



**LICENCE TO RAPE; ANALYSIS OF THE DEFINITION
AND THE NEED TO CRIMINALIZE MARITAL RAPE IN
SRI LANKA**

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The current legal regime in Sri Lanka addressing rape only provides a very narrow definition of rape. The wife is only protected from marital rape if she obtains a judicial separation. This provides the spouse with the weapon of 'marriage certificate' to use as a protection from any future conviction of rape. This 'license' provided by law, acts contrary to the laws of international laws and even the Constitution of Sri Lanka.

The research looks at the perceptions of those in the legal profession regarding the criminalizing of marital rape, providing this research its quantitative aspect. The research which mainly utilizes a qualitative approach, also probes into how Sri Lankan courts have dealt with situations of marital rape (in reported cases) and what are the international obligations Sri Lankan Legislature has, in criminalizing marital rape. Furthermore, the research looks into the available remedies and its inadequacies of dealing with the victims of marital rape. most importantly this research analyses how the two main elements of the crime of marital rape will be defined in relation to the intimate nature of the rape which takes place within the marital sphere and the practical difficulties in defining such terms in relation to it. The research also delves into the consequences of marital rape and the areas which need contemplation before the act is criminalized.

The need for the proper definition is analysed in this research through examining and comparing the countries in which the act has been criminalized and the law in countries like Canada and United Kingdom are analysed to see the extent to which the criminalized law has been utilized.

KEYWORDS

Marital rape, Penal Code, Criminalization, judicial separation, spouse