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RESTITUTION OF CONJUGAL RIGHTS VIS-À-VIS MARITAL RAPE: A CONSTITUTIONAL CRITIQUE

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Introduction

Marriage in India has traditionally been regarded as a sacred and enduring institution, deeply rooted in custom, religion, and social consciousness. It is not merely a contract between two individuals but a social and spiritual bond symbolizing the union of two lives. Indian marriage, across various personal laws, represents a synthesis of tradition, faith, emotion, and rationality. The sanctity of this institution lies in its dual character; it functions both as a personal relationship and as a cornerstone of social order and moral discipline.

The Indian conception of marriage is anchored not only in interpersonal affection but also in social obligation. It involves sharing all aspects of life, joy, sorrow, and responsibility, thereby reinforcing harmony within the family and the larger community. From ancient times, marriage has served as a bridge between material and spiritual fulfilment, aiming to balance human desires with the larger ethical goals of society. The institution has evolved through the conscious and deliberate efforts of people, reflecting societal progression and the enduring need for stability and continuity.¹

The social relevance of marriage extends beyond the private sphere. It is viewed as fundamental to the preservation of moral and ethical values and considered essential for the proper functioning of society. Every civilised society upholds marriage because it establishes recognized partnerships between individuals, thereby discouraging social disorder and ensuring legitimate familial structures. In the Indian context, marriage is not only an emotional association but a spiritual tool for personal growth and fulfilment, promoting mutual respect and cooperation between spouses.

Under personal laws in India, marriage imposes both moral and legal obligations on the

¹ David Lutz, 'The Institution of Marriage and the Virtuous Society' *available at*: <https://ifstudies.org/blog/the-institution-of-marriage-and-the-virtuous-society> (Last visited Jan 2, 2026)

partners. Cohabitation and mutual companionship form the foundation of these duties. Each spouse is entitled to the other's comfort, support, and company, a right legally recognized under matrimonial law. When one spouse withdraws from the company or society of the other without reasonable cause, the aggrieved party may invoke a legal remedy known as Restitution of Conjugal Rights (RCR). This provision allows a spouse to seek a court order compelling the other to resume cohabitation.

The doctrine of RCR is premised on the belief that marriage entails mutual obligations that both parties are bound to fulfil. However, the application of this remedy has sparked significant legal and ethical debate. Critics argue that enforcement of cohabitation through judicial decree undermines the principles of personal autonomy and equality in marriage. It has often been observed that women are disproportionately affected by such decrees, as the burden of compliance and social pressure typically fall upon them. Additionally, the potential misuse of this provision by one spouse to exert control or coercion over the other raises serious concerns.

A crucial question that emerges in modern jurisprudence is whether the restitution of conjugal rights serves the true purpose of marriage or contravenes fundamental rights guaranteed under the Constitution. The debate extends to whether compelling physical association under the guise of marital obligation infringes upon an individual's right to privacy, dignity, and bodily autonomy. Many scholars link the enforcement of RCR to a heightened risk of acts resembling marital rape, as the decree may indirectly coerce physical relations without genuine consent.

While marriage remains a revered social institution, its preservation cannot justify the subordination of individual rights. The evolution of Indian matrimonial law must therefore reconcile the sanctity of marriage with the constitutional mandate of equality and personal liberty. The balance must shift from enforcing cohabitation to promoting mutual respect and consent within the marital bond. Ultimately, the legitimacy of the institution of marriage lies not in compulsion but in companionship based on equality, understanding, and voluntary union.

Review of Literature

1. Raj Kumari Agarwala, in *“Restitution of Conjugal Rights Under Hindu Law: A Plea for the Abolition of the Remedy”*,² critically examined the *Hindu Marriage Act, 1950* and proposed reconciliation as an alternative to restitution but did not assess its role in sustaining marriage or compare it across personal laws.
2. Aditya Shroff and Nicole Menezes, in *“Marital Rape as a Socio-Economic Offence: A Concept or a Misnomer!”*,³ discussed marital rape from a cultural viewpoint but overlooked its link with restitution of conjugal rights.
3. Aarushi Nayar, in *“Restitution of Conjugal Rights – Preserving a Sacrament or Creating a Liability”*, supported irrevocable breakdown of marriage as a valid ground for divorce but did not address IPC loopholes or cultural context.
4. Jill Elaine Hasday, in *“Contest and Consent: A Legal History of Marital Rape”*, analysed marital rape historically and globally but did not relate it to restitution of conjugal rights.
5. Shalu Nigam, in *“The Social and Legal Paradox Relating to Marital Rape in India”*, urged legislative reform on marital rape but ignored its connection with restitution of conjugal rights.

