

# *Crisis Connection*

## **U.S. History of Marital Rape**

### **Violence against Women (U.S. Dept of Justice) Introduction**

While the legal definition varies within the United States, marital rape can be defined as any unwanted intercourse or penetration (vaginal, anal, or oral) obtained by force, threat of force, or when the wife is unable to consent (Bergen, 1996; Pagelow, 1984; Russell, 1990). Most studies of marital rape have included couples who are legally married, separated, divorced or cohabiting with the understanding that the dynamics of sexual violence in a long-term cohabiting relationship are similar to those of a married couple (Mahoney & Williams, 1998). For this reason, this paper will include women who are raped by their current marital partners, previous marital partners, and the cohabiters as survivors of marital rape. To date, no study of marital rape has included cohabiting gay and lesbian couples. Diana Russell's (1990) landmark study of sexual assault that involved interviews with 930 women in a randomly selected representative community sample in San Francisco established that marital rape is a serious problem that millions of women face each year. Researchers estimate that between 10% and 14% of married women experience rape in marriage (Finkelhor & Yllo, 1985; Russell, 1990). When researchers have examined the prevalence of different types of rape, they have found that marital rape accounts for approximately 25% of all rapes (Randall & Haskall, 1995; Resnick, Kilpatrick, Walsh, & Vernon, 1991). Rape in marriage is an extremely prevalent form of sexual violence, particularly when we consider that women who are involved in physically abusive relationships may be especially vulnerable to rape by their partners. Studies using clinical samples of battered women reveal that between one third and one half of battered women are raped by their partners at least once (Bergen, 1996; Browne, 1993; Campbell, 1989).

Despite the prevalence of marital rape, this problem has received little attention from social scientists, practitioners, the criminal justice system, and larger society as a whole. In fact it was not until the 1970's that we began, as a society, to acknowledge that rape in marriage could even occur. Despite this acknowledgement and the recent changes in legislation that have criminalized rape in marriage, there is still much that we do not know about this type of intimate violence. The intent of this paper is to briefly summarize what we do know about rape in marriage (for a comprehensive review of the literature on marital rape see Mahoney & Williams, 1998). This paper will provide an overview of the research on marital rape with (1) a brief legal history of marital rape; (2) a discussion of the occurrence of marital rape; (3) a summary of the effects of

marital rape; and (4) an analysis of practitioner' interventions with marital rape survivors.

### **A Brief Legal History of Marital Rape**

Much of the scholarly attention that has been given to marital rape has emerged from the legal community. This has occurred because throughout the history of most societies, it has been acceptable for men to force their wives to have sex against their will. The traditional definition of rape in the United States most commonly was, 'sexual intercourse with a female not his wife without her consent' (Barshis, 1983, p. 383). As Finkelhor and Yllo (1985) have argued, this provides husbands with an exemption from prosecution for raping their wives. In effect, 'a license to rape' (see Druker, 1979; Eskow, 1996; and Sitton, 1993, for a discussion of the marital exemption). The foundation of this exemption can be traced back to statements made by Sir Matthew Hale, Chief Justice in 17th century England. Hale wrote, "The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given herself in kind unto the husband which she cannot retract" (quoted in Russell, 1990, p.17). This ruling established the notion that once married, a woman does not have the right to refuse sex with her husband. This rationale remained largely unchallenged until the 1970's when some members of the women's movement argued for the elimination of the spousal exemption because it failed to provide equal protection from rape to all women (Bidwell & White, 1986; Finkelhor & Yllo, 1985).

On July 5, 1993, marital rape became a crime in all 50 states, under at least one section of the sexual offenses code. In 17 states and the District of Columbia, there are no exemptions from rape prosecution granted to husbands (**Indiana is one of the 17 states with no exemptions**). However, in 33 states, there are still some exemptions given to husbands from rape prosecution. When his wife is most vulnerable (e.g., she is mentally or physically impaired, unconscious, asleep, etc.) and is legally unable to consent, a husband is exempt from prosecution in many of these 33 states (Bergen, 1996; Russell, 1990). Table 1, based on the findings of the National Clearinghouse on Marital and date Rape (1998), is a state law chart that indicates which states have some exemptions from prosecuting husbands for rape. The existence of some spousal exemptions in the majority of states indicates that rape in marriage is still treated as a lesser crime than other forms of rape. This perpetuates marital rape by conveying the message that such acts of aggression are somehow less reprehensible than other types of rape. Importantly, the existence of any spousal exemption indicates an acceptance of the archaic understanding that wives are the property of their husbands and the marriage contract is an entitlement to sex (Russell, 1990).

