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Marital Rape: Social Reality Vs. Legal Recognition

Era Gjakova, Vedije Ratkoceri

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Era Gjakova, Vedije Ratkoceri

[1] PhD Candidate, South East European University, North Macedonia, https://orcid.org/0009-0003-2949-2301

[2] Associate Professor, South East European University, North Macedonia, https://orcid.org/0000-0002-3635-990X

Correspondence concerning this article should be addressed to Era Gjakova

Email: em28684@seeu.edu.mk

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Abstract

Any form of violence perpetrated within the family is considered particularly severe, precisely because it occurs in an environment that is presumed to provide warmth, safety, and emotional support. Such acts are committed by individuals who are expected to ensure protection and trust, yet these very settings are often transformed into spaces of fear, coercion, and psychological suffering. When addressing sexual violence within marriage, the issue becomes even more critical, as marital rape represents one of the gravest forms of domestic violence, frequently accompanied by psychological, emotional, social, and physical abuse.

Rape, particularly within the context of marriage, has been recognized relatively late in both international and domestic legal frameworks. This delayed recognition reflects deeply rooted historical, cultural, and legal perceptions of marriage as implying irrevocable consent. Accordingly, this research paper aims to analyze the factors that have contributed to the late legal acknowledgment of marital rape, the persistent underreporting of this criminal offense, and the manner in which it continues to be perceived and treated within society.

In order to provide a comprehensive and nuanced understanding of this phenomenon, the paper employs a comparative legal method to examine the relationship between international and national legal frameworks, alongside a statistical approach that illustrates the current situation in North Macedonia, particularly in relation to reporting patterns documented by the Ministry of Interior. Through this analysis, the study seeks to highlight the gap between formal legal recognition and the social reality of marital rape.

Keywords: Marital rape, victims, intimate partner.

Introduction

Marital rape represents one of the darkest forms of crime. The darkness of this crime extends in two dimensions; initially, this crime falls into the group of crimes with a high level of non-reporting, but also marital rape, because it is committed by the intimate partner, the consequences are much more severe and traumatic than any other type of crime. Just like marital rape itself, its notion is also very new to humanity, which for thousands of years has been faced with various crimes. Diana Russell (1990) defines marital rape as "any unwanted sexual intercourse or penetration obtained by force, threat of force, or when the wife is unable to consent, within a marital relationship." Bergen defines marital rape as non-consensual sexual acts committed by a spouse, embedded in patterns of power, control, and domestic abuse (Bergen, 1996). Estrich conceptualizes marital rape as rape indistinguishable from non-marital rape, where lack of consent is the central element, regardless of the relationship between victim and perpetrator (Estrich, 1987). MacKinnon does not give a short dictionary-style definition, but she frames marital rape as a manifestation of systemic gender inequality, where sexual access is socially constructed as a male entitlement within marriage (MacKinnon, 1989). Besides different authors, international organizations also provide their definitions of marital rape. Thus, the World Health Organization defines marital rape under intimate partner sexual violence, defined as "any sexual act performed against a person's will by a partner, including within marriage" (García-Moreno et al., 2013). Marital rape by UN Women is recognized as a form of gender-based violence involving non-consensual sexual acts within marriage, violating bodily integrity and equality (United Nations, Division for the Advancement of Women, 2010). But also, marital rape is considered to be the coercion of a partner (current or former) to perform sexual acts without her or his free will. A similar definition is given by the European Institute for Gender Equality, according to which any type of non-consensual penetration, with body parts or with any object, carried out either by a (former) marital partner or (former) intimate partner, is considered marital rape (European Institute for Gender Equality (EIGE), n.d.).

The recognition of bodily autonomy, human dignity and sexual self-determination as fundamental human rights has led to a gradual transformation of international and domestic legal frameworks. By criminalizing marital rape and by working in the direction of raising awareness on reporting but also the treatment of victims, states work in the direction of reducing the number of marital rapes. But victims continue to face concepts such as: the woman must fulfill the needs of the husband,

and this is an obligation, sexual relations with the husband; women face double victimization especially from institutions, society continues not to recognize marital rape and includes the same within the framework of the obligation that women have towards men.