Existing literature examines restitution of conjugal rights doctrinally but neglects comprehensive comparative analysis across Indian personal laws and common law jurisdictions, alongside its interplay with marital rape non-criminalisation, a pressing contemporary issue. This study addresses these gaps by holistically assessing the provision's constitutionality in light of the marital rape exception under BNS s. 63.

Scope of the Study

This study confines its scope to analysing gender disparities arising from the restitution of conjugal rights provision under various personal laws (such as Section 9 of the Hindu Marriage Act, 1955, and analogous provisions in other statutes) and its implications for the non-criminalisation of marital rape. It specifically examines whether enforcing cohabitation through this civil remedy undermines women's bodily autonomy and constitutionally protected rights under Articles 14, 15, 19, and 21, while indirectly perpetuating the marital rape exception

² available at: <https://www.jstor.org/stable/43950070?read-now=1&seq=2> *Journal of the Indian Law Institute* 1 (1970).

³ available at: <http://docs.manupatra.in/newslines/articles/Upload/1D554865-344B-4864-B5CA-3CF8AAB563C9.pdf> (Last Modified October 8, 2021)

under Exception 2 to Section 375 of the Indian Penal Code, 1860, and its successor provision in Section 63 (Exception 2) of the Bharatiya Nyaya Sanhita, 2023. The analysis excludes broader matrimonial remedies like divorce or maintenance, focusing solely on the doctrinal and constitutional validity of restitution vis-à-vis marital rape.

Objectives

1. To draw the historical background, origin and development of the concept of Restitution of Conjugal Rights
2. To analyse the legislative response of Restitution of Conjugal Rights in relation to Marital Rape
3. To compare the position in other common law countries
4. To evaluate the role of judiciary in determining the constitutionality of Restitution of Conjugal Rights

Hypothesis

The existence of Restitution of Conjugal Rights as a remedy for the parties to the marriage causes gender disparity towards the wives resulting in violation of right to privacy, right to live with human dignity and right to choose of an individual.

Research questions

1. What is the Constitutionality of Restitution of Conjugal Rights? Is the practice constitutionally invalid? The researcher seeks the answer to this question by analysing various judicial holdings in this regard.
2. Does the existence of Restitution of Conjugal Rights create a legal sanction for Marital Rape in Indian laws? If yes, what is the remedy for a married woman if she is subject to non-consensual sexual favours by her husband?
3. Does the recognition of the Restitution of Conjugal Rights violate the fundamental rights of a person? Also, does it breach the Right to Privacy of an individual?

Research Methodology

The method of this study is doctrinal. This project consists of 'doctrinal, analytical and historical' method of research as the predominant method for study. The researcher conducted the study by applying the critical and comparative study by collecting the data as secondary

source of information.

Historical Evolution of Restitution of Conjugal Rights

The legal mechanism for restitution of conjugal rights began as an ancient common law principle rooted in Roman civil unions of the Twelve Tables era (circa 450 BCE), where wives in *cum manu* marriages fell under full spousal control and faced compelled return upon separation. Jewish traditions amplified this by positioning wives as marital property, denying them cohabitation refusal without penalty.

In medieval England, church tribunals integrated it into canon law, mandating spousal reunion through penalties like banishment or jail, based on the doctrine of marital oneness. The UK ended it in 1970 under the Matrimonial Proceedings Act (Section 20), prompted by a 1969 commission report decrying its failure to foster harmony and assault on personal liberty.

India inherited it during colonial rule, absent from native Hindu scriptures (which stressed voluntary fidelity) or Islamic texts. Courts imposed it via justice principles: Privy Council hesitated (*Moonshee Buzloor Ruheem v. Shamsoonissa Begum*⁴) but Bombay High Court endorsed for Hindus (*Dadaji v. Rukmabai*⁵; *Binda v. Kaunsilya*⁶). Bars included cruelty or desertion (*Kondal Rayal V. Ranganayaki*)⁷. Post-1947 codification embedded it: Hindu Marriage Act s. 9; Indian Divorce Act s. 32 (Christians); Parsi Act s. 36; Special Marriage Act s. 22 (Muslims judicially). This foreign implant endures, inviting scrutiny against India's dignity and privacy protections.

