not a gender neutral issue. 22% are of the affirmative view. And 10% say that is not a gender neutral issue now.



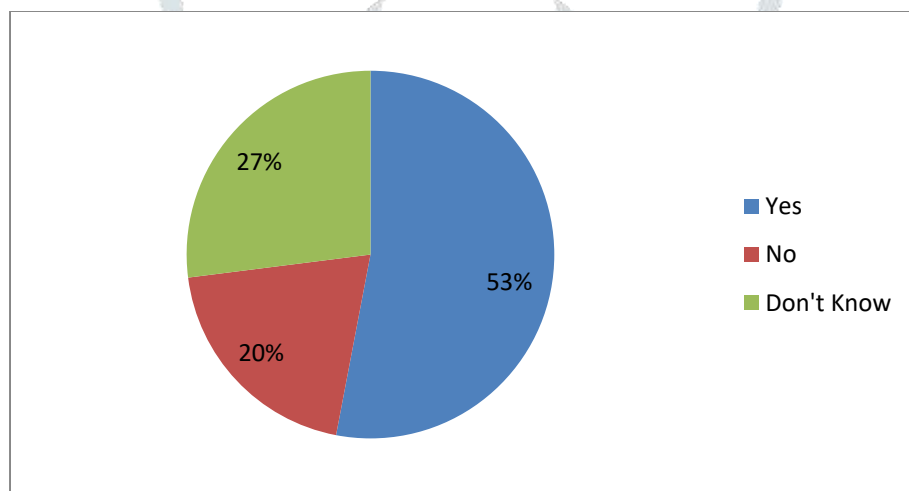
**Figure 9: WHY WOMEN TOLERATE MARITAL RAPE?**

From the above figure is it clear that 44% of the respondents think that religion and culture is the prominent reason for women tolerating marital rape. 17% of the people seem financial dependency as the reason and only 12% stated physical weakness as the cause. While 27% gave other reasons such as children, society, family etc.



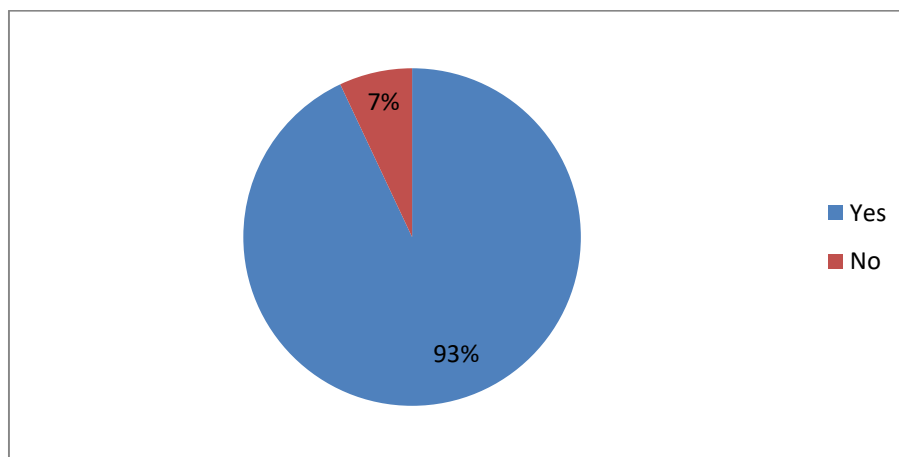
**Figure 10: DO YOU THINK SEXUAL INTERCOURSE WITHOUT CONSENT OF WIFE IS EQUIVALENT TO VOILENCE?**

The above figure elaborates on the response of the question that whether sexual intercourse without consent of wife is equivalent to violence. 79% gave an affirmative response and 15 % say that sexual intercourse without consent of wife is not equivalent to violence. While 6% are of the view that it doesn't matter at all.



