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**CONDITIONAL AUTONOMY: A CRITICAL ANALYSIS OF CONSENT AND REPRODUCTIVE RIGHTS  
IN INDIAN LAW**

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**Abstract**

This paper looks at the way Indian law only acknowledges women as having autonomy on a conditional and a controlled basis. Although the principles of privacy, dignity, and bodily integrity are seen as being upheld under Article 21, that constitutional commitment is specifically constrained by the criminal-law doctrine, by the principles of marriage status (under common law), and through medical gatekeeping in the reproductive law. This issue is explored in the paper by considering a mixed method of consent jurisprudence, false-promise-to-marry cases, marital rape exception and abortion regulation in which it is revealed that choice, in theory, but control, in practice, is re-enacted by the law. It is based on constitutional reasoning, criminal law principles, reproductive rights jurisprudence, and a feminist critique that autonomy under Indian law is never entrusted solely to the woman, but is subject to judicial suspicion, statutory provisos, and institutional sanctioning. The important case of *K.S. Puttaswamy v. Union of India*<sup>2</sup> and *Suchita Srivastava v. Chandigarh Administration*<sup>3</sup> and *Pramod Suryabhan Pawar v. State of Maharashtra*<sup>4</sup> and *Independent Thought v. Union of India*<sup>4</sup> represent the advance and the boundaries of this paradigm. The thesis is that Indian law continues to affirm what it is saying, choice, but it adds a proviso to virtually every serious choice that a woman is making. Until its consent is meaningfully autonomous, the status of being married will cease to be a gateway to sexual protection, and reproductive choice will not be under the jurisdiction of the medical agenda: Article 21 will be a promise that has yet to be fulfilled.

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<sup>2</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1.

<sup>3</sup> *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 S.C.C. 1.

<sup>4</sup> *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 S.C.C. 608. <sup>4</sup>  
*Independent Thought v. Union of India*, (2017) 10 S.C.C. 800.

## 1. INTRODUCTION

Indian law nominally cherishes bodily autonomy - Article 21 has been interpreted to protect “privacy, dignity and bodily integrity”, yet in practice autonomy is heavily conditional. In this context, “conditional autonomy” means that a woman’s control over her body only exists after passing through multiple legal filters. For example, a woman may have a constitutional right to make reproductive choices, but under the Medical Termination of Pregnancy Act she still needs medical board approval (and before 2021 even marital status dictated her eligibility). Similarly, the Indian Penal Code demands “unequivocal voluntary agreement” to sexual activity, but simultaneously carves out a wide marital exemption (rape is not defined if a wife is over a certain age). Basically, Indian law repeatedly treats women as needing protection or supervision, not as full autonomous agents. Consent and reproductive choice thus belong together conceptually- both hinge on control of one’s body, a core personal liberty under Article 21. On paper the State claims to safeguard women’s health and fetal life, but in reality it often supervises and limits her choices. This paper will examine how these dual strands, criminal-law consent and medical termination law, coalesce into a regime of conditional autonomy. Are consent norms really “free and informed” when contextual pressures and legal constraints abound? Does Indian law genuinely protect a woman’s reproductive autonomy, or does it merely regulate and supervise it under the guise of welfare? In other words: Does Article 21 guarantee a right of choice, or only a right of supervised choice? These questions drive our critique of the law’s inconsistencies, gaps, and the prevailing paternalism that undercuts women’s bodily sovereignty.

- Is consent in Indian law truly free and informed, or circumscribed by coercive contexts and legal caveats?
- Does Indian law protect reproductive autonomy as a constitutional right, or merely regulate it through medical and statutory filters?
- Does Article 21 operate as an unfettered right to choice over one’s body, or only as a right to a choice that the State supervises and approves?