Historical Development of Marital Rape

The first legal document which specifically speaks about marital rape is recorded in 1736 by Sir Matthew Hale. In fact, Hale, regarding his views on marital rape, writes in the work History of the Pleas of the Crown (1680). In fact, this is Hale's most important work, but it also occupies an important place in terms of the common law of crimes. In the first volume of *The History of the Pleas of the Crown*, he emphasizes: "[T]he 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 up herself in this kind unto her husband, which she cannot retract" (Hale, 1736, Vol. 1, p. 629).

Through this position, Hale simply gave voice to a deeply rooted social ideology that the woman existed in a state of permanent sexual availability, a semi-sexual object, supporting the doctrine of common law that a woman may have been the property of her husband, since under coverture, a married woman was considered civilly dead (General Assembly. Joint Subcommittee, 1986). Hale's doctrine not only invented the marital rape immunity but also codified the social belief that normative heterosexual relations determine ownership. By declaring rape inconceivable within marriage, the law transformed not only marital dynamics, but also the common understanding of heterosexual sex (Evans, 2025). In fact, support for the marital rape exemption continued further into the mid-18th century, when Blackstone presented the theory of unity; this theory embraces the woman as a separate subject and unites her with the subject of the man, thus eliminating her legal independence. It thus enables a submissive position for the woman who has historically been placed under the authority of the husband and consequently under his control (Green, 1988; Small & Tetreault, 1990). In Blackstone's *Commentaries on the Laws of England* (1765), he wrote: "The husband and wife are one person. The legal existence of the woman is suspended during marriage, incorporated into that of the husband. ...If a woman is injured, she cannot act without the consent of her husband."

Only during the 20th century did this doctrine begin to be seriously challenged, mainly as a result of developments in the field of human rights and feminist movements. A key moment in this direction was the decision in the case *People v. Liberta*, where the New York Court of Appeals declared the marital rape exemption unconstitutional, arguing that such an exemption violates the principle of equality before the law and the protection of women's bodily integrity (*People v. Liberta,* 64 N.Y.2d 152 (1984)). Another very important moment in this direction is also the case *R v R* (1992) 1 AC 599, where we see a court verdict that sees spouses as unequal in marriage and determines that rape is a criminal offense regardless of who commits it and what legal relationship the perpetrator and the victim are in. The importance of this court decision is also expressed in the fact that it leaves in the past and declares invalid the customary norms according to which the concept was reinforced that the woman, by the very marriage bond, gives irrevocable consent and the same cannot be contested even in the case of rape.

Despite these developments, the decriminalization of the marital rape exemption has not been uniform in all jurisdictions. In many countries, including some legal systems in transition, the legal recognition of marital rape has come with delay or remains partial. Even where it has been criminalized, challenges in implementation continue, due to cultural norms, stigmatization of victims, and difficulties in proving the criminal offense.

In this sense, the historical development of marital rape reflects a broader transformation from a legal concept that supported patriarchal control over the woman's body, toward a modern understanding that places at the center autonomy, dignity, and the fundamental rights of the individual.

International Legal Framework

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly of the United Nations. The Convention was the culmination of more than thirty years of work by the United Nations Commission on the Status of Women (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979). This Convention establishes the foundations of equality between the two sexes. This

is achieved through equal opportunities in every sphere of life that the Convention provides for (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979).

This Convention in its first article defines discrimination as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, art. 1).

In General Recommendation No. 19 (1992), in Article 16, paragraph 23, it foresees family violence by also including rape and other forms of sexual assault. Thus, this article establishes that regardless of age and social and economic status, any girl or woman can be a victim of various forms of domestic violence, explicitly mentioning rape and other forms of sexual acts. This Convention emphasizes that economic dependence is one of the main reasons why women are not spared from the cycle of violence (Committee on the Elimination of Discrimination against Women (CEDAW Committee), 1992, para. 23).