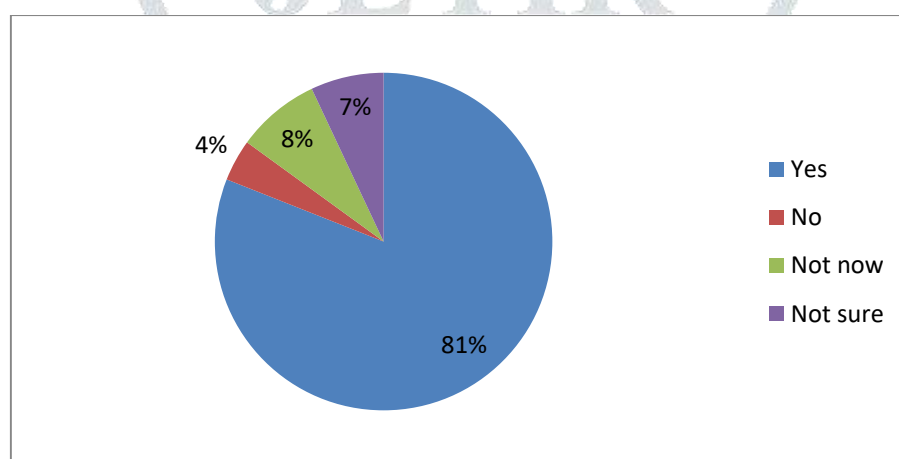
**Figure 11: AWARENESS ABOUT THE CRIMINALISATION OF MARITAL RAPE IN INDIA**

As per the above figure, only 53% of the people are aware that marital rape is criminalized in India, while according to 20% people it is not criminalized. And 27% of the respondents don't know the legal character of marital rape. Although people know that marital rape is criminalized but they might not be aware of its minute details as it do not provide protection to married women of age more than 18 years.



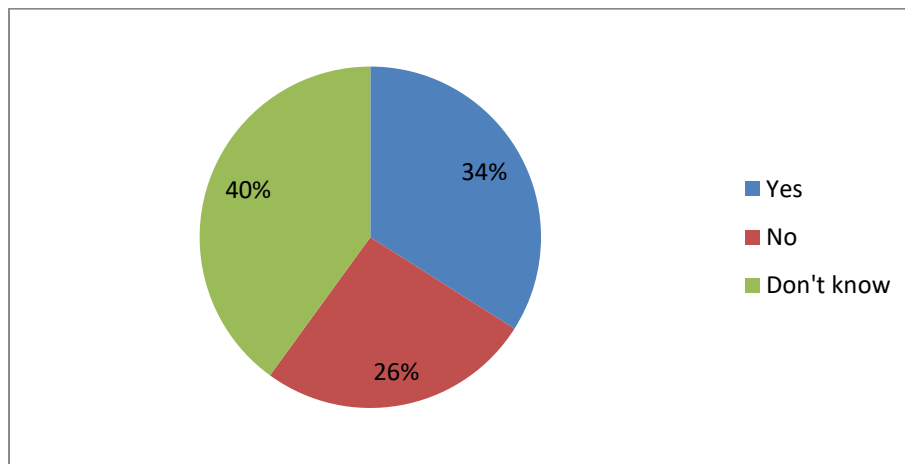
**Figure 12: WHETHER CONSENT OF WIFE IS IMPORTANT OR SHOULD BE TAKEN?**

As per the above pie-chart, 93% of the people consider taking wife's consent before sexual intercourse or any sexual activity as crucial and important, while 7% don't. Meaning of consent and its relevance in a marriage should not be questioned, as relationship status should be a reason for someone's misery and exploitation.



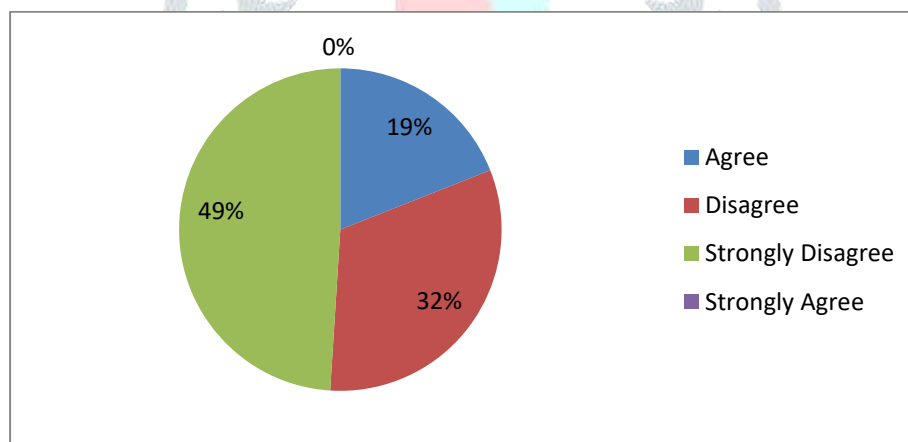
**Figure 13: SHOULD MARITAL RAPE BE A CRIME PUNISHABLE BY LAW?**