## 2. CONDITIONAL AUTONOMY IN INDIAN LAW

The idea of autonomy at its core refers to self-to making choices regarding one body and life: the ability to make an important decision (health, procreation, intimate relationships) without any

outside pressure. Mr. Constitutional law considers autonomy as a companion of dignity and privacy under Article 21 in Indian Constitution. In the case of Puttaswamy (2017)<sup>5</sup>, individual autonomy was defined by the Supreme Court as the right to make decisions concerning the pertinent aspects of life which are of great concern as well as the right to privacy which allows every individual to hold on to and exercise the control over the body and the mind. In the same way, Suchita Srivastava (2009)<sup>6</sup> believed that the reproductive choices of a woman (whether to conceive or not to conceive) was an aspect of personal liberty in line with Article 21 and she had a right to privacy, dignity and her bodily integrity. Therefore, conceptually, it is bodily autonomy as the right to the control of the body, the right to give or withhold consent to sexual activity, contraception, sterilization or pregnancy, something that one is not coerced to do.

Compared to that, conditional autonomy explains the nature of Indian law that claims to provide autonomy but only after filtering it through various legal prisms. In practice the State tends to recognize the choice of a woman only after examining her motives, marital status or medical condition, in a way that her autonomy remains conditional. The language of the law talks of a free consent or a well-informed choice, a language that, at the same time, incorporates prescriptive terms to weaken actual control. This tension in the reproductive situation is even more dramatic, as the State openly claims to protect the health and the rights of women, and then controls such decisions with doctors, consent forms, and legal standards.

Article 21 has changed that, making the right to life and liberty expressly embrace privacy, interpreted by the Court to mean procreation and childbearing, the privacy of the most intimate sort. Puttaswamy judge emphasized the idea that privacy provides a personal space to the individual where crucial decisions regarding the body and the family are taken. However, it is not an unconditional right, even Puttaswamy agreed that any right could be limited in extreme situations..

This conditionality is also reinforced by the judicial practices. Before court decisions acknowledge their choices, whether of abortion or consented sex, courts often question women with regard to their ability, will, and situation. This leads to a system in which autonomy is not assumed but must

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<sup>5</sup> Puttaswamy, supra note 1, at ¶ 297.

<sup>6</sup> Suchita Srivastava, supra note 2, at ¶ 22.

be proven and justified with a long-standing conflict between constitutional guarantees of bodily integrity and its partial realisation in life.

The approach of Indian law shows that there is always a discrepancy between formal rights and substantive autonomy. On record, the law claims that a woman has the freedom to agree or even disagree; in fact, it prescribes such numerous conditions that the freedom of real choice is dulled. As an illustration: a woman is informed that she has a right to terminate a pregnancy, but only when two physicians concur (medical filter), and provided that she is being within the legal limit, and she is married or is an acknowledged survivor (marital filter), and provided that the state does not have any other opinion on her intentions (judicial filter). On the same note, she has a legal claim to her body, but Indian Penal Code holds that married sexual infringement is nonexistent (marital exemption) which is an indication that the legislation is not convinced of the refusals exhibited by married women. In each arena, the State steps in as gatekeeper. In brief, conditional autonomy reveals a troubled deal: women are given control over their bodies but with a gaze of law.

### **3. ARTICLE 21: DIGNITY, PRIVACY AND BODILY AUTONOMY**

Article 21 transforms liberty from a thin protection against physical restraint into a substantive guarantee of dignity, privacy, and bodily self-determination. The Supreme Court in Puttaswamy treated privacy as an attribute of human dignity and tied it to the ability of individuals to make intimate decisions about the body, family, and life plans. That logic matters directly for women's sexual and reproductive autonomy, because control over sex, contraception, pregnancy, and childbirth is part of the same decisional field.

The significance of this jurisprudence is that it recognizes autonomy as a right to decide, not merely a right to exist. Suchita Srivastava made the point explicit by holding that reproductive choice is a dimension of personal liberty under Article 21 and that a woman's privacy, dignity, and bodily integrity must be respected. The judgment is important because it treats the pregnant woman as the primary rights-holder. It does not permit the law to replace her will with the preferences of doctors, guardians, or institutions merely because pregnancy is involved. The constitutional tension arises because Indian statutes still operate through permission and supervision rather than trust in self-ownership. Even where Article 21 speaks in the language of choice, the practical legal regime often translates that choice into a controlled process: medical

certification, marital-status categories, guardianship rules, and judicial review. A woman's bodily autonomy therefore remains only partially recognized. The constitutional promise is real, but the statutory architecture keeps narrowing it. That gap is the core problem this paper investigates.