Conceptual framework

The relationship between women's status and matrimonial remedies demands careful analysis. Until women are fully informed about their legal rights and entitlements, even the most progressive remedies remain ineffective. This research situates itself within the discourse on women's standing in society, examining the historical development of matrimonial remedies, the influence of religious ideologies, notions of marital stability, and their justification under various personal laws in India.

⁴ (1867) XI M.I.A.P. 531.

⁵ (1886) I.L.R. 10 Bom. 301.

⁶ (1891) 13. All. 126

⁷ (1923) 46 Mad. 791

The study further explores how these frameworks affect the rights of spouses, particularly in the context of fundamental rights such as equality, privacy, dignity, autonomy, and free will. The concept of the matrimonial home must be understood against changing social realities, where women increasingly assert independent identities and participate as equal partners within marriage. Marriage today is no longer viewed as a singular, male-dominated institution but as a partnership based on mutual responsibility and respect.⁸

Marriage, across legal systems, entails reciprocal rights and duties, each spouse is entitled to the other's companionship, comfort, and consortium. When one spouse unilaterally withdraws from cohabitation without reasonable cause, the other may seek judicial intervention through the restitution of conjugal rights. Yet, this legal remedy raises crucial constitutional and ethical questions when examined vis-à-vis the right against marital rape. The core issue lies in whether compelling cohabitation infringes upon a woman's bodily autonomy, dignity, and freedom of choice, thereby conflicting with her constitutionally protected right to live with dignity and make independent decisions regarding her body and privacy.⁹

The remedy of restitution of conjugal rights is governed by statutory provisions across India's personal laws, though notably under Muslim personal law, it was directly adopted from British common law and applied in accordance with principles of justice, equity, and good conscience. This raises critical questions about the constitutional validity of such provisions when they intersect with fundamental rights, particularly since restitution forms part of personal law frameworks. The landmark decision in *State of Bombay v. Narasu Appa Mali*¹⁰ clarified that personal laws are not exempt from Article 13 scrutiny, thereby requiring them to withstand fundamental rights tests to remain legally enforceable.

Restitution of Conjugal Rights: A Constitutional Critique

The remedy of Restitution of Conjugal Rights (RCR), while appearing gender-neutral on the surface, creates a "vener of equality" that ignores the harsh socio-legal realities women face in India. While the law is technically available to both spouses, the impact of a decree is

⁸ Preet Singh, 'Restitution of conjugal rights A comparative study' available at: <http://hdl.handle.net/10603/129388> (Last Modified December 31, 2012)

⁹ Paluck Sharma, 'Restitution of Conjugal Right: A Comparative Study Among Indian Personal Laws', available at: <https://www.indianbarassociation.org/restitution-of-conjugal-right-a-comparative-study-among-indian-personal-laws/> (Last Visited on January 1, 2026)

¹⁰ AIR 1952 Bom 84

inherently lopsided.

The judicial debate over Section 9 of the Hindu Marriage Act centres on the tension between "marital sanctity" and individual autonomy. India's judiciary, acting as the guardian of the Constitution, ensures legislative actions respect fundamental rights through the principle of separation of powers. However, the Restitution of Conjugal Rights (RCR) remains a controversial remnant of colonial law, as evidenced by a series of conflicting landmark judgments.

The first major constitutional strike against RCR occurred in *T. Sareetha v. Venkata Subbiah*¹¹, where the Andhra Pradesh High Court declared Section 9 unconstitutional. Justice P.A. Choudary branded the remedy "barbaric," ruling that forcing cohabitation violates the right to privacy and dignity under Article 21. Crucially, the court recognized that such decrees rob women of reproductive autonomy, as state-mandated cohabitation inevitably leads to forced sexual intimacy, shifting private decisions from the individual to the State.

This view was rejected by the Delhi High Court in *Harvinder Kaur v. Harmander Singh*¹² where Justice Rohatgi argued that marriage is a "moral cement" involving fellowship rather than just sex. He contended that constitutional law should not enter the domestic sphere, viewing the decree as a "litmus test" for reconciliation. The Supreme Court eventually affirmed this in *Saroj Rani v. Sudarshan Kumar*¹³ ruling that RCR serves a "social purpose" by preventing divorce. The Court held that conjugal rights are inherent in the sanctity of marriage and that the law provides sufficient safeguards to prevent tyranny.