International Covenant on Civil and Political Rights (ICCPR)

This Pact was adopted by the General Assembly of the United Nations on 16 December 1966 and entered into force on 23 March 1976. Until May 2012, the Pact had been ratified by 167 states. Although marital rape is not specifically provided for, the Pact, in its article 7, prohibits torture, inhuman or degrading punishment, and within these prohibitions is also included the prohibition of committing marital rape since the same is degrading and inhuman treatment of the victim (International Covenant on Civil and Political Rights, 1966, art. 7). We see sexual autonomy present in this pact in article 17. It emphasizes private life, and prohibits arbitrary interference with it, including attacks that violate the honor and reputation of the person (International Covenant on Civil and Political Rights, 1966, art. 17). Honor and reputation are elements that are directly violated by marital rape; therefore, although not directly, victims of marital rape are protected through this article.

Declaration on the Elimination of Violence Against Women (DEVAW)

The United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women (DEVAW) in 1993. This document represents the

efforts of many actors to address violence against women. DEVAW clearly includes "sexual harassment and intimidation at work, in educational institutions or elsewhere." To combat sexual harassment and other acts of violence against women, states must work to prevent and investigate such acts (United Nations General Assembly, 1993).

Through Article 2(a), the Declaration also recognizes marital rape as a form of domestic violence. It therefore stipulates that violence against women should be interpreted broadly to include marital rape and other forms of sexual violence that may occur within the family (United Nations General Assembly, 1993, art. 2(a)).

Beijing Declaration and Platform for Action

The Beijing Declaration and Platform for Action was adopted in 1995 at the Fourth World Conference on Women. This declaration covers issues ranging from the workplace to violence against women.

Marital rape, when committed by a current or former intimate partner, automatically falls into the category of sexual violence committed in the family, as the Declaration of Rights does. In its paragraph 113, it defines the term "violence against women" which it defines, among other things, as sexual suffering or harm that can be committed both in the closed spaces of the family but also in public life by unknown perpetrators and even by the state itself when the same tolerates sexual violence or even commits it itself (United Nations, 1995, para. 113).

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention, was adopted on 7 April 2011 by the Committee of Ministers of the Council of Europe. This convention, despite being adopted more than 15 years ago, continues to be the most important contemporary document regarding violence against women. In fact, this Convention for the first time emphasizes the distinction between sex and gender. The first as a biological determinant and the second as a social construct which, for centuries, has played an important role in the subordination of women in society (Issue Based Coalition on Gender, 2020).

Since the Convention specifically addresses violence against women, in some articles we see the presence of sexual violence and, consequently, marital rape. Thus,

in Article 3, the Convention includes in the group of violence against women any acts that cause physical, sexual, psychological or economic suffering. (Council of Europe, 2011, art. 3(a)). In Article 36, on the other hand, the Convention obliges states to criminalize, among other things, anal, vaginal and oral penetration that is carried out with parts of the body or with the penis of another person and which is not voluntary (Council of Europe, 2011, art. 36(1)(a)).

According to this Recommendation, rape must be criminalized, and it also foresees marital rape as a form of sexual violence that violates the physical, sexual and psychological integrity of the victim. Similarly, General Recommendation No. 35 emphasizes consent and its receipt in coercive circumstances where the same has not been freely expressed. (Committee on the Elimination of Discrimination against Women (CEDAW), 2017, art. 29(e)).

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention)

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women was adopted in Belém do Pará, Brazil, in 1994. This convention is the first to develop mechanisms for the protection of women's rights, thus enabling the fight against physical, sexual and psychological violence in two dimensions, both in the private and in the public dimension (Organization of American States (OAS), 1994).

In Article 2 of this Convention, violence against women is provided for, including sexual violence which is committed within the family; when sexual violence is committed in the family, in most cases it is committed by the partner. According to this article, the violence experienced by women can be physical, sexual, and psychological and can be committed by a person with whom the victim has had or is in a relationship, but also when these forms of violence, as well as specific types of sexual crimes such as rape, sexual abuse, torture, trafficking, and forced prostitution, are committed outside the home, anywhere, including when committed by the state itself (Organization of American States (OAS), 1994, art. 2).