#### **4. LEGAL FRAMEWORK: RAPE, CONSENT, AND MISCONCEPTION IN THE TRANSITION FROM IPC TO BNS**

The evolution of sexual offense jurisprudence in India represents a fraught negotiation between the traditional protection of patriarchal honor and the modern constitutional mandate of individual autonomy. The transition from the Indian Penal Code (IPC), 1860, to the Bharatiya Nyaya Sanhita (BNS), 2023, marks a significant legislative attempt to codify complex judicial interpretations regarding "vitiating consent" and "misconception of fact".

The BNS, 2023, modernizes the language but maintains a controversial structural divide. While Section 63 (Rape) incorporates the affirmative "Verma Committee" standard of "unequivocal voluntary agreement", the legislature introduced Section 69 to specifically address "Sexual intercourse by employing deceitful means".

Section 69 carves out sexual fraud as a separate, lesser offense. While this prevents the "stigma of rape" from attaching to messy relationship breakdowns, it risks trivializing the violation of autonomy by labeling it "not rape".

The existing system makes reproductive and sexual autonomy conditional based on the future desire of a man in the eyes of the state. By moving the attention to the question of the existence of a promise on marriage whether it was mala fide, the law implies that it is only after a good background social contract (marriage/employment) has been met that a woman owns her body. Finally, Section 63/69 still reinforces the upholding of what is still deemed in Indian law, as the homage to marital domesticity and chastity, as opposed to the subjective right to choice, which means that in Indian law, the Yes of a woman is still held by a chance that never materializes. The grey line in Indian rape jurisprudence is the most dangerous, namely the difference between consent and submission. Though consent is an act of active will and the active affirmation of reason, submission is often a passive surrendering to superior force, fear or the structural fragility. Within the shift between the Indian Penal Code (IPC) and the Bharatiya Nyaya Sanhita (BNS),

2023, the law-making effort has tried to codify this difference, but judicial practice has yet to find a way of operating with the conditional character of sexual autonomy.

Two divergent but overlapping rationales have helped the judiciary to sail through this:

*State of Punjab v. Gurmit Singh* (1996)<sup>7</sup>: This was a groundbreaking case, which left stereotyped disbelief. The Court cautioned on seeking microscopic contradictions to discard the testimony of a survivor and recognized that working to get FIRs filed is sometimes an inevitable consequence of social taboos, not a falsification. Nonetheless, the verdict as well as the reason why are tied to paternalistic rhetoric, the victim is depicted as a self-respecting woman whose chastity is her greatest asset. The Court unwittingly pegged legal credibility on the concept of honor, which ended up making autonomy conditional to a woman depending on whether or not she met moral archetypes.

*Uday v. State of Karnataka* (2003)<sup>8</sup>: The Court here fought with the misconception of fact doctrine. In dismissing the charges against the accused, the Court warned not to consider every failed promise of marriage as rape. It was believed that the promise had to be the determining inducement, then the only element that dented the mental judgment of the woman. Although this standard is legally accurate, it idealizes coercive relationships since it presupposes that a woman "in true love should have known better" and the responsibility to be cautious is placed on the survivor.