As observed in *T. Sareetha*¹⁴ a restitution decree can act as an "engine of oppression" against the wife. Because a woman's life pattern is often irrevocably altered by forced cohabitation, including the risk of forced conception, the remedy frequently serves as a tool to hamper a woman's autonomy while leaving the husband's life largely unchanged.

¹¹ AIR 1983 AP 356

¹² AIR 1984 Delhi, 66

¹³ AIR 1984 SC 1562

¹⁴ Supra note 11

The Privacy Conundrum and Article 21

The most significant challenge to RCR lies in the evolving jurisprudence of Article 21. Historically, cases like *Saroj Rani*¹⁵ upheld the remedy, viewing it as a way to preserve the "sanctity" of marriage. However, the landmark nine-judge bench decision in *K.S. Puttaswamy v. Union of India*¹⁶ has fundamentally shifted this landscape by cementing privacy as a fundamental right.

Privacy is no longer just a spatial concept tied to the "home"; it is an issue of decisional autonomy and bodily privacy. Forcing an individual to share their life and body with another against their will is a gross violation of human dignity. This shift was further reinforced in *Joseph Shine v. Union of India*,¹⁷ where the Court clarified that family spaces are not exempt from constitutional scrutiny when individual rights are at stake.¹⁸

Infringement of Fundamental Freedoms

RCR also creates a direct friction with the freedoms guaranteed under Article 19. The decree often forces individuals into associations they wish to sever, violating the Freedom of Association [19(1)(c)], as seen in *Huhhram v. Misri Bai*.¹⁹ Furthermore, it poses a threat to the Freedom of Profession [19(1)(g)]. A stark example is found in *Shrimati Tirath Kaur v. Kripal Singh*²⁰ where the court ordered a woman to resign from her job to live with her husband. Such applications of the law effectively dismantle a woman's financial independence and her right to work wherever she chooses.

Forced Labour and Essential Practices

From a socio-legal perspective, an RCR decree borders on a violation of Article 23, which prohibits "begar" and forced labour. By compelling a spouse to perform domestic duties and provide sexual intimacy against their will, the State essentially treats the individual as a "joyless vessel" for another's gratification. This element of compulsion remains even if the decree is only enforced through financial penalties.

¹⁵ Supra note 13

¹⁶ (2018) 1 SCC 908.

¹⁷ (2019) 3 SCC 39.

¹⁸ [Anik Bhaduri](https://ohrh.law.ox.ac.uk/the-restitution-of-conjugal-rights-in-indian-law-violates-the-right-to-privacy/), 'The Restitution of Conjugal Rights in Indian Law violates the Right to Privacy' available at: <https://ohrh.law.ox.ac.uk/the-restitution-of-conjugal-rights-in-indian-law-violates-the-right-to-privacy/> (Last Modified on July 30, 2018)

¹⁹ AIR 1979 MP 144

²⁰ AIR 1964 Punjab 28

Finally, the defense of "Personal Law" is no longer a shield against constitutional validity. Following the Triple Talaq verdict in *Shayara Bano v. Union of India*²¹ it is clear that if a practice violates fundamental rights and is not an "essential religious practice," it must bow to the Constitution. The pending petition in *Ojaswa Pathak v. Union of India*²² represents the final frontier in this debate, seeking to strike down these "caveman remedies" to ensure that matrimonial laws align with modern constitutional morality.

Analysis of *Farhan vs State & Anr*²³

In the landmark case of *Farhan vs State & Anr*²⁴, the Delhi High Court addressed the constitutional validity of Exception 2 to Section 375 of the Indian Penal Code, which immunizes husbands from being charged with the rape of their adult wives. Justice Rajiv Shakdher, delivering a robust critique of the Marital Rape Exception (MRE), argued that this provision is "egregiously problematic" as it strips a woman of her agency and the right to withdraw consent, a right he termed the very core of personal liberty. Shakdher J rejected the idea that striking down the exception would create a "new offence," asserting instead that the law would simply apply the existing definition of rape to all perpetrators, regardless of their marital status. He emphasized that criminal law should be act-oriented rather than status-oriented, noting that the MRE fails the test of reasonable classification and non-arbitrariness under Article 14 as established in *E.P. Royappa v. State of Tamil Nadu*.²⁵ From this perspective, forced sex within marriage is not a "marital right" but a violation of bodily integrity and human dignity protected under Article 21.

