

Government mulling criminalising marital rape



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Section 375 of the Indian Penal Code (IPC) states that sexual intercourse by any man with his wife is not rape, except in cases where the woman is under 15 years of age.

The minister of women and child development (WCD) on Tuesday indicated that the government may be rethinking its stand on marital rape. Talking to reporters in an event where she announced the extension of the Beti Bachao, Beti Padhao to 61 more districts, union WCD minister Maneka Gandhi said that if the ministry has enough evidence, it will take up the issue.

This is a retraction of her stand a month ago, when she told that Rajya Sabha that the concept of marital rape cannot be applied in the Indian context due to various issues. Currently, only violence with a marriage in India is recognised by the law, as per the The Domestic Violence Act (2005). Even under this, the violence is not criminalised.

Section 375 of the Indian Penal Code (IPC) states that sexual intercourse by any man with his wife is not rape, except in cases where the woman is under 15 years of age. The 2013 Criminal Law (Amendment) Act which made changes in legislation to deal with sexual violence, did not mention marital rape, despite the recommendations of the Justice Verma Committee. A official in the WCD ministry said that at the moment the ministry does not have much scope to deal with existing laws. "The matter was taken up by the ministry of home affairs to the law commission over a year ago. The law commission rejected it citing that the Indian legislature has certain provisions and that we don't need an amendment," said the official.

"The matter is a legal issue and we cannot do much with the existing situation," the ministry official said, adding that a new law, however, cannot be ruled out.

Colin Gonsalves of the Human Rights Law Network (HRLN) had taken up the matter to the Supreme Court via a petition in February last year in the case of a woman who was raped by her husband. He had to withdraw it later as the SC was not willing to entertain an individual case to decide on the issue. Gonsalves says that there are several incidents that have been documented, and all that the government needs to do is act.

"There are innumerable reports and incidents, and adequate material to talk about the extent of the problem. The minister ought to know that," said Gonsalves. "The simple solution is to remove the exception under section 375 of the IPC. The government needs political will, and needs to stop flip-floping and do the right thing."

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