## **5. THE LEGAL CONSTRUCT OF DECEPTION: A CRITICAL JURISPRUDENTIAL ANALYSIS OF CONSENT UNDER MISCONCEPTION AND THE FALSE PROMISE TO MARRY**

### **a. The jurisprudential landscape**

Jurisprudential terrain that guides sexual consent within India has been the battleground of many years between the liberal ethos of bodily autonomy and the paternalism of the state. The legal dispute in the center of this case is the doctrine of consent under the misconception of fact, in particular the notion thereof in relation to the sexual relationships under the false representation of a promise of marriage. This doctrine that has been developed by the precarious interpretation of Section 90 of the Indian Penal Code (IPC), 1860, in accordance with the provisions of Section 375 of the same section, now appeared as a special challenge to the basic principles of the criminal

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<sup>7</sup> *State of Punjab v. Gurmit Singh*, (1996) 2 S.C.C. 384. <sup>8</sup>  
*Uday v. State of Karnataka*, (2003) 4 S.C.C. 46.

law. It asks whether the law can, or should, retrospectively invalidate an act of physical intimacy based on the non-occurrence of a future matrimonial event. By doing so, the legal framework effectively creates a "sexual contract" where the validity of consent is contingent upon the sincerity of the promisor's intent, a standard that is both epistemologically difficult to prove and sociologically fraught with patriarchal baggage.

Table 1 : Statutory Comparison of Deceptive Consent Frameworks

Feature	Indian Penal Code (IPC, 1860)	Bharatiya Nyaya Sanhita (BNS, 2023)
Primary Provision	Section 375 (Secondly) & Section 90	Section 64 (Rape) & Section 69 (Deceitful Sex)
Legal Construct	Judicial construct (reading 375 with 90)	Explicitly codified standalone offense
Definition of Deceit	General "misconception of fact"	Specified as "deceitful means" including employment/promotion
Threshold for Liability	"Without her consent" (Rape)	"Not amounting to the offence of rape"
Maximum Punishment	Life Imprisonment (Section 376)	10 Years Imprisonment (Section 69)
Intention Requirement	"Bad faith" from inception	"Without any intention of fulfilling"

a. The Doctrinal Difficulty: Proving "Intention at Inception"

The most serious defect in the test of initial intention is the mode of application of the test. Intent is a psychological, inner condition that only infrequently manifests itself. Intent at inception, it is practically never possible to reconstruct in a courtroom through the prism of hindsight bias. In case a relationship was a case of five years and mangalsutra/introduction into parents, the courts will

regard it as an otherwise agreeable relationship that went sour. When the relationship was short-lived and the couple parted right after the first sexual act, then the court is more likely to pronounce a false promise.

This has very skewed results. According to *Jaspal Singh Kaural v. NCT of Delhi (2025)*<sup>8</sup>, the fact that the relationship was long standing signifies that, there has never been an element of force, or even deceit since the complainant was well aware of what the evolving relationship entailed. But this criterion punishes those women who were too gullible too long with a message that once they had lived years in a false relationship their first misunderstanding is no longer a legally valid right because it was poisoned by time and time plus love.

Furthermore, the burden of proving this state of mind beyond a reasonable doubt rests on the prosecution, yet the "process itself becomes the punishment". Since intent is a matter of trial, it is nearly impossible for an accused to obtain a quashing of an FIR at the preliminary stage, leading to years of social stigma and legal hardship for what may ultimately be found to be a "good faith breach".

a. **Section 69 BNS: The New Architecture of Deception**

Section 69 stipulates that anyone who has sexual intercourse with a woman by "deceitful means" or by making a "promise to marry without any intention of fulfilling the same," where such intercourse does not amount to rape, shall be punished with up to ten years of imprisonment. The "Explanation" to the section is particularly expansive, clarifying that "deceitful means" includes: While this codification offers clarity, it introduces new "legal flaws." First, the inclusion of "employment" and "promotion" as deceitful means is a significant expansion of the state's role in regulating sexual behavior in professional settings. While intended to curb predatory hiring practices, the term "inducement" is dangerously vague. Does an expensive dinner or a vague hint at career help constitute "inducement"? The lack of a clear definition of "inducement" leaves room for substantial judicial discretion and potential misuse.

Second, Section 69 distorts the temporal framework of consent. Under Section 63 BNS (Rape), consent is measured "just before" the act. Section 69, however, allows for the "retrospective negation of consent" based on the failure of a future event. This fundamentally alters the

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<sup>8</sup> *Jaspal Singh Kaural v. State (NCT of Delhi)*, 2025 INSC 457.

universally accepted understanding of consent as an immediate mental state, turning it instead into a "contingent contract" that can be voided ex post facto.