Conversely, Justice C. Hari Shankar offered a dissenting opinion, maintaining that the MRE is not unconstitutional. He argued that the exception is founded on an "acceptable disparity," suggesting that the "outrage" associated with a stranger's assault is not equivalent to non-consensual sex within a marriage. His judgment relied heavily on the traditional notion of marriage as a "sacrosanct" institution where there exists a "legitimate expectation of sex." This view posits that criminalizing marital rape would be fundamentally at odds with the institution of marriage as historically understood in India. This judicial split reflects the deep-seated tension between "dry ideas" of marital privacy and the modern constitutional imperative of

²¹ AIR 2017 9 SCC 1 (SC)

²² W.P. (C) No. 250 of 2019.

²³ W.P.(C) 284/2015 & CM Nos.54525-26/2018 (12th May 2022)

²⁴ *ibid*

²⁵ 1974 AIR 555, 1974 SCR (2) 348

individual liberty and dignity, as previously explored in cases like *State of Karnataka vs. Krishnappa*²⁶, which recognized non-consensual sexual contact as an invasion of privacy.

Restitution of Conjugal Rights – A Legal Sanction to Marital Rape?

The remedy of Restitution of Conjugal Rights (RCR) under Section 9 of the Hindu Marriage Act often serves as a silent facilitator for non-consensual intimacy. While the law technically orders cohabitation and not sexual intercourse, the two are practically inseparable in the domestic sphere. Even though the decree cannot be physically enforced, the Civil Procedure Code (Order XXI Rule 32) allows for the attachment of property as a penalty for non-compliance. This creates a "noose-like" pressure on women, forcing them back into potentially abusive environments. Consequently, RCR frequently operates as a tool of intimidation, utilized by husbands to limit a wife's autonomy, particularly her right to seek employment away from the matrimonial home. As seen in *Shrimati Tirath Kaur v. Kripal Singh*,²⁷ such provisions often make a woman's professional aspirations dependent on her husband's "permission," further entrenching gender-based disparities.²⁸

The existence of RCR creates a horrifying reality where a woman's right to sexual agency is subordinated to the "sanctity" of the marital bond. When a woman is forced to cohabit under a court order, she loses her practical ability to refuse sexual engagement without facing severe social or financial repercussions. This effectively provides a legal shield for marital rape, as the law fails to recognize the violence of forced intimacy within the home. As long as RCR remains a valid legal remedy, the efforts to criminalize marital rape will be hindered by a contradictory logic that empowers the State to force spouses into a shared domestic life. True constitutional morality, as envisioned in *Maneka Gandhi v. Union of India*,²⁹ requires that the right to live with dignity outweighs the traditional "right to sex," ensuring that no woman is treated as a joyless vessel for her husband's gratification.

²⁶ ILR 1994 KAR 89, 1993 (4) KarLJ 680

²⁷ AIR 1964 Punjab 28

²⁸ Akshita Grover, 'Are courts legalising marital rape through restitution of conjugal rights?' available at: <https://nickledanddimed.com/2022/05/19/there-is-a-law-that-can-enforce-spouses-to-live-together-heres-why-it-needs-to-be-changed/> (Last Modified on [May 19, 2022](#))

²⁹ AIR 1978 SC 597; (1978) 1 SCC 248

Global Perspectives: The Decline of Restitution of Conjugal Rights in Common Law

The global trajectory of the remedy of Restitution of Conjugal Rights (RCR) reveals a steady transition from a property-based view of marriage to one centered on individual autonomy. Originally rooted in ancient ecclesiastical law, the remedy allowed English courts to compel cohabitation through the threat of excommunication or even imprisonment, as seen in the Ecclesiastical Courts Act of 1813. However, as the common law evolved, the harshness of these penalties was mitigated. The Matrimonial Causes Act 1884 replaced jail time with "statutory desertion," but it was not until the Law Commission's 1969 report, which branded the remedy as obsolete, that the United Kingdom formally abolished it via the Matrimonial Proceedings and Property Act 1970. This set a precedent for other common law jurisdictions like Ireland, which prohibited such proceedings under the Family Law Act 1988, and South Africa, which removed the procedure through Section 14 of the Divorce Act 1979.