### **The Occurrence of Marital Rape**

To date, the best research on marital rape has come from interviews with women about their experiences of sexual violence. This body of research has its

limitations (it may not represent those women who are raped by their husbands for years but never talk about it; and it may over-represent women who are raped and battered because samples of women in battered women's shelters are frequently used); however, it has provided us with important information about how some women experience rape in marriage. Information about marital rape will be presented in the following sections: (1) social characteristics of survivors; (2) types of marital rape; and (3) risk factors of marital rape.

### **Social Characteristics of Marital Rape Survivors**

Marital rape occurs in all types of marriages regardless of age, social class, race of ethnicity. In the largest study, Russell (1990) found that women were raped by their partners at a variety of ages; however, almost two-thirds of the wives were first raped by their husbands when they were under the age of 25. Social class is a more difficult variable to measure and the literature is less conclusive. Russell (1990) found that women in the upper middle class were slightly over-represented among marital rape survivors while Finkelhor and Yllo (1985) found that those from lower social-class backgrounds were more likely to report experiencing marital rape. With regard to race, Russell (1990) found that the rate of marital rape was slightly higher for African-American women than white women, Latinos, and Asian, respectively.

Research has also revealed some variation with regard to women's decisions to leave their husband-rapists. Latinos were less likely than other women to immediately define their experiences of forced sex as "rape" and terminate their relationships; some viewed sex as a marital obligation (Bergen, 1996). Russell (1990) found that white women were less likely to stay with their husband-rapists than African-American, Latino, and Asian women. Economic resources played a particularly significant role in women's ability to leave as those women who were most likely to leave their husband-rapists were the ones who were financially independent (Russell, 1990). Russell's research also revealed that traditional wives (measured by conformity to traditional female sex roles) were more likely to blame themselves for the violence and stay with their husbands. The lack of racial, ethnic, and cultural diversity in samples of marital rape survivors makes generalizations difficult; however, these findings point to the importance of addressing cultural variation and differential understandings of what constitutes one wife's duty.



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## Types of Marital Rape

It appears that marital rape is most likely to occur in relationships characterized by other forms of violence. This has led some researchers to argue that marital rape is "just one extension of domestic violence" (Johnson & Sigler, 1997, p.22). On one hand, viewing rape in marriage as a form of domestic violence is logical given that researchers have found that the majority of women who are raped by their partners are also battered. In 'battering rapes,' women experience both physical and sexual violence in the relationship (Finkelhor & Yllo, 1985). Women who are raped and battered by their partners experience the violence in various ways - e.g. some are battered during the sexual violence or the rape may follow a physically violent episode where the husband wants to 'make up' and coerces his wife to have sex against her will (Bergen, 1996; Finkelhor & Yllo, 1985). Other women experience what has been labeled 'sadistic' or 'obsessive' rape; these assaults involve torture and/or 'perverse' sexual acts and are often physically violent. Pornography is frequently involved with sadistic forms of rape (Bergen, 1996; Finkelhor & Yllo, 1985).

On the other side of this debate, some have argued that marital rape should not be subsumed under the heading of domestic violence because in doing so in the past has led to marriage being overlooked as a distinctive problem (for more on this debate see Bergen, 1996; Russell, 1990). It is necessary to recognize marital rape as a distinctive problem because for many women who are battered and raped, the sexual violence is particularly devastating and that trauma must be addressed specifically by service providers (Finkelhor & Yllo, 1985). Additionally, it is problematic to assume that marital rape survivors are all battered wives because this ignores the reality that some women are raped by their husbands but do not experience other forms of violence. It must be reiterated that most of the research on marital rape has been conducted by with battered women. This methodological problem may overstate the extent to which women are both battered and raped by their partners. Indeed, Russell (1990) found that four per cent of women in her sample who had ever been married had been raped by their partners but not battered. In what Finkelhor & Yllo (1985) have called 'force-only rape,' husbands use only the amount of force necessary to coerce their wives; battering may not be characteristic of these relationships. Forty per cent of Finkelhor and Yllo's sample of women were victims of 'force-only rape'. Thus, to categorize marital rape only as an extension of domestic violence excludes these women and their experiences. As we will address later, it is important for advocates who are involved in trying to end violence against women to see marital rape both as a form of rape and domestic violence in order to assist survivors.