#### **6. RECENT JURISPRUDENCE (2023-2025): A SHIFT TOWARD "ADULT AUTONOMY"**

The most recent Supreme Court orders (2023-2025) indicate a significant "tempering" of the false promise doctrine. Courts are becoming more and more reinstating orders of discharge and killing FIRs when the evidence is of a consensual relationship that had gone sour.

In *Jothiragawan v. State* (2025)<sup>9</sup>, rape charges were thrown out by the Supreme Court when the complainant asserted that she was coerced, and this did not correlate with the fact that she continued to have voluntary contact with the man and had taken excursions with him to the hotel rooms very willingly. Likewise, in the case of *Mahesh Damu Khare v. State of Maharashtra* (2025)<sup>10</sup>, the Court reiterated the identical fact, that women can have sexual relations without emphasizing that they are married, and that unless there is a concept of nexus in direct relation between the promise and the act, no misapprehension can be found.

This tendency is a sort of maturation of the law, which no longer presupposes that all promises violated should be a crime. But it further imposes an onerous burden upon the victim of proving that her decision was purely clinical and purely transactional upon the promise, a criterion that disregards the shaggy, emotional truth of human intimacy.

To make this reform, the law model should shift towards a Sexual Autonomy Model instead of a Matrimonial Contract Model. There should be an examination of whether or not the misrepresentation was of material importance to the physical and reproductive well-being of the individual, but not whether or not the judge felt estranged about the morality of pre-marital sex. Section 69 and the doctrine of misconception will keep on swinging Cinderella on the perilous side of an under-protector of the cheated; of an over-criminaliser of the affected.

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<sup>9</sup> *Jothiragawan v. State Rep. by the Inspector of Police*, 2025 INSC 386.

<sup>10</sup> *Mahesh Damu Khare v. State of Maharashtra*, 2024 SCC OnLine SC 3471.

## 7. JURISPRUDENTIAL ARCHITECTURE OF THE MARITAL RAPE EXCEPTION: A CRITICAL ANALYSIS OF CONSENT AND STATUS IN INDIAN LAW

The unexplained dichotomy that defines Indian legal approach to sexual violence is a profoundly disturbing relationship between a progressive and consent-based definition of rape and a sense of immunity during colonial era, which annulled the sexual agency of married consulates. This exception, established as Exception 2 to Section 375 of the Indian Penal Code (IPC) and maintained in Section 63 of the Bharatiya Nyaya Sanhita (BNS) 2023 is the most notable strike of the constitutional guarantee of individual autonomy with the traditional maintenance of marital status. The legislation places a conditional right on the woman to be able to refuse sexual intercourse which is conditional upon whether the woman is married or not thus is tantamount to the establishment of a zone of presumed access which entails that the marital rights of the husband takes precedence over the basic right of the wife to have bodily integrity.

### A. STATUTORY DISSONANCE: FROM IPC 375 TO BNS 63

In India, the law on rape is going through a period of change with the substitution of the IPC by the Bharatiya Nyaya Sanhita (BNS) 2023. But the BNS does not resolve the main contradiction in the matter of marital consent. The BNS, Section 63 that specifies rape, similarly imitates that of Section 375 of the IPC, except that the marital exemption age is increased to eighteen, rather than fifteen years.

The most obvious inconsistency that exists in Section 63 is the clash between the Explanation 2 and the Exception 2. Explanation 2 gives a contemporary, positive description of consent by defining it as a declaration that is unconditional/voluntary and involves the agreement of the woman, expressed either verbally or through gestures, to engage in a "particular sexual act". It clearly outlines that the absence of a physical opposition cannot be seen as consent. Provided that the law is aware that consent should be act-specific and voluntary, the presence of Exception 2 that allows sexual intercourse between a man and his legal wife (as long as she is more than eighteen) is not considered rape will be logically unsustainable.

