



The Reality Behind the Words: An Information Resource about Marital Rape in Kenya

Marital rape is any case where someone uses violence or the threat of violence to force their wife or husband to have sex. In Kenya, rape is a criminal offence punishable with a prison sentence, but there is no legal protection from rape within marriage.

This briefing focuses on rape within marriage, which is an aspect of domestic violence that is rarely considered. Both men and women experience sexual violence within relationships. Although this policy brief examines the rape of women by their male partners, the issues may be relevant for other abusive relationships.

Marital rape happens frequently, causing health problems, pain and distress to abused women. Children in households where marital rape occurs often suffer from the psychological effects of witnessing violence, and because it can undermine the ability of their mothers to care for them. The 2008-09 *Kenya Demographic and Health Survey - Preliminary Report* shows that 13 per cent of married women -more than one out of every 10 women-reported being raped by their male partners within the past year.

Marital rape is one of the most under-reported violent crimes because it is socially tolerated. Abused women are often economically dependent on their partners or feel unable to speak out due to fear and humiliation. The aim of this policy brief is to demonstrate that forced sex within relationships is rape. We show that marital rape needs to be acknowledged and addressed in the law, by service providers and in communities.

The Women's Rights Awareness Programme

This briefing is based on an action research project that examined client records from the Women's Rights Awareness Programme (WRAP) to investigate experiences with intimate partner violence among women in Kenya (Crichton et al. 2009).

WRAP is a non-governmental organisation that provides shelter, counselling, practical and legal advice and other services to survivors of gender-based violence in Nairobi, Kenya. The research project examined WRAP's client records, which provide powerful testimony to the debilitating physical and mental health impacts of marital rape that are often overlooked in public debates on legal reform. This study draws on evidence from more than 1200 Kenyan women who used WRAP's services between 1999 and 2005.

Forced sex within marriage is a reality in Kenya... More than one in 10 married women were raped by their partners within the past year

The Impacts of Marital Rape

Women who have been raped by their partners describe experiencing pain, humiliation and distress. This policy brief looks at client records from the Women's Rights Awareness Programme (WRAP) in Kenya to highlight the experiences of women who have gone through this form of violence.

Health Impacts of Marital Rape

Studies from around the world show that health problems caused by marital rape include HIV and other sexually-transmitted infections, vaginal bleeding or infection, genital irritation, pain during sex, chronic pelvic pain, and urinary-tract infections (Campbell 2002; PAHO 2003). The physical violence associated with marital rape can also lead to complications during pregnancy, resulting in health problems for both women and their children.

Mental health impacts associated with marital rape and other forms of abuse by partners include depression, anxiety, emotional distress and suicidal thoughts (Krug et al. 2002; World Health Organisation 2005). Marital rape and violence also undermine children's health and wellbeing, both through the psychological impacts of witnessing violence and because it can undermine ability of mothers to care for themselves and their children (PAHO 2003).

Marital rape causes public health problems including poor maternal and child health, repeat-infections with Sexually-Transmitted Infections (STIs) and long-term exposure to the risk of HIV infection.

WRAP's record about Tessy*, a 30-year-old client who sought their services, explains that:

She has been married for 12 years and is blessed with two children. Her husband battered her and she now suffers from pains in her body, but Tessy's worst problem is the way her husband uses force to have sex and this hurts her badly because she suffers from the wounds he causes during forced sex.

Marital rape can be accompanied by other forms of physical violence.

Mary, aged 27, says her husband strangles her with his legs and hands, then forces her to have sex in a very rough way [...] She says that the silence has killed her slowly and has now decided to come to WRAP for help.*

Marital rape prevents individuals from being able to take control of their own sexual and reproductive health. Some of WRAP's clients describe how marital rape caused them profound anxiety because of concerns that their partners are unfaithful and fear that they could be infected with STIs or HIV. Some clients reported that their husbands refused to use condoms. Others said that they did not feel able to ask their partners to use a condom because they feared this could lead to further abuse.

Twenty eight-year-old Sally reports that her late husband used to force her into sex, which resulted in fights. [She] was not comfortable with her husband since he had signs of a sexually-transmitted disease. Her husband's death made her go to a Voluntary Counselling and Testing Center (VCT) so she could know her status and that was when she found she was HIV-positive.*

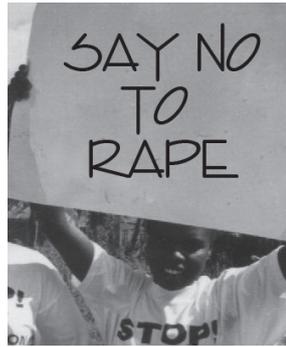
Alice is 36 years old. Her husband forces her to have sex and this is one of the main reasons for the continuous abuse. She says she knows he has many girl-*

*Pseudonyms were used to protect confidentiality

friends and sleeps around a lot. She knows of HIV/AIDS and does not want to get it but in her efforts to avoid getting any diseases she is severely beaten up.