This assistance may be particularly necessary given that **women who are raped by their husbands are likely to be raped many times - often 20 times or more before they are able to end the violence** (Bergen, 1996; Finkelhor & Yllo, 1985; Russell, 1990). Marital rape survivors not only experience a higher number of assaults, but research indicates that they are more likely than women raped by

acquaintances to experience unwanted oral and anal intercourse (Peacock, 1995). Husbands often rape their wives to have sex. Importantly, **some researchers have found that compared to batterers, men who batter and rape are particularly dangerous men and are more likely to severely injure their wives and potentially escalate the violence to murder** (Browne, 1997; Campbell, 1989).

### **Risk Factors**

Most researchers of marital rape agree that rape in marriage is an act of violence - an abuse of power by which a husband attempts to establish dominance and control over his wife. While the research thus far reveals no composite picture of a husband-rapist, these men are often portrayed as jealous, domineering individuals who feel a sense of entitlement to have sex with their 'property.' Given this, women appear to be particularly at risk for being raped by their partners under some circumstances.

As was previously indicated, **women who are battered are at greater likelihood of being raped by their partners** (Frieze, 1983). Additionally, **pregnancy appears to be a factor that places women at higher risk for both physical and sexual abuse** (Bergen, 1996; Browne, 1993; Campbell, 1989). **Being ill or recently discharged from the hospital are also risk factors for women** (Campbell & Alford, 1989; Mahoney & Williams, 1998). As research for battered women has previously revealed, **women are at particularly high risk of experiencing physical and sexual violence when they attempt to leave their abusers** for this represents a challenge to their abusers' control. Finkelhor & Yllo, (1985) found that two thirds of the women in their sample were sexually assaulted at the end of the relationship. Other researchers have found that **women who are separated or divorced from their partners appear to be at high risk for sexual abuse** (Dobash & Dobash, 1992; Kurz, 1997; Russell, 1990). Some researchers have noted other risks factors including drug and alcohol use by the abuser, and previous experiences of sexual abuse among the victims. However, these factors are perceived as more controversial and the research is far from conclusive (Frieze, 1983; Russell, 1990; Whatley, 1996).

### **The Effects of Marital Rape**

Despite the historical myth that rape by one's partner is a relatively insignificant event causing little trauma, research indicates that marital rape often has severe and long-lasting consequences for women. The physical effects of marital rape may include injuries to the vaginal and anal areas, lacerations, soreness, bruising, torn muscles, fatigue and vomiting (Adams, 1993; Bergen, 1996). Women who have been battered and raped by their husbands may suffer other physical consequences including broken bones, black eyes, bloody noses, and knife wounds that occur during the sexual violence. Campbell and Alford (1989) report that one half of the marital rape survivors in their sample were kicked, hit or burned during sex. Specific gynecological consequences of marital rape include vaginal stretching, miscarriages, stillbirths, bladder infections, infertility

and the potential contraction of sexually transmitted diseases including HIV (Campbell & Alford 1989).