Marital Rape in North Macedonia

Sexual violence committed by an intimate partner is one of the most contemporary terms when we speak about sexual violence. Unfortunately, the same was not recognized for a very long time, and here is also included the Republic of North

Macedonia with its history. Before North Macedonia became an independent and sovereign state, it was part of Yugoslavia. If we analyze the Criminal Codes of that time, we see that marital rape did not exist; moreover, it was excluded from the incrimination of rape. Thus, in the Criminal Code of the Federal People's Republic of Yugoslavia.

Since 1951, we see the presence of sexual crimes in the Criminal Code of the Federal People's Republic of Yugoslavia. This Code, numbered 332, was adopted on 27 February 1951 in Belgrade, while it entered into force on 1 June 1951. In this Code, sexual crimes are incriminated in the chapter Criminal offenses against human dignity and morality, which consists of 10 articles. Marital rape, as stated above, is not incriminated in this Code, but as a criminal offense, rape is incriminated in Article 179: Rape according to this Code is defined as: (1) Whoever, by the use of force or intimidation that will immediately attack life or body, will force a female person into a sexual act with whom he does not live in a marital union, shall be punished with strict imprisonment up to eight years. (2) If, as a result of the criminal offense from paragraph 1 of this article, serious bodily injury or the death of the woman has occurred, the perpetrator shall be punished with strict imprisonment of at least two years. Thus, as we can see, rape can be committed only against someone with whom one is not in a marital union; consequently, sexual violence between spouses was not recognized as a form of violence (Criminal Code of the Federative People's Republic of Yugoslavia, 1951, art. 179).

In 1977, the Criminal Code No. 06-1599 of the Socialist Republic of Macedonia also entered into force, which was adopted on 16 June of that same year. Unlike the previous codes, this Criminal Code focuses on criminal law only within the territory of Socialist Macedonia. Sexual crimes in this Code are included within Chapter XI – Criminal offenses against dignity, which consists of 9 articles. Rape is incriminated in Article 94: (1) Whoever, against a female person with whom he does not live in a marital union, by the use of force or threat that he will immediately attack her life or body or the life or body of a close person, will force her into a sexual act, shall be punished with imprisonment from one to 10 years. (2) If, as a result of the criminal offense from paragraph 1 of this article, serious bodily injury or death has been caused to the woman, or the act has been committed by several persons, or in a particularly cruel or degrading manner or in another particularly severe case, the perpetrator shall be punished with at least three years of imprisonment (Criminal Law of the Socialist Republic of Macedonia, 1977). As we can see, this article inherits many parts of the 1951 Article on rape. Thus, here as well we

see that this criminal offense can be committed only against a female person and that sexual violence between spouses is excluded as a form of rape. The sanction for this offense has increased significantly; thus, in 1951 rape was punished up to 8 years of imprisonment, whereas with the Criminal Code of 1977 the sanction is from 1–10 years of imprisonment.

As an independent state, on 23 July 1996 Macedonia adopted the new Criminal Code, while the same began to be applied on 1 November 1996 and continues to be applied even today with many changes that have been made over the years (including the changes of 2023). From Criminal offenses against dignity (as the chapters were called in the Criminal Codes of 1951 and 1977), the chapter is named Criminal offenses against sexual freedom and sexual morality and from 1996 until today holds the same title. Rape is incriminated in Article 186 and is defined as: (1) Whoever, by the use of force or threat that he will immediately attack the life or body of another or the life or body of a close person, will force another into a sexual act, shall be punished with imprisonment from one to ten years. (2) If, as a result of the act from paragraph 1, serious bodily injury, death or other consequences have been caused or the act has been committed by more persons or in a particularly cruel or degrading manner, the perpetrator shall be punished with imprisonment of at least three years. (3) Whoever forces another into a sexual act by serious threat that he will disclose something that will harm the honour and reputation of that person or a close person or will cause other harm, shall be punished with imprisonment from six months to five years. (4) Whoever, in the cases from paragraphs 1, 2 and 3, commits only another sexual act, shall be punished for the act from paragraph 1 with imprisonment from six months to five years, for the act from paragraph 2 with imprisonment from one to ten years, whereas for the act from paragraph 3 with imprisonment from three months to three years. (5) If the act from paragraphs 1, 3 and 4 is committed against a person with whom the perpetrator lives in a marital union or a long-term extramarital union, criminal prosecution shall be undertaken upon a private complaint (Criminal Code of the Republic of Macedonia, 1996, art. 186). As we see, for the first time marital rape is not excluded from a marital or extramarital partner. However, the legislator does not provide ex officio prosecution, consequently victims only in the case of reporting to the authorities of the state can achieve justice for this crime committed against them; otherwise, the prosecutor does not have the obligation to prosecute the case.