In cases where husbands refuse to use contraception, forced sex and associated sexually transmitted infections can lead to maternal and child health problems. For instance:

When 20-year-old Amina became pregnant, she developed a dislike for her husband. [...] He would beat her up when she had not done dishes by the time he came home. He had other girlfriends but denied it. He would insist on forced sex. Amina lost the baby as a result of stress and abuse. He infected her with syphilis. She conceived again but lost the baby at two months.*



Addressing Marital Rape in the Law

The right to be free from coercion and violence in relation to sex is a human right that is defined in several regional and international laws that the Government of Kenya is a signatory to. These laws include The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Protocol on the Rights of Women in Africa. Kenya is a state party to CEDAW. The Government of Kenya last presented its report on the implementation of the Convention to the CEDAW Committee in 2007, and is due to present again in 2010.

However, Kenyan law fails to prohibit rape within marriage. The only legal protection for Kenyan women in cases of domestic violence is the general law on assault. This law is inadequate for protecting women from marital rape because it requires evidence of a physical struggle or witnesses. WRAP's clients explain that they do not feel able to struggle when their husbands try to force them into sex, in order to avoid further violence or to protect their children from witnessing the abuse.

The introduction of the Sexual Offences Act in 2006 tightened the legal definitions of sexual offences and penalties. However, the Act explicitly excluded protection for married women from sexual violence within their relationships. So, according to Section 43.5 of the Sexual Offences Act, it is not an offence to coerce someone into a sexual act by using force or threat of harm if you are legally married to that person.

The inadequacy of national law for protecting women who are raped by their husbands is demonstrated in the case of Josephine* (aged 39):

Josephine's husband regularly abuses her sexually and she experiences sore wounds in her private parts. [...] She wants to know if there is any law that can be used to address this use of force by her husband. [WRAP's staff informed her] that the only law that takes care of this is limited to assault and she would need to get a [police medical report] and follow the procedure of a criminal case.

Even the limited legal protection against marital violence is not always implemented in practice, due to lack of commitment and awareness among some police and local administrators.

Jane, a female client at WRAPS says that her husband [...] beats her at the slightest mistake or excuse [...] She reported the matter to the police, but the police officer (a lady) told her that she deserved the beatings. [...] What worsens the problem between Jane and her husband is that he is promiscuous. This makes her reluctant to sleep with him hence the beating.*

*Pseudonyms were used to protect confidentiality

Recommendations for Parliamentarians and the Justice Sector

- Call for marital rape to be explicitly prohibited in national law and for Section 43.5 of the Sexual Offences Act to be repealed.
- Participate in raising awareness among the public that marital rape is a crime.
- Those working on the constitutional reform should incorporate relevant rights that can be used to address marital rape, for example, the right to bodily integrity or right to health.
- The Government of Kenya should train the police, local administrators and other justice sector officials that all forms of violence against women are crimes and that they have a duty to take action to address such cases.

Addressing Marital Rape in Communities

Social toleration of marital rape makes it harder for women to report the violence or get help to end it. Some people deny that marital rape exists, because husbands and wives give their consent to be sexually available to each other when they make their wedding vows. Others claim that it is a private and family matter. Many people are not aware of the severity of its impacts and think that it is not a problem. In a survey by the Federation of Women Lawyers (FIDA), Kenya, in 2002, more than half of the women who reported being physically or sexually abused by their partners had not told anyone about the violence, with many stating that they consider violence to be a normal part of life. The following extract is an example of many women's lack of awareness about their rights.

According to Margaret, aged 30, her husband got another lady. He has stayed with her [...] on and off. When he comes home to [his wife] he demands sex by force and he does not use a condom. She said that she complies to his demands as she is legally married to him in the church.*

The suffering caused by marital rape is aggravated by taboos against discussing violence, and by widespread tolerance of forced sex and other forms of violence against women. Family members often fail to support women who are being raped by their partners.

Grace, 34, was battered and abused sexually by her husband. [...] She talked to her parents about this and they said that she has to persevere because the dowry was already paid and she could not leave the marriage.*

Twenty eight-year-old Monica has also been a victim of violence and [forced] sex. Her husband forces himself on her during sex and if she happens to refuse she ends up getting hurt more. Her private parts are now swollen and very painful due to the forced sex. She told her relatives and they said that it's part of life.*

There is a need for community and religious leaders from all communities and faiths to unequivocally condemn forced sex in marriage. Silence about marital rape just helps to tolerate and perpetuate it. Community leaders are respected and play an influential role in interpreting and shaping cultural beliefs. They, therefore, have the power and responsibility to speak out.



