

## MARITAL RAPE

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### ABSTRACT

Sexual violence is defined as the act of exposing someone to a sexual behaviour without one's consent. It includes a large spectrum of behaviours from touching to raping. The majority of the victims are women. Rape is the act of having sexual intercourse with a person without his/her consent. The concept of marital rape has been overlooked for years because of the ideology that promotes men have the right to treat their wives as they wish and the wife must provide her husband with all his needs. Today with the changes and developments in the concepts of marriage, the increase in the awareness of the society and the understanding of the notion of violence against women; it has been understood that sexual intercourse should be mutually desired by both parties of the married couple. Otherwise it should be considered as sexual assault/violence.

The aim of the article is to review the medical, social and legal aspects of marital rape, to present the current situation about marital rape both in Turkey and in the rest of the world, also to discuss how it could be prevented.

**Keywords:** Rape, women's rights, spouse abuse

### INTRODUCTION

The term "marital rape" is used to define the non-consensual sexual acts performed by the victim's spouse or ex-spouse.

This article is mainly based on the data about male sexual violence and marital rape against women.

Violence against women was commonly accepted as part of everyday life. In Ancient Roman Law; beating, divorce and murder were acknowledged as men's rights to punish the women who committed adultery (1).

The distinction between public (polis) and private (oikos) spaces is derived from the Ancient Greek words "Polis" (governing area of men) and "Oikos" (the household, the space of women and children). In the 17th century, this idea formed the basis for the concepts of public space (space open for legal arrangements) and private space (space independent of legal arrangements). In this way, the family became legally invisible and a centre of exemption from the law (2). With this point of view, it is made sure that women were the property of men and men were allowed to take advantage of women any way they want, also, physical or emotional violence

was legitimized.

Marital rape is one of the manifestations of domestic violence. Although it causes more damage than a sexual assault performed by others, marital rape was not a significant theme in literature until recently, related to the legal immunity of spouses in terms of rape crime (3).

It is a recently adopted idea that sexual intercourse should be mutually desired by both parties and otherwise it should be considered as rape. Legislative regulations according to this idea went in effect (4).

### Medical Aspect Of Marital Rape

A study conducted in a university hospital in Turkey between February and April 2009 showed that among 200 married women who visited the gynaecology clinic, 53% were at least once subjected to sexual violence by their spouses and 33% of those were in form of rape. The percentage of individuals who experienced a type of sexual dysfunction was 82% and most of the individuals who experienced sexual dysfunctions claimed that they were exposed to sexual violence (94.3%) (5).

It is reported that women who have to face their offender experience psychological problems such as anger,

depression, fear and loss of sexual desire (6). A study performed by Campbell demonstrated that some symptoms, which can also be observed in never abused women were more common in abused women. Abused women were more likely to have headaches (37%), fainting spells (133%), back pain (60%), sexually transmitted diseases (200%), vaginal bleeding (183%), vaginal infections (45%), pelvic pain (89%), painful intercourse (86%), urinary tract infections (83%), appetite loss (200%), abdominal pain (100%), digestive problems (84%) (7).

Aside from physical symptoms, emotional and psychological problems are also very common in this group. Nightmares, insecurity, persistent fears are identified as other psychological damages in women that result from the marital rape. Numerous studies have found that marital rape is associated with posttraumatic stress disorder (8, 9).

It is known that victims who had experienced marital rape can also suffer from fatigue and vomiting accompanying lacerations, abrasions, ecchymosis, soft tissue injuries, bruises, muscle strains. Other types of abuse usually accompany marital rape. Signs such as bone fractures, black eyes, nasal bleeding and stab wounds can be the results of rape (9, 10). Suicide and homicide consist the most serious results of marital rape and it can lead to death of women (9).

### ***Social Aspect Of Marital Rape***

One of the aspects of marital rape that resembles other types of domestic violence is its recurrent feature. Women who were forced to marital intercourse repeatedly experience the same situation. Whereas repeated rape makes marriage unbearable for women, the percentage of sexual abuse victims who report the abuse to judicial authorities is very low. A study conducted in Colorado indicated that only 25% of women who were subjected to spousal abuse reported that to the police (11). This situation is mainly related to the victim's fear of the offender near her or of her family, considering the victimisation as a topic of privacy that cannot be shared with anyone, the physical and psychological difficulties during the medical and judicial proceedings, which they cannot dare to face. The lack of sufficient knowledge about domestic sexual violence in our society or not considering these behaviours as violence, thinking sexual assault in a marriage is a normal thing can prevent sexual abuse cases from being submitted to the court (12).