The response to this question unfolds the mindset of the educated youth and their potential marital responsibilities and duties. 81% of the respondents are of the view that marital rape should be punishable by law, whereas only 4% say that it shouldn't. 7% are not very sure how and when law should intervene in marital rape and 8% of the people think that this is not optimum time for criminalizing marital rape.



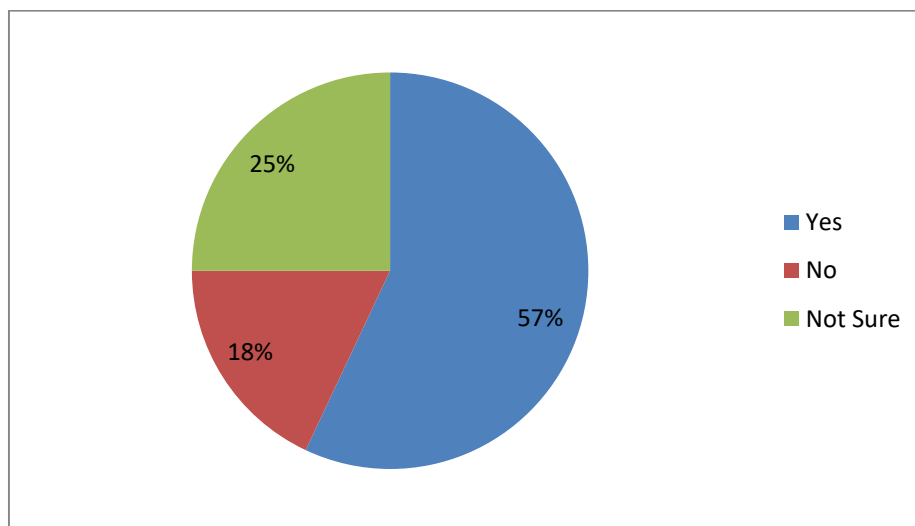
**Figure 14: IS THERE ANY LAW WHICH PUNISHED MARITAL RAPE?**

The above figure reflects that only 34% are aware that marital rape is punishable by law, whereas 26% of the respondents think that there is no law on regard of marital rape and 40% of the people don't know about the legality of marital rape. Lack of awareness and illiteracy is the reason given by the Union Minister Meneka Gandhi for non-criminalization. But by critically understanding another approach, it becomes clear that if people are unaware of any serious issue it should not be suppressed and neglected. Awareness programs should be conducted by government in collaboration with public as well as private sector for better administration of laws.



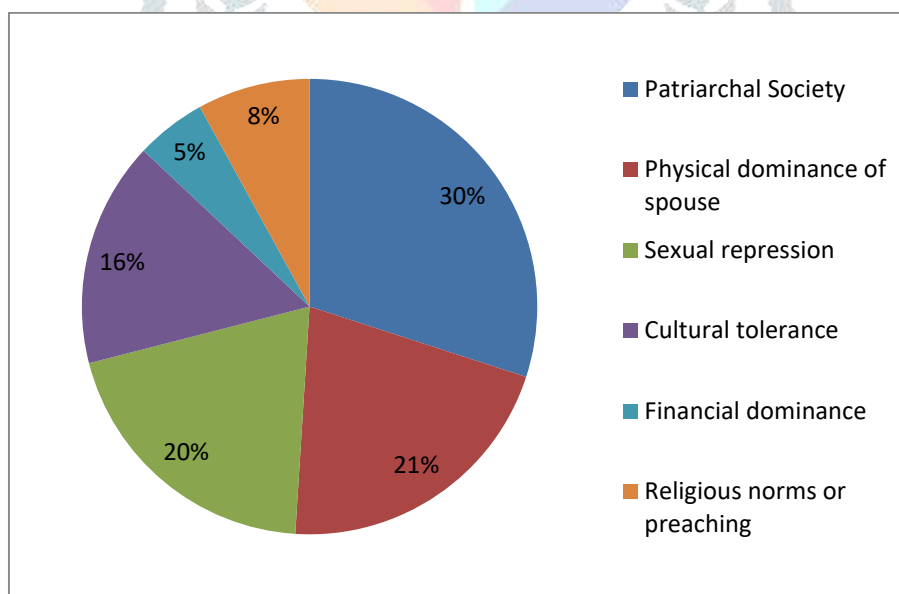
**Figure 15: IS IT CULTURALLY JUSTIFIABLE TO MAKE A FORCED SEXUAL RELATION WITH WIFE?**