From 1996 until today, the Criminal Code has undergone numerous changes over the years, attempting to adapt to social trends as well as international standards.

North Macedonia signed the Istanbul Convention on 8 July 2011, ratified it on 23 March 2018, while the same entered into force on 1 July 2018 (Council of Europe, n.d.). As a result of this ratification, the legal system in RNM underwent several changes. Within these changes are also included the amendments that the Criminal Code experienced in 2023, which are the most important changes carried out in the last 30 years when it comes to gender-based violence and domestic violence. Through these changes, Chapter XIX of the Criminal Code underwent fundamental changes both in the naming of criminal offenses, criminal sanctions, the legal definition, and the positioning of state authorities in the fight against gender-based violence and domestic violence.

Article 186 has undergone numerous changes, but before the 2023 amendments came into force, this article criminalized rape as an act of a sexual nature committed through force and threat, as well as threats against persons close to the victim. When the victim is a child but has reached the age of 14, this article provides for a much more severe punishment, namely the perpetrator is sentenced to a minimum of 10 years in prison. Severe sanctions are also provided when the victim suffers serious physical harm. In addition, the provision extended to situations involving coercion through threats of reputational harm (Osmani, 2015, p. 165).

Whereas with the amendments adopted in mid-2023, Article 186 was renamed as Sexual assault and rape and provides. With the entry into force of the amendments of 2023, Article 186 underwent drastic and very important changes. Thus, it initially shifted from a focus on force-based elements to the absence of consent as the central component of the offence. Also, through these amendments, it is defined what we call a sexual act, namely "vaginal, anal, or oral penetration with any part of the body or object or will force another person without his consent to perform sexual intercourse". When this act is committed against a child who has reached the age of 15 or is carried out through force or threat to the life and body of the victim or any close person, the perpetrator is punished with a more severe penalty. A more severe punishment is also imposed on the perpetrator who has committed these acts by threatening to reveal something that will damage the reputation of the victim or a close person, or even when the victim has suffered sexual or physical injuries or even the death of the victim, but also when the act is committed by more than one person. Paragraph 8 of this article specifically defines marital rape. When the penetration is committed by a current or former intimate partner, the Criminal Code provides for a prison sentence of at least 3 years, while when the (former) intimate partner has used force and threatened to attack the life and body of the

victim or another person, then the perpetrator will be sentenced to at least 5 years in prison (Law Amending and Supplementing the Criminal Code, 2023).

In the previous article, the act was only named as a sexual act without providing explanations, and this has led to the need for interpretations to determine what, in fact, is considered a sexual act, or which parts of the sexual act are incriminated, or whether the sexual act is carried out only through penetration or can be of different forms and ways. Therefore, the need arose that even in the Criminal Code, not only through interpretations of legal science, but the sexual act should also be defined. Now, in the article Sexual assault and rape, it is defined as: "sexual intercourse or something else equal to a sexual act, which consists of vaginal, anal, or oral penetration with any part of the body or object." Thus, we have a concretization of which actions will be considered as sexual crimes. This change is very important also for marital rape, since now the criminal procedure will be conducted only in the absence of the woman's will. Another very important change is also the incorporation of paragraph 8, which explicitly provides for marital rape and, above all, provides for a minimum punishment of 3 years, but the perpetrator may also be punished with life imprisonment when the judge assesses that the committed crime corresponds to lifelong deprivation of liberty.