Some researchers have compared the psychological effects of being raped by one's partner to other forms of violence. Given that women who are raped by their partners are likely to experience multiple assaults, completed sexual attacks, and rape by someone that they once presumably loved and trusts, it is not surprising that marital rape survivors seem to suffer severe and long-term psychological consequences (Kilpatrick, Best, Saunders, & Vernon, 1988; Frieze, 1983). Similar to other survivors of sexual violence, some of the short-term effects of marital rape include anxiety, shock, intense fear, depression, suicidal ideation, and post-traumatic stress disorder. (Bergen, 1996; Kilpatrick et al., 1988; Russell, 1990). Compared to women raped by strangers and those whom they don't know well, marital rape survivors report even higher rates of anger and depression (Koss, Dinero, Siebel, & Cox, 1988). Long-term effects often include disordered eating, sleep problems, depression, problems establishing trusting relationships, and increased negative feelings about themselves (Bergen, 1996; Frieze, 1983). Research has also indicated that the psychological effects are likely to be long-lasting. Some marital rape survivors report flashbacks, sexual dysfunction, and emotional pain for years after the violence (Bergen, 1996; Whatley, 1993).

### **Intervention with Marital Rape Survivors**

Experts estimate that survivors of marital rape are less likely than other survivors of violence to report their assaults to formal service providers, friends or family members. This estimation is grounded in studies that show women who are raped by acquaintances are less likely than those raped by strangers to report their assaults (Koss et al., 1988; Mahoney & Williams, 1998). Reporting rape in marriage may become even more complicated because of a women's relationship to her assailant. Women raped by their husbands may hesitate to report because of family loyalty, fear of their husband's retribution, inability to leave the relationship, or they may not know that rape in marriage is against the law. Furthermore, many researchers have written about the discomfort that women feel when they discuss the sexual violence experienced with their partners (Bergen, 1996; Browne, 1987; Russell, 1990). A final compelling reason for women's under-reporting is that many do not define their experiences of forced sex in marriage as rape. Some believe that only stranger rape is 'real rape;' and other women see sex in marriage as an obligation and define forced sex as a 'wifely duty,' not rape (Bergen, 1996). If they do not define their experiences as rape, women are unlikely to seek outside assistance to stop the violence.

Research indicates that when women do seek assistance for marital rape, there is often a failure on behalf of others including police officers, religious advisors, battered women's shelter advocates, and rape crisis counselors to provide

adequate assistance. The following sections will address each of these groups of service providers.

### **Police**

There is a large body of research that addresses the inadequate response of the police to the problem of wife abuse (e.g. Pagelow, 1992; Saunders & Size, 1986; Stanko, 1985). The limited research on the question of police response to marital rape reveals an equally dismissive picture. The majority of women reporting their assaults to the police in studies by Bergen (1996), Frieze (1983) and Russell (1990) found the police to be unresponsive. Bergen's (1996) interviews with marital rape survivors reveal that when officers learn that the assailant is the woman's husband, they may fail to respond to a call from a victim of marital rape, refuse to allow the woman to file a complaint, and/or refuse to accompany her to the hospital to collect medical evidence. Frieze (1983) argues that police officers are even less responsive to survivors of marital rape than they are to battered women.

Recommendations for police departments include educating officers about the reality of wife rape; teaching officers how to sensitively ask women about sexual violence when they respond to domestic violence calls; confronting sexist attitudes that assume women are the property of their husbands and, thus, unrapeable; holding police departments accountable for their non-responsiveness; and involving more women police officers in domestic violence and rape cases (Bergen, 1996; Russell, 1990).

### **Religious Advisors**

Many women do not feel comfortable contacting the police, and alternatively choose to speak with their religious advisors, and researchers have found that support for women in violent relationships is not always forthcoming from religious advisors. In a study of battered women, Bowker (1983) found that they ranked clergy members as the least helpful of those to whom they had turned for assistance. The emphasis of some women's refusal to have sexual intercourse with their husbands, perpetuate the problem of marital rape. Yllo and LeClerc (1988) and Adams (1993) offer several recommendations for religious advisors to assist marital rape survivors, including: inviting women to speak about their experiences of sexual violence, helping women to name their experiences as 'rape,' focusing on the responsibility of the abuser and not the wife, and working to challenge social conventions that perpetuate marital rape.