Recommendations for Government, Human Rights Activists, Religious and Community Leaders

- Government and human rights organizations should raise men and women's awareness of the right to be free from violence. These messages may be particularly effective if they are packaged in ways that are relevant to people's attitudes and beliefs about marriage and relationships.
- Religious and community leaders should publicly address marital rape and all other forms of domestic violence as a social and moral issue.
- Leaders can help to promote a model of marriage involving consensual, pleasurable and fulfilling sex.

Addressing Marital Rape in Services

In some cases, women feel trapped in abusive relationships because of economic dependence on their partner. Some do not have the confidence, skills or resources to support themselves financially.

Christine's husband [...] forces her to have sex [and] has now infected her with the HIV virus. She is only 25 years of age and is expectant [...] She says she cannot leave the house since she has nowhere to take the children.*

Attitudes to sexuality may play a role in encouraging marital rape. Male sexual identities that are based on displays of physical strength and stereotypes that 'nice women' do not enjoy sex may contribute to situations where men rape their wives. Projects in Nigeria and Ghana have found that promoting couple's awareness about sex that is fulfilling and pleasurable for both partners can help to reduce violence within relationships (Knerr 2008; Welborn 2006).

An important finding from this study is that **general health care services** need to take measures to address the needs of individuals affected by recurrent cases of marital rape. Abused women may repeatedly experience health problems due to violence, including physical injury, trauma, risks of HIV and STI infection, and unwanted pregnancy as a part of the relationship.



Some women feel trapped in abusive relationships because of economic dependence on their partner.



Silence about marital rape just helps to tolerate and perpetuate it... Community leaders have the power and responsibility to speak out

Services should be made as accessible as possible because sexual violence may undermine abused women's ability to seek health-care. This study found that some abused women felt hopeless about their health status due to the psychological impacts of violence. Others described how their partners undermined their ability to pay for health services by taking away their earnings, preventing them from earning their own income or neglecting them financially. Some had undiagnosed symptoms of STIs, but were not aware of where to go for free government services.

There is a need for all health providers in Kenya to routinely screen clients for violence and to collect information on the health conditions that are caused by violence. Because of the long-term nature of violence in many abusive relationships, there is a need for medical staff to refer clients to counseling, rehabilitation and legal services, to help them break the cycle of violence and ill health.

Health services should target men in general, and abusive partners in particular, with sexual and reproductive health services. Some of WRAP's clients explained how their ability to seek treatment for STIs was undermined by their partners refusal to go for STI tests or to seek treatment.

Jane, 25, is forced to have sex without her consent by her husband and he [...] infected her with gonorrhoea. She [went to the hospital for medication] and has asked him to seek medical attention but he has refused saying there is nothing wrong with him.*

Substance abuse and addiction are linked to marital rape. Research in Kenya and other countries shows that women whose husbands drink alcohol are more likely to experience physical and sexual abuse than those whose husbands do not drink alcohol (Sitawa et al. 2008).

Recommendations for Health Service Providers

- Medical officers should be trained to address the needs of women affected by marital rape, including identification and treatment of recurrent and chronic conditions caused by abuse, and referral to other services.
- Government and NGO service providers should coordinate in order to increase the effectiveness and strengthen referral systems between health, legal, and rehabilitation services.
- Good quality and acceptable Sexual and Reproductive Health (SRH) services must be made available and accessible to abused women and their partners.
- Government information campaigns are needed to raise awareness among men and women about the symptoms of STIs, the importance of early treatment, and where to access free treatment.
- Drug and alcohol abuse and addiction services can play an important role in violence prevention.

*Pseudonyms were used to protect confidentiality

Recommendations for Other Service Providers

- Sex and relationship counselling services for couples can prevent violence and promote sexual and reproductive health.
- Sexuality education in schools should cover issues of intimacy and communication between partners.
- Government provision of social safety nets would help to prevent women and children from becoming vulnerable and being trapped in abusive relationships.



A woman is given information on health services at a past APHRC and Marie Stopes family planning health camp. There is need for all health providers in Kenya to routinely screen clients for violence and to collect information on the health conditions that are caused by violence.

Health services should take measures to address the needs of individuals affected by recurrent cases of marital rape

Further Resources

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Relevant Organizations Working to Address Gender-based Violence in Kenya

- African Population and Health Research Center www.aphrc.org
- Center for Rights, Education and Awareness (CREAW) www.creawkenya.org
- Coalition of Violence Against Women – Kenya www.covaw.or.ke
- Federation of Women Lawyers Kenya www.fidakenya.org
- Liverpool VCT Care and Treatment www.liverpoolvct.org
- Men as Partners www.engenderhealth.org/our-work/gender/men-as-partners.php
- Women's Rights Awareness Programme www.wrapkenya.or.ke



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