In Australia and Canada, the abolition of RCR signalled a rejection of the idea that spouses owe each other an enforceable "sexual debt." Australia ended the legal action for RCR through the Family Law Act 1975, and although a residual clause regarding "marital duties" remains in Section 114(2), the High Court's ruling in *R v L*³⁰ effectively rendered such notions void by criminalizing marital rape. Canada followed a similar path of provincial reform, with British Columbia leading in 1979 and Alberta following in 2005. Canadian jurisprudence, particularly in the Supreme Court case *M. v. H*³¹, shifted the definition of a "conjugal relationship" away from mere sexual access toward a holistic commitment involving shared finances, social standing, and emotional ties. By criminalizing marital rape in 1983, Canada reinforced the principle that bodily integrity cannot be traded for a marriage certificate.

Conversely, Pakistan remains one of the few jurisdictions where RCR is actively practiced and defended, often through a patriarchal interpretation of Islamic and English common law. While the law is facially neutral, it is disproportionately used by husbands to compel the return of wives, with courts often referencing "physical rights" and "sexual duties" as core marital obligations. Although recent advancements in *khula* (divorce initiated by the wife) jurisprudence, such as *Saleem Ahmad v. Government of Pakistan*³², have offered women

³⁰ (1991) 174 CLR 379, 398

³¹ [1999] 2 S.C.R. 3

³² PLD 2014 FSC 43

some relief, the Federal Shariat Court continues to uphold RCR as compliant with religious edicts. This highlights a stark contrast with the "Transformative Constitutionalism" seen in modern Indian and Western jurisprudence, where the right to live with dignity, as established in cases like *Navtej Singh Johar*³³ and *Joseph Shine*³⁴, is increasingly used to challenge the "uncouth and vulgar" remains of colonial-era matrimonial laws.

Conclusion and Recommendations: Rethinking Marital Agency

In Indian society, marriage and family are viewed as sacrosanct foundations of the social fabric. Personal laws regulate these institutions, often prioritizing the preservation of marriage over individual exits. The doctrine serves as a controversial mechanism to compel cohabitation and prevent marital dissolution. While proponents argue it offers a "cooling-off period" for reconciliation, its practical application frequently reveals a darker reality of coercion and systemic inequality.

- The Disparity Between Theory and Practice

While the law frames RCR as a gender-neutral remedy to restore consortium, it disproportionately impacts women due to the patriarchal structure of Indian households. Statistically, the decree is often weaponized by husbands to quash maintenance claims, harass wives into submission, or pave a strategic path toward divorce. Forced cohabitation, particularly in a legal landscape that still maintains the Marital Rape Exception (MRE), formerly under Section 375 of the Indian Penal Code (IPC) and now retained in the Bharatiya Nyaya Sanhita (BNS), 2023 (s.63), effectively legalizes non-consensual intimacy. This "caveman's remedy" treats spouses as property, subordinating their rights to privacy and bodily integrity to the perceived "sanctity" of the marital bond.

The relevance of RCR has diminished as global standards shift toward individual autonomy. England, the source of this common law doctrine, abolished it in 1970, followed by Australia, Ireland, and South Africa. India's continued adherence to this practice contravenes international commitments, including the Universal Declaration of Human Rights (UDHR) and the CEDAW convention, which emphasize free and informed consent in marriage. True reconciliation cannot be achieved through a court mandate; it requires mutual trust and

³³ AIR 2018 [SC](#) 4321

³⁴ *Supra* note. 15 at pg. 7

voluntary emotional reintegration.

Strategic Recommendations for Legal Reform

To align family law with the "Golden Triangle" of the Constitution (Articles 14, 19, and 21), the following reforms are proposed:

- Strike down Section 9 of the HMA and equivalent provisions in all personal laws. The remedy has outlived its rationale and remains a tool for domestic entrapment.
- Amend Article 13 to explicitly bring personal laws under judicial review, ensuring they are tested against fundamental rights like privacy and dignity.
- Replace the adversarial "restitution" decree with a specialized, non-judicial Reconciliation Body. Composed of psychologists and mediators, this body should focus on amicable settlement rather than legal compulsion.
- Remove the Marital Rape Exception from the BNS. Protecting a woman's right to "sexual agency" is essential to ensuring that cohabitation is never synonymous with coerced intimacy.
- Enact a Uniform Civil Code that standardizes rights and protections across religions, removing anomalies that currently disadvantage women under fragmented personal laws.
- Introduce family arbitration models, successful in several European nations, to provide a less-adversarial environment for resolving marital disputes.

Ultimately, a marriage should be an equal partnership based on shared autonomy, not a state-enforced contract of cohabitation. By striking down RCR, the Supreme Court has the opportunity to relieve millions of women from a regressive law that values the institution of marriage over the human beings within it.