### **Battered Women's Shelters and Rape Crisis Centers**

Two major sources of potential support for survivors of marital rape are battered women's shelters and rape crisis centers, and research indicates that many of these organizations have failed to adequately address the problem of marital rape (Bergen, 1996; Russell, 1990; Russell, 1990; Thompson-Hass, 1987). A survey of battered women's shelters and rape crisis centers in the United States by Bergen in 1995 revealed several deficiencies in the services being provided. For example, less than half of battered women's shelter programs (42%) and (79%) of rape crisis centers provide training on marital rape specifically to their staff members and volunteers. Bergen's (1996) research also revealed that only 2% of battered women's shelters and rape crisis centers provide a support group specifically for marital rape survivors.

Interviews with survivors of marital rape indicate that they have different needs than battered-only women and those raped by someone other than their partners (Bergen, 1996; Hanneke & Shields, 1985).

Finally, although rape crisis centers and battered women's shelters routinely ask women about previous experiences of sexual and physical violence, fewer than half (42%) regularly asked women about experiences of marital rape. Specifically, only 17% of rape crisis centers routinely ask about rape by a partner. Asking sensitive questions is critical because women are unlikely to volunteer this information on their own. Furthermore, merely asking if one has "ever been raped?" is insufficient because so many marital rape survivors do not identify the sexual violence as rape. Instead, women should be questioned about their partners "forcing them to do things sexually they are uncomfortable with," "pressuring them to have intercourse," "forcing them to have sex against their will" and so forth. (Bergen, 1996; Hanneke, Shields, & McCall, 1986; Russell, 1990).

Once these questions have been asked, service providers must be prepared to bear witness to the stories that many survivors of marital rape will share. Bergen's (1996) research indicated that many service providers were uncomfortable hearing about women's experiences of sexual violence and felt that they lacked the information needed to adequately respond to these women. Training specifically on marital rape is critical for staff members and volunteers; such programs should comprehensively address characteristics of marital rape and how to identify survivors, the state's laws on marital rape, and counseling techniques. Rape crisis centers and battered women's shelters can provide a variety of other services for marital rape survivors including shelter, medical and legal advocacy. Many marital rape survivors would benefit from counseling.

Ideally, a program would provide individual counseling as well as a group specifically for survivors of marital rape. Alternatively, offering survivors of marital rape the options of joining support groups for sexual assault survivors, battered women, or both, is beneficial, as individual women will define their needs differently.

Finally, it is necessary for both battered women's shelters and rape crisis programs to claim ownership of this problem. This can happen by including marital rape in the mission statement, providing educational programs to the community, and distributing literature on rape in marriage. Providing outreach to certain groups such as people with disabilities, and those in rural areas, same-sex relationships and non-English speaking communities who may be unaware of the available is particularly critical.

There are many other professionals who are in positions to assist marital rape survivors and there is a small body of research that addresses specific types of assistance. For example, Weingourt (1985) provides information for how those in the psychiatric community can identify and treat marital rape survivors in their practices. Given the physical and specifically gynecological effects of marital rape, medical professions are important resources for marital rape survivors (see Campbell, 1989); Campbell & Alford, 1989). Finally, Eskow (1996) provides a detailed analysis of California's spousal rape law and some thoughts on how to reform the strategies of prosecutors and educate jury pools in order to improve the treatment of marital rape survivors in courts. She suggests challenging rape myth acceptance by focusing on the trauma associated with marital rape and introducing victim syndrome evidence through expert witnesses.

### **Conclusions**

Despite the fact that marital rape has not been criminalized for long in the United States, it is clearly a serious form of violence against women and worthy of public attention. The research to date indicates that women who are raped by their husbands are likely to experience multiple assaults and often suffer severe long-term physical and emotional consequences. Marital rape may be even more traumatic than rape by a stranger because a wife lives with her assailant and she may live in constant terror of another assault whether she is awake or asleep. Given the serious effects, there is clearly a need for those who come into contact with marital rape survivors to provide assistance and challenge the prevailing myth that rape by one's spouse is inconsequential. Rape crisis counselors and advocates for battered women are in particularly important leadership positions to address the problem of marital rape in society and to assist survivors in this form of problem in society through the use of large, nationally representative samples (Mahoney & Williams, 1998). More research on the effects of marital rape, particularly for pregnant women and the children who witness the sexual violence is necessary. Additionally, researchers should investigate the motivations for why men rape their wives and address prevention and treatment strategies.

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