The above figure elaborates on the view that no one strongly agree that it is culturally justifiable to have sexual relations with wife, only 19% agree with the justifiability and 32% disagree and 49% strongly disagree with the notion. It is depicted from this figure that 81% of the respondents are of the view that cultural notions and societal pressures does not approve the act of sexual violence by the spouse. This opinion is very appreciable as studies like this portray that Indian society is more than ready for criminalization of marital rape.



**Figure 16: CAN MARITAL RAPE BE A GROUND FOR DIVORCE?**

As per the above figure only 57% of the respondents are aware that marital rape is ground for divorce. According to 18% of the people marital rape cannot be a ground for divorce, and 25% are not sure. Majority of the respondents are of the belief that sexual violence by spouse should be ground for divorce. Also it is very essential to understand that marriage is not a compulsion, it should be willful union of two people where there is mutual love and respect for one another. Other than that marriages which are only being above to attain societal approval are nothing but a scam and demean the piousness of the institution of marriage.

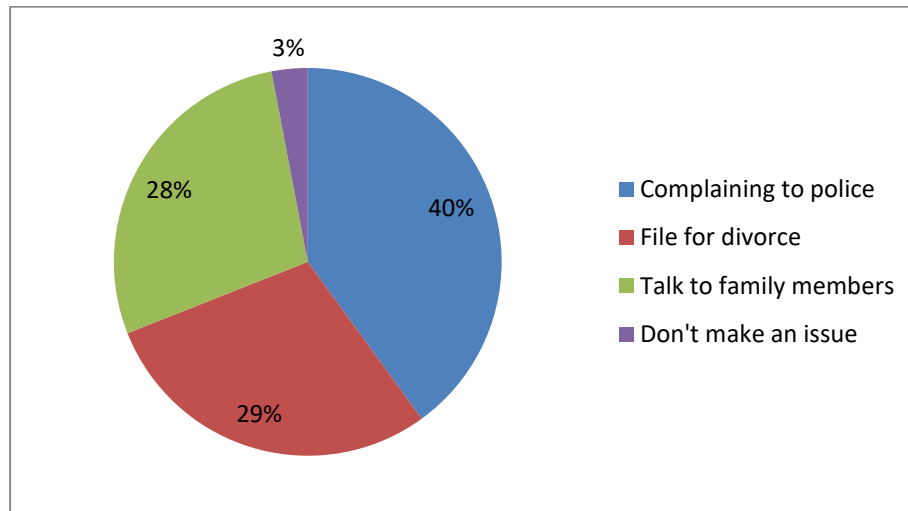


**Figure 17: WHAT IS THE MOST CONTRIBUTING FACTOR FOR MARITAL RAPE?**

As per the above figure 30% find patriarchal society as the most contributing factor, 21% think physical dominance of the spouse, 20% think sexual repression, 16% find cultural tolerance, 8% religious norms and preaching and 5% think financial dominance as the prominent factor for marital rape. The responses from this question is of a great importance as causes of marital rape should be studied at length so that some optimum solutions could be suggested, as every issue could be tackled especially socio-legal issues if its