The BNS system suggests that although in all other sexual acts, a woman must give an unambiguous voluntary consent, it is a magic or rather a nullity when she is in a marital relationship. Such a statutory dissonance establishes an order of protection: the unmarried woman is a subject with agency to full sexuality, the married woman becomes an object of presumed

access. This classification is contrary to the spirit of the "consent" to which the BNS purports to defend in view as it implies that the marital status creates a non-refundable, irreversible concession to the right of bodily integrity.

The marriage rape exception has been challenged through the constitution and has resulted in a judicial line split. Delhi High Court in *RIT Foundation v. Union of India (2022)*<sup>11</sup> provided a divided verdict giving presentations of two contrasting visions of law. Justice Rajiv Shakdher ruled that the exception is unconstitutional and infringed on Articles 14, 15, and 21 since the exception deprives women in marriage of equal autonomy of the body. He did not believe the fact that marriage means unquiet approval and the focus on the State cannot maintain an institution that will act as a mechanism of coercion. Justice C. Hari Shankar, however, affirmed the exception in line with judicial restraint and the loveliness of marriage, and contending that such reform could never be initiated by even the legislature. This point of departure encapsulates the essence of constitutional morality versus social tradition, and the question is left in suspense in front of the Supreme Court.

The Karnataka High Court followed an identical approach emphasizing the autonomy perspective, dismissing the marital rape exception as outdated and unsuitable to equality and dignity in *Hrishikesh Sahoo v. State of Karnataka (2022)*<sup>12</sup>. But the following presence by the Supreme Court indicates a still institutional reluctance to finally overturn the exception. Combined with these trends, it makes the marital consent a precarious position within Indian law with progressive judicial rationale alongside structural resistance, which supports the wider system of conditional autonomy.

## **B. CRITICAL ANALYSIS: THE HIERARCHY OF BODIES AND CONCEPTUAL INSTABILITY**

The marital rape exception is not a minor defect in the BNS; it is a structural denial of equal bodily autonomy that creates a "hierarchy of women's bodies". This hierarchy posits that: Unmarried women are individuals with full control over their sexual boundaries. Married minor girls are children who must be protected from "sexual violence" due to their age. Married adult women are

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<sup>11</sup> *RIT Found. v. Union of India*, 2022 SCC OnLine Del 1404.

<sup>12</sup> *Hrishikesh Sahoo v. State of Karnataka*, 2022 SCC OnLine Kar 1159.

spouses whose consent is legally "implied" or "presumed" by virtue of their status, rendering them less worthy of the State's protection.

This classification is conceptually unstable. If consent is defined as "unequivocal voluntary agreement," then the law cannot logically provide an exception that allows for "unequivocal involuntary participation". The exception treats marriage as a "zone of presumed access," where the husband's sexual needs are considered a "right" and the wife's refusal is viewed as a "breach of duty" rather than a fundamental exercise of agency.

Furthermore, the State's defense of the exception, citing the "fear of false cases" or the "destabilization of marriage", is a fallacious argument. The potential for misuse exists in all laws (such as theft or assault), yet the State does not use this as a justification to decriminalize those offenses. To deny justice to millions of victims because of a hypothetical fear of misuse is to privilege the reputation of the husband over the physical and mental integrity of the wife.

The international and committee materials all move in the same direction. CEDAW<sup>13</sup> has repeatedly urged India to criminalize marital rape. The Verma Committee also rejected marriage as a defense, stressing that rape is an expression of power and that the relationship between the parties should not control the consent inquiry<sup>14</sup>. The only serious counter-position has been institutional caution about interfering with marriage, but that caution merely repackages patriarchy as restraint.

Reproductive rights represent the clearest practical expression of bodily autonomy, the principle of self-governance over one's physical self. In Indian constitutional law, this is anchored in Article 21's guarantee of personal liberty, dignity, and privacy. However, the statutory framework of the Medical Termination of Pregnancy (MTP) Act creates a regime of "conditional autonomy," where constitutional promises are filtered through a permissive, doctor-centric structure.