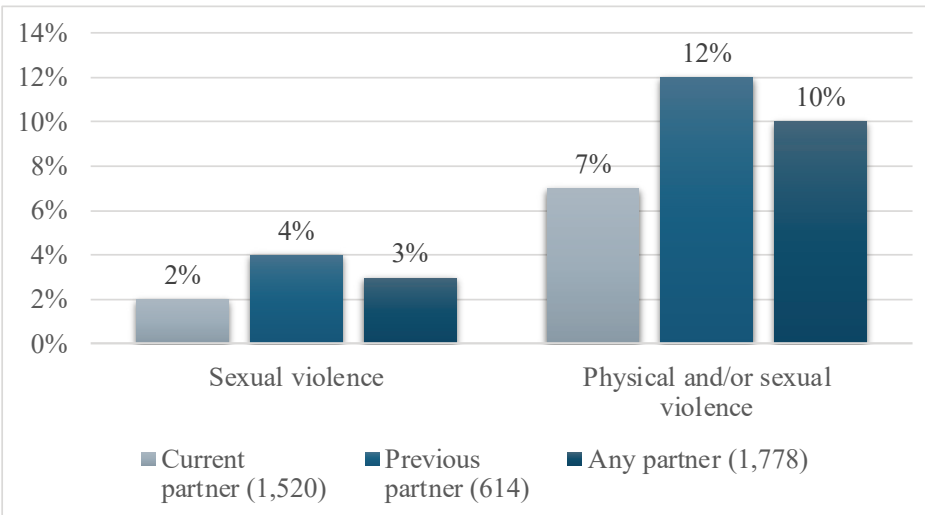
Statistical Evidence and Social Reality

The social reality of marital rape can best be observed through statistics provided both by international organizations and by national authorities. In fact, the numbers emerging from statistics on one hand show the number of reports, but on the other hand reflect how much this form of crime is not reported and how many cases remain untreated by institutions, while also remaining in the darkness of documentation of these cases. One of the international organizations that has conducted and constantly conducts research in this direction is the World Health Organization. The data of this organization show that one-third of girls and women globally have experienced physical and/or sexual violence by a (former) intimate partner, although violence by other perpetrators is also reported. Furthermore, this research shows that more than a quarter of girls and women between the ages of 15 and 49 have experienced such forms of violence at least once in their lifetime by their intimate partner. According to the WHO: "Estimates of the prevalence of intimate partner violence during the lifetime range from 20% in the Western Pacific, 22% in high-income countries and Europe, and 25% in the WHO Region of

the Americas, to 33% in the WHO African region, 31% in the WHO Eastern Mediterranean Region, and 33% in the WHO South-East Asia region." (World Health Organization, 2026).

The Organization for Security and Co-operation in Europe (OSCE, 2019) - led survey on violence against women: North Macedonia. This research was conducted with girls and women aged 18 to 74, and results show that one in ten girls/women have experienced physical and/or sexual violence within intimate relationships. Regarding North Macedonia, approximately half of the girls/women included in the research reported having experienced psychological, physical, or sexual violence from their intimate partner. Regarding exclusively sexual violence, only 3% have reported the same. Also, according to this research, when women fall into the category of women who experience difficulties in economic terms, they are likely to experience 15%-21% more physical and/or sexual violence from an intimate partner. The following table shows the reporting of girls and women aged 18–74 who have experienced sexual violence by partners.

Table 1. Sexual Violence in North Macedonia (2018)



Source. (OSCE, 2019)

UN Women also provides data on sexual violence by a partner. According to UN Women research, which refers to the year 201, it results that 4.2% of girls and women (from 15 to 49 years old) have experienced physical violence or sexual violence, either from a current intimate partner or a previous partner (UN Women, n.d.).