### ***Forensic Medical Aspect Of Marital Rape***

The forensic medical evaluation of the cases submitted to the court can cause great difficulties for the doctor if a long time has passed after the incident or there is no accompanying physical violence. As in other sexual assault cases, detecting the physical and psychological damages, documenting the evidences are among the most important duties of the doctor (13).

Sexual assault victims should be told that the offender could be proven guilty if they give their consent for the necessary examinations, photographs could be taken if necessary and those photographs could be used as evidences at the court. If the victims are not aware of the principle of confidentiality between them and the doctor, they can behave defensively and keep evidential information to themselves and/or be deprived of the information they need about finding help (14).

### ***Legal Aspect Of Marital Rape***

Even though some countries still permit husbands to rape their wives with little or no consequence, there is a growing trend that marital exemption is unjust and has no place in a civilised society. However, being aware that it is a mistake to make a distinction about marital and non-marital rape is only the first step to prevent this condition.

Lawyers should take measures in order to equalize the treatment of marital and non-marital rape. Some countries have already been host to the abolition of marital immunity, but this may not be the most effective method. As the experiences in England and Canada indicate, removing marital exemption is one of the several factors that can lead to an effective change. A alignment with societal morals, thorough and thoughtful consideration of the issues, legitimacy in the eyes of the citizens can be counted among these factors. After reviewing the effectiveness of approaches, an even better method would rely on equal protection provisions found in state constitutions and international treaties (15).

There has been a very slow progression about marital rape in our country since 1st June 2005, the date when the New Turkish Penal Code took effect (16). The main problem here is that there is no pursuance by the bar associations concerning in what extent marital rape cases go to the court.

Although the issue is discussed over some cases that went to the court, these discussions and its results are not tracked or documented. For this reason, there is no sufficient data about the current definition of the crime of marital rape and its penalty.

### ***Marital Rape In Turkey And In The World***

Some studies show that marital rape is much more common than estimated, regardless of race, language or religion. As the article discussed in the section "Medical Aspect of Marital Rape" demonstrates, among 200 women 53% were at least once subjected to sexual violence by their spouses and 33% of those were in form of rape (5).

This rate is lower in developed countries and much higher especially in Asian and African countries. A study conducted in Nepal in 2006-2007 demonstrated that approximately 74% of women were forced to sexual intercourse (17).

In a study conducted in Karachi, Pakistan between 1st June and 31st August 2007, data recruited from two teaching hospitals indicated that among 304 women between the ages 15-48, 52.5% were exposed to marital violence and 23% stated that they were subjected to marital rape (18).

A study carried out in the same years in Uttar Pradesh - India, exposure to marital violence in recently married women was analysed. A significant increase in the exposure to physical, emotional and most importantly, sexual violence was found in women who were admitted to the hospital with a sexually transmitted disease in the last 12 years (19).

As a result of the study carried out with 580 females in the University Community of Benin, 414 questionnaires were sufficiently completed and it was shown that 76 (18.4%) of the participants were victims of non-consensual sex and 36 of those were in their current relationship (20).

In a survey in United States of America, women who were exposed to marital rape indicated that only 17% of the cases were limited to a one-time rape, 8% of the women were raped twice, 15% three to ten times, 5% eleven to twelve times, 55% more than twenty times in the same marriage (21).

### **CONCLUSION**

Marital rape is an issue that persists since ancient ages but remained in the background of domestic violence. It became evident with the increase in civilisation.

The victims of marital sexual abuse demonstrate medical and psychological problems following the incident. Among these problems are vaginal and anal injuries, vaginal infections, lacerations, urinary tract infections and pelvic pain. Nightmares, distrust, persistent fears, depression and posttraumatic stress disorder are among the psychological problems.

In legal field, active studies have been conducted in the last century. The privacy of the issue, the small number of complaints, unsettled legislations led this subject to be one of today's important problems.

Marital rape is still being ignored or considered normal in some societies, which can discourage the victims to report the assault. The majority of the victims are women. Victims usually do not report the incident because of their shame or dread of their spouses and acquaintances. In order to prevent such cases, the awareness of the victims should be raised so that they comprehend that they are not guilty and marital sexual abuse is a crime. The protection of the victims and to sentence the perpetrators is important in terms of serving as an example.

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**Informed Consent:** Written informed consent was obtained from the participants of this study.

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