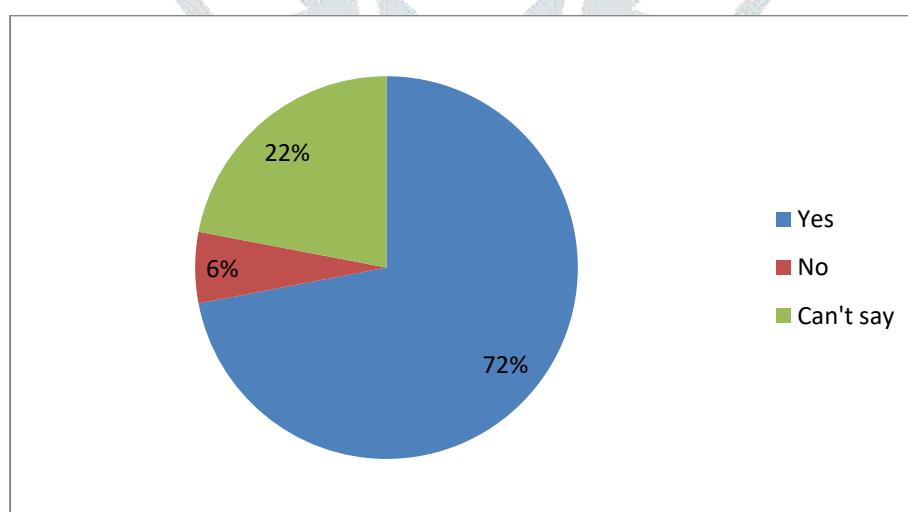


causes are understood and addressed very carefully. Independence of women from financial shackles could be table turning in the paradigm of marital relationship and its power struggle.



**Figure 18: WHAT SHOULD BE THE RECOURSE TO BE CHOSEN BY WIFE IN CASE OF MARITAL RAPE?**

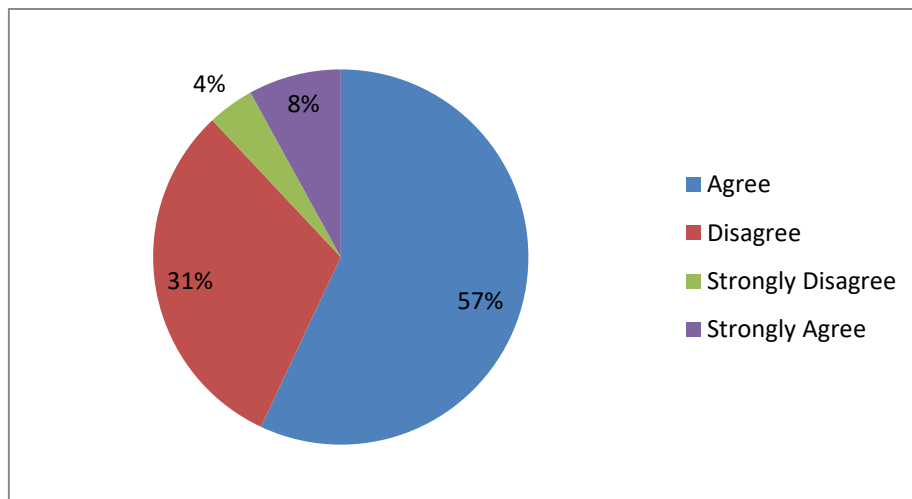
It is very essential to comprehend the behavior and thoughts of the people on the manner by which women should approach the problem of marital rape; because in India there are many laws to render protection to women but even though percentage of crime reporting, conviction rates and time period to conclude court cases are not very convincing and satisfactory. That's why it is clear that reporting to police and filing for divorce after being victim of such a sensitive crime does not come as a very viable solution as police reforms are another very serious issue in Indian criminal administration system. As per the above figure 40% think complaining to police is the appropriate step, 29% think that filing for divorce is optimum recourse, 28% think that talking to family members would be appropriate and 3% are of the view that one should not make issue about marital rape.