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<sup>13</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>14</sup> Justice J.S. Verma et al., Report of the Committee on Amendments to Criminal Law (2013).

## 8. FEMINIST CRITIQUE: LAW, POWER, AND CONDITIONAL AUTONOMY

Indian law also fails to offer security to women but in a manner which protects them on a patriarchal basis. The law is ready to acknowledge women as victims, wives, mothers, or petitioners, but there it is far less ready to acknowledge women as independent decision-makers. That is why consent amounted to the test of credibility as opposed to whether the woman agreed in fact. It is also what makes reproductive rights still be filtered through the prism of medical sanction, matrimony, and concerns of abuse. The issue is not a matter of chance.

The greater Fault, is that law doctrine disregards power. Consent is considered as though it had been made in a social vacuum, when the decisions involving sexual activity are determined by dependence, fear, stigma, economic vulnerability, emotional pressure, caste hierarchy, and family influence. Feminist jurisprudence categorically requires that these are not background facts, but that it is they, specifically, that render formal consent inadequate. The question of whether there was a verbal yes or there was physical resistance is too simplistic and superficial a doctrine to encapsulate the true nature of coercion in intimate relationships.

The impact on practice is that the law is switched between over-protection and under-protection. It nanny brains when it comes in assuming that women are too simple to be able to tell their own relationships, as in false-promise reasoning. It, in a way, betrays the role of protecting when it assumes that married women are permanently available or when medically it arbitrates on reproductive choice. The feminist reform agenda must consider shifting to affirmative consent, eliminating exceptions with regard to marital status, and considering bodily autonomy as a constitutional right.

## 9. CONCLUSION

The Indian law does not totally disenfranchise women; it is rather the principle of autonomy that is accepted by Indian law, in Theory but in Practical, time and again, the dependability of autonomy is vitiated. That is the main contradiction, which this paper has demonstrated. The article 21 guarantees privacy, dignity and bodily integrity, but when it comes to sexual consent and reproductive choice, the guarantees are curtailed by legal exceptions, medical oversight and judicial suspicion. The outcome is an autonomy of conditional freedom: the power of the body

inside a woman is recognized, but only when it is put through the sieves of marriage, medicine, and theology.

The most obvious evidence is at the beginning the law of consent. The movement towards a more affirmative conception of consent has begun in Indian criminal law, however, and is compromised by inadequate provisions still in place to undermine the agency of women, such as the marital rape exception and the ad phenomenon of applying the exception of consent under misconception inconsistently. Preferred Consent must be free and voluntary but the law still allows so-called doctrines to assume consent by marriage or gauge consent by post hoc skepticism of the courts. It is not an accident of the constitutions of the law that such a contradiction is there.

The second piece of evidence is the exception of marital rape. It demonstrates the most extreme type of conditional autonomy of the Indian law since it spin such a right to her bodily integrity of a woman conditionally on marriage. When the consent is in fact voluntary and act specific, then marriage cannot make sense as a life-long renunciation of the right against sex. The exception establishes a pecking order in body: unmarried women are subjects of rights, and married women are presumptively available. Such a posture is non compatible with the constitutional morality and equality, and logic of Article 21.

The third area of evidence is the reproductive rights. Although suchita Srivastava and later abortion jurisprudence based on reproductive choice, as a personal freedom, MTP model still exposes this choice to medical right, restrictions of gestation, and, in some cases, guardian validation. This makes the issue of abortion a constitutional choice a privilege which is controlled. The State declares itself as the need that it has to protect the health of women, but it is not afraid of patronizing them excessively.

Our needed direction of reform is seen thus. Indian law needs to shift towards a more truly autonomy-based conception of consent; eradicate marital-status-based denial of rape protection; cut medical gatekeeping over reproductive decisions; and interpret Article 21 with a more woman-centered, dignity-based interpretation. The Constitution can not be, according to speech, progressive and cannot be, by its works, the statutes paternalistic. Such a law cannot grapple to defend autonomy by holding a woman relatively subject to consent to marry or medical leave or by judicial suspicion.