The above-mentioned statistics refer to research conducted by international organizations and, in fact, are among the few statistics that we can easily access, but in reality, these statistics do not provide us with information on how many of these reports have also been made to state institutions, respectively to the police. In this regard, from the data obtained from the Ministry of Internal Affairs, it is seen that, in fact, reporting is very low. From the data secured from the Ministry of Internal Affairs, reports under Article 186 paragraph 8 (which provides for marital rape) are:

- in 2023, one crime was registered for which one perpetrator was reported,
- in 2024, three crimes were registered for which three perpetrators were reported,
- in 2025, no such crimes were registered (Ministry of Internal Affairs, 2026)

These data were obtained from the Ministry of Internal Affairs, which refers to reporting at the national level; in fact, they present the real situation in which society in the Republic of North Macedonia is found. Reporting is minimal, and even in the year 2025, nothing was recorded, although anonymous surveys and field research indicate a much more concerning situation regarding marital rape (Ministry of Internal Affairs. 2026). There exists a large gap between reported victims and the real number of victims. This situation indicates that society in the Republic of North Macedonia continues to suffer from prejudice, stereotypes, as well as deeply rooted patriarchal concepts regarding the position of women and men.

Conclusion

History has shown that girls and women, for a long period of time, were initially considered the property of the father and later the property of the husband. As a result, any crime committed against them was treated as a violation of male authority rather than a direct infringement of the integrity and dignity of the woman. This concept continued into the 18th century through the positions of Hale, who reinforced the idea that by entering into marriage, a woman gives permanent consent to sexual relations, thereby excluding the possibility of rape within marriage. Unfortunately, elements of this approach continue to be present even today, transformed into more sophisticated forms, where the woman is still perceived as the “honor” of the man.

Marital rape continues to constitute a serious challenge both for victims and for society as a whole. Although most states today recognize this criminal offense, not all guarantee fair, effective, and victim-oriented procedures. The Republic of North Macedonia, in an effort to harmonize its legislation with international and European standards, has undertaken significant changes to the Criminal Code, including provisions that clearly address marital rape. However, despite this normative progress, the practical implementation of the law remains challenging.

The lack of effective implementation of legal provisions, together with factors such as social stigmatization, lack of trust in institutions, and procedural difficulties, contributes to the underreporting of cases and to the insecurity of victims in seeking justice. In this regard, it is essential not only to strengthen law enforcement mechanisms, but also to develop policies and awareness-raising campaigns aimed at changing societal perceptions of this phenomenon.

In conclusion, addressing marital rape requires an integrated approach, where, in addition to the legal framework, particular importance is also given to the transformation of social norms and the guarantee of full support for victims. Only in this way can real protection of women's rights be ensured and a justice system that functions equally and effectively for all.

References

Bergen, R. K. (1996). *Wife rape: Understanding the response of survivors and service providers*. SAGE Publications.

Blackstone, W. (1765). *Commentaries on the laws of England: Book the first*. Clarendon Press. https://lonang.com/wp-content/download/Blackstone-CommentariesBk1.pdf

Committee on the Elimination of Discrimination against Women. (1992). *General recommendation No. 19: Violence against women*. https://www.refworld.org/legal/resolution/cedaw/1992/96542

Committee on the Elimination of Discrimination against Women. (2017). *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19* (CEDAW/C/GC/35). United Nations. https://digitallibrary.un.org/record/1305057

Convention on the Elimination of All Forms of Discrimination against Women, December 18, 1979, https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women

Council of Europe. (2011). *Council of Europe Convention on preventing and combating violence against women and domestic violence* (CETS No. 210). https://rm.coe.int/168008482e

Council of Europe. (n.d.). *Chart of signatures and ratifications of Treaty 210*. https://www.coe.int/en/web/conventions/full-list2?module=signatures-by-treaty&treatynum=210

Criminal Code of the Federative People's Republic of Yugoslavia, Official Gazette of the FPRY, No. 13 (1951).