**Figure 19: SHOULD THERE BE ANY LAW TO CRIMINALIZE MARITAL RAPE BY PARLIAMENT?**

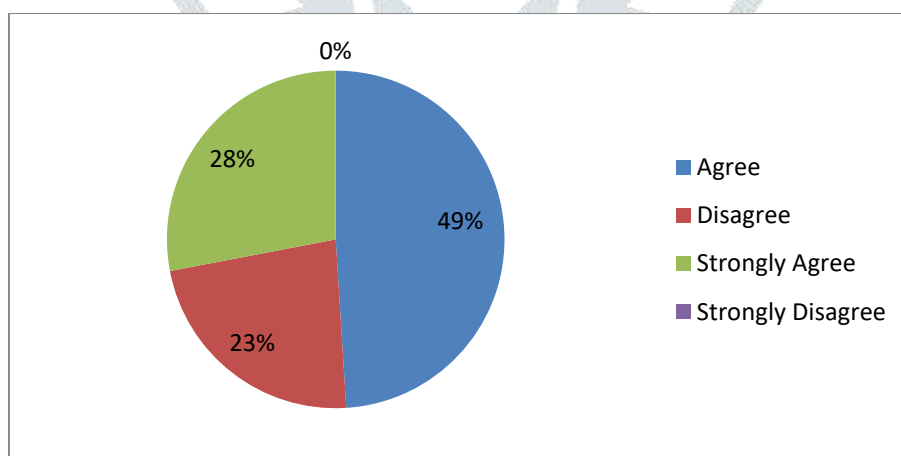
As per the above figure, 72% are of the view that there should be law framed on marital rape, 22% cannot form an appropriate response on it and 6% don't find necessary to laws made on marital rape by parliament. Parliament has been reluctant to address this issue for so long and the grounds they provide for it are

illiteracy, poverty and society not being mentally prepared to seek marital rape as a crime. But as per the figures of this pie-chart, it is very clear that only 2% of the respondents are of the view that it should not be criminalized. So, this clearly paints a picture of society being acceptable of reality and responsible towards the offences related to women.



**Figure 20: DO YOU THINK IF MARITAL RAPE GETS CRIMINALISED, DIVORCE RATE WOULD INCREASE?**

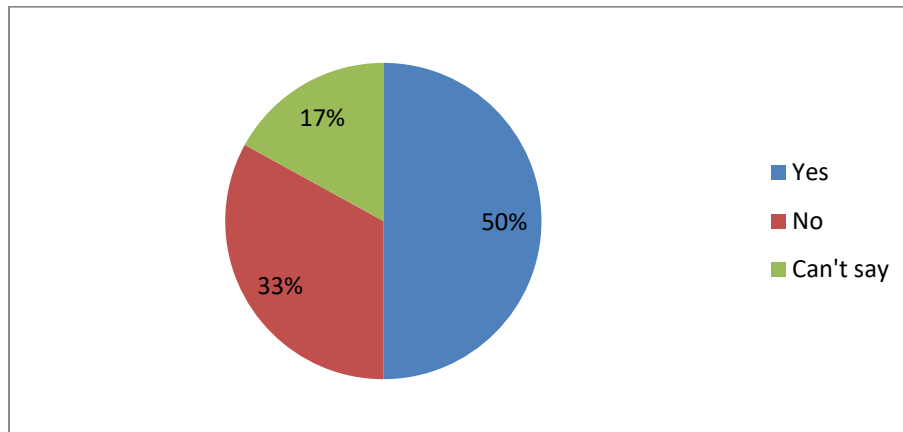
As per the pie-chart, 57% agrees, 31% disagree, 8% strongly agree and 4% strongly disagree on whether divorce rate would increase if marital rape gets criminalized in India. 61% of the respondents believe that marital rape would invoke increment in divorce rates whereas 39% don't. The very frequent concern shown by legislatures, judiciary and society in general that criminalization of marital rape would destroy the sanctity of marriage and challenge its very core. But the main concern should be the exploitation of one spouse by the other in the shadow of marital bond and not considering it as wrong and criminating.



