

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Library Philosophy and Practice (e-journal)

Libraries at University of Nebraska-Lincoln

2021

A Bibliometric Analysis of Impunity for Marital Rape in Contemporary Context

Nagesh Haribhau Sawant Dr.

Symbiosis Law School, Pune, ngsh.swnt@gmail.com

Srushti Bhushan Angane

Symbiosis Law School, Pune, srushti.angane@gmail.com

Follow this and additional works at: <https://digitalcommons.unl.edu/libphilprac>



Part of the [Law Commons](#), and the [Library and Information Science Commons](#)

Sawant, Nagesh Haribhau Dr. and Angane, Srushti Bhushan, "A Bibliometric Analysis of Impunity for Marital Rape in Contemporary Context" (2021). *Library Philosophy and Practice (e-journal)*. 5916.
<https://digitalcommons.unl.edu/libphilprac/5916>

A Bibliometric Analysis of Impunity for Marital Rape in Contemporary Context

Dr. Nagesh Haribhau Sawant

Assistant Professor,

Symbiosis Law School Pune, Constituent of Symbiosis International (Deemed University), Pune, Maharashtra, India

Srushti Bhushan Angane

LL.M Student,

Symbiosis Law School Pune, Constituent of Symbiosis International (Deemed University), Pune, Maharashtra, India

Abstract

This bibliometric analysis focuses on the study of research publications that discuss how rape is a monstrous and inhumane act even if it is committed by the husband on his lawfully wedded wife. In this study, the authors aim to determine the frequency of such publications with an intention to establish that the problem of marital rape in contemporary society is receiving substantial attention from the researchers, therefore, the research on this subject is increasing. For this research, the data from 2010 to May 2021 has been collected from the Scopus database using VOSviewer software. The study consisted of a total of 146 documents which are classified into articles, book chapters, notes, letters, editorials, conference papers, and reviews. Data collected is analyzed and presented using tables, charts, and graphs. The study reveals the concept of impunity for marital rape in the contemporary context.

Keywords – Bibliometric, Contemporary Society, Gender Justice, Impunity and Marital Rape.

I. Introduction

Although marital rape is just as a monstrous and inhumane act as a rape outside of wedlock and it also violates the basic fundamental rights of the wife, it has still not received the legislative sanction of a crime in majority of the countries. In absence of law, the victims suffer a lot as there is no avenue to approach and get rid of such forceful sexual exploitation. The societal and cultural norms create hurdles in getting access to other alternative solutions to the problem. In order to study the different dimensions of marital rape, the present study analyses the publication output on marital rape in contemporary context from 2010 to May 2021 by refereeing a total of 146 documents and with the help of graphical data representation and examines the document from different perspectives like keywords, research domain, subject area, countries of publication, authorship, and citation analysis.

II. Literature Review

Randall, M, Koshan, J., and Nyaundi P. (2020) has conducted a citation analysis in her paper examined the judicial treatment received by cases of marital rape in Canada covering the literature available from 1983 to 2013. This study shows a comprehensive review of the decisions of Canadian courts on the issue of marital rape. The author highlights the patterns of judicial precedents

Jermittiparsert, K., Kasemsukphaisit, P. (2016) explored how men perceive the concept of marital rape and studies their attitude towards criminalization of marital rape.

Stafford, N.K. (2008) conducted a research on the long-awaited ‘Domestic Violence Act’ which was passed by the Ghanaian Parliament on 22 February 2007. This research shows that according to the newly passed act, marital rape violates a women’s human rights. Further, it also shows that as per the customary laws of Ghana, consent to marriage was equal to consent to sex.

Jaffe A.E., Steel A.L., DiLillo D., Messman-Moore T.L., and Gratz K.L. (2021), recognized how rape when committed by an intimate partner or husband involves an implied sexual consent. In the relationships between the victim and committer, there exists a sense of superiority although there may not be any use of physical violence, it is an emotional one which does not pass the test of rape as per the definitions of rape in the legal textbooks. On the other hand, the authors also examined the repercussions of exemption of marital rape which most of the time results in the victims being in denial by not acknowledge instances of forces sexual intercourse as ‘rape’.

Doherty, J. (2012) talked about women being marginalized with the help of Cameron’s laws which prohibit marital rape with a legal sanction. This paper detects the gaps and irregularities contained in Cameroon’s laws in relation to marital rape.

Riaz, M. (2021) selected 35 digital illustrations that surfaced in around 32 blogs and news articles that Pakistan published on the cases of rape. The author selected and studied the articles concerning rape in Pakistan was based on ideational metafunction as suggested by Kress and Van Leeuwen. Results reveal under-representation of rapists and perpetrators, law enforcement, survivors, and existing myths regarding revenge rape, child abuse, gang rape, marital rape, and gender-based victimhood. The study set the scope for further research and suggestions in respect of studies of rape

and its interlink with studies of gender and digital discourse.

III. Statement of Problem

Marital rape is a global problem even in today's contemporary society. It means when any sexual act or sexual intercourse between a man and his wife for which the consent of the wife is not obtained and it is done by force, coercion, the threat of violence both physical and mental, cruelty or torture or, any other way. In this relationship, the wife gives her consent under circumstances that compel her to do and therefore every such sexual act committed on her by her husband is to be considered as marital rape. It is the popular belief and a socially acceptable norm that the husband is immune from committing marital rape because he has the right to have sexual intercourse with his wife, as one of the conjugal rights, irrespective of the