Criminal Code of the Republic of Macedonia, Official Gazette of the Republic of Macedonia, No. 37/96 (1996).

Criminal Law of the Socialist Republic of Macedonia, Official Gazette of the Socialist Republic of Macedonia, No. 25 (1977).

Estrich, S. (1987). *Real rape*. Harvard University Press.

European Institute for Gender Equality. (n.d.). *Gender-based violence*. https://eige.europa.eu/publications-resources/thesaurus/terms/1113?language_content_entity=en

Evans, B. (2025). The persistence of the marital rape exemption: Law, ideology, and inequality. *Harvard Undergraduate Law Review*. https://hulr.org/fall-2025/2be-7gwo9i89ciljlu8kz835bne7wev

García-Moreno, C., Abrahams, N., Devries, K., Pallitto, C., Stöckl, H., & Watts, C. (2013). *Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence*. World Health Organization. https://www.who.int/publications/i/item/9789241564625

General Assembly. Joint Subcommittee. (1986). *Marital rape* (House Document No. 33). https://rga.lis.virginia.gov/Published/1986/HD33

Green, W. M. (1988). *Rape: The evidential examination and management of the adult female victim*. Lexington Books/D. C. Heath.

Hale, M. (1736). *Historia placitorum coronae: The history of the pleas of the Crown* (Vol. 1). E. and R. Nutt and R. Gosling. https://archive.org/details/historiaplacitor01hale/page/628/mode/2up

International Covenant on Civil and Political Rights, December 16, 1966. https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

Issue Based Coalition on Gender. (2020, July). *Istanbul Convention: Questions and answers*. https://uneuropecentralasia.org/sites/default/files/2022-06/Istanbul%20Convention%20QA%2016%20July%202020.pdf

Law Amending and Supplementing the Criminal Code, Official Gazette of the Republic of North Macedonia, No. 36/2023 (2023).

MacKinnon, C. A. (1989). *Toward a feminist theory of the state*. Harvard University Press.

Ministry of Internal Affairs. (2026). *Statistical data on criminal offenses against sexual freedom and integrity, 2020–2024* [Unpublished official document].

Organization for Security and Co-operation in Europe. (2019). *OSCE-led survey on violence against women: North Macedonia – Results report*. https://www.osce.org/secretariat/419264

Organization of American States. (1994). *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará)*. https://www.oas.org/en/iachr/mandate/Basics/belemdopara.asp

Osmani, A. (2015). *Kodi penal i Republikës së Maqedonisë: Teksti integral, i përpunuar në gjuhën shqipe me udhëzime dhe sqarime, treguesi alfabetik [Criminal Code of the Republic of Macedonia: Full text, revised in Albanian with instructions and explanations, alphabetical index]*. Furkan ISM.

People v. Liberta, 64 N.Y.2d 152, 474 N.E.2d 567, 485 N.Y.S.2d 207 (N.Y. 1984).

R v R (1992) 1 AC 599 (HL).

Russell, D. E. H. (1990). *Rape in marriage* (Rev. and expanded ed.). Indiana University Press.

Small, M. A., & Tetreault, P. A. (1990). Social psychology, 'marital rape exemptions', and privacy. *Behavioral Sciences & the Law, 8*(2), 141–149. https://doi.org/10.1002/bsl.2370080206

UN Women. (n.d.). *Country fact sheet: North Macedonia*. UN Women Data Hub. Retrieved November 5, 2026, from https://data.unwomen.org/country/north-macedonia

United Nations General Assembly. (1993). *Declaration on the elimination of violence against women* (A/RES/48/104). https://www.ohchr.org/Documents/ProfessionalInterest/eliminationvaw.pdf

United Nations, Division for the Advancement of Women. (2010). *Handbook for legislation on violence against women*. https://digitallibrary.un.org/record/3928965

United Nations. (1995). *Beijing Declaration and Platform for Action*. https://digitallibrary.un.org/record/208677

World Health Organization. (2026, June 18). *Violence against women*. https://www.who.int/news-room/fact-sheets/detail/violence-against-women