**Figure 21: IS MARITAL RAPE A SERIOUS ISSUE FOR WOMEN?**

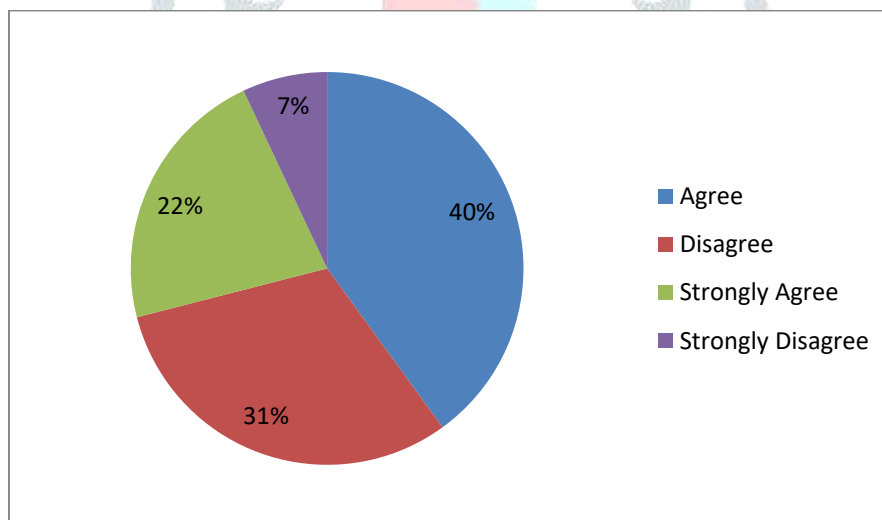
About 78% of the respondents believe that marital rape is a serious issue for women, this is very impressive that majority of people are not neglecting this matter and are not shying away from admitting its presence and seriousness in patriarchal Indian society. As per the above pie-chart, 49% of the respondents are of the

opinion that marital rape is a serious issue for women, 28% strongly agree on it while 23% disagree and none of the responses refer to strong disagreement.



**Figure 22: IS CRIMINALISING MARITAL RAPE AN ISSUE OF RIGHT TO PRIVACY?**

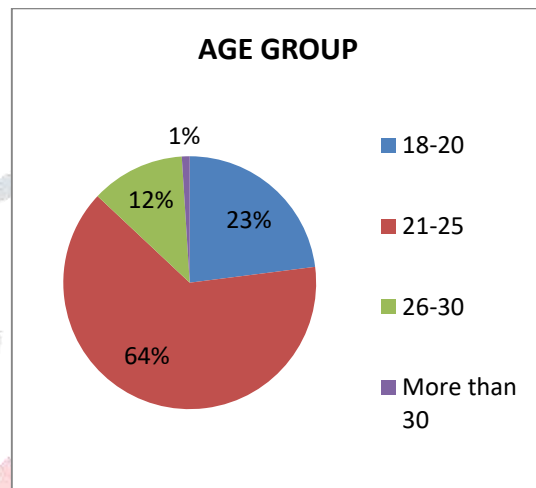
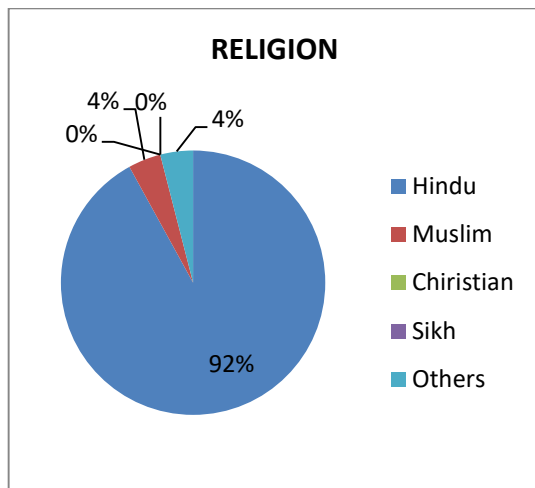
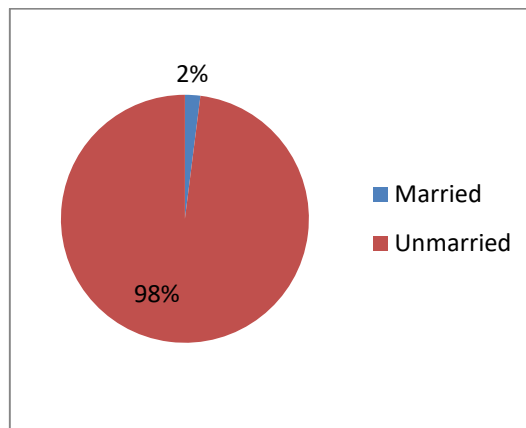
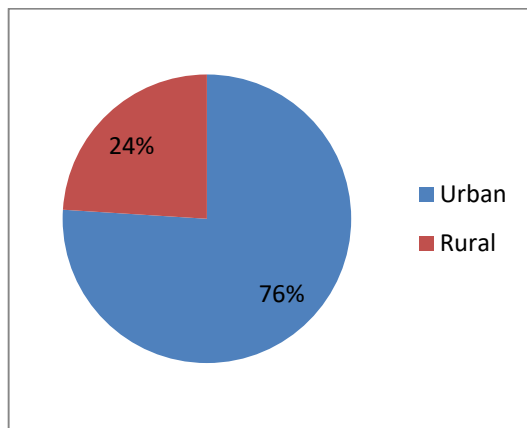
As per the above figure, 50% agree on the question that it would raise issue of right to privacy, 33% dissent from the notion and 17% chose to not provide definite answer and went with “can’t say”. The biggest obstruction in criminalization of marital rape is the question of it being proven in the court of law without taking away anyone’s fundamental right. But after critical analysis of substantive and procedural laws it doesn’t seem to be a problem to prove marital rape with evidences without any legal conundrum.



**Figure 23: IS IT AGAINST PRINCIPLE OF EQUALITY?**

As per the above figure, 40% are of the view that marital rape is against principle of equality, 31% say that it is not against the equality principle, 22% strongly agree with the question and 7% strongly disagree. It is very shocking that marital rape is not considered against equality principle by 38% of the respondents which include both men and women in equal proportions; because this imply towards the opinion that everything is acceptable in marriage may it be the sexual exploitation of the one’s spouse.

To understand better following data should also be given consideration-



Considering the data analyzed on per question basis and on the demography selected for research it is evident that people are aware of the phenomenon of the marital rape. Although the research is on marital rape, only 2 respondents are married and rest 98 respondents are unmarried. It should also be given consideration that the majority of respondents belong to urban area and only 24% of the people belong to rural area. As from the figure 18, only 8% gave the response of not making an issue when marital rape happens. Also in figure 21, 23% of the respondents are of the opinion that marital rape is not a very serious issue for women, as she has to live with him and he has the responsibility to be her better half and stand with her in thin and thick, this raises some concerns on the part of society.

## CONCLUSION AND SUGGESTIONS

Irrespective of the fact that women are treated as unequal and face a lot of problems in a marriage such as giving up their career, dowry demands, loss of self-respect and individuality and to top it all of the absence of liberty to even deny establishment sexual relation with husband, which could lead to sexually transmitted disease, unwanted pregnancy or any physical harm, recites the domination of society on the woman and not reciprocating the respect they deserve and let them live with dignity and integrity. Here legal authorities would be able to play significant their role much after the society accepts the issues women face due to marital rape. The following suggestions may be taken into consideration:

1. Complete penalization is not an appropriate answer for this problem due to two following issues:

- a) It would negate the legal protection given to married women of under age of 18 years and would give them the option to give consent for sexual relations to their husband even though they would not be legally competent to give consent. And child wives are required to be protected from any sexual relationship with their husband to avoid any physical and mental despair and not make them prone to what they are not prepared for.
  - b) Secondly, most of the wives do not want their husband to be jailed, they want to reconcile the marriage and be on better terms with their spouses, and complete penalization would not provide a chance for marriage to survive and would create a dent that won't be able to overlook in the relationship.
2. In spite of complete penalization, there could be 2 alternatives provided to the wife; firstly to either prosecute the husband for marital rape in criminal law or secondly, to either ask the court remedy the situation not by trying a case against the husband but to mandate couples' counselling which would psychologically help the husband and wife individually and as a couple to understand the reason for such act and start a fresh marriage which is free of any harm to either spouse.
  3. This is an offence against humanity much before it a women rights' issue.
  4. The place that marriage has as an institution cannot be undermined and it should be given importance but not at the cost of life and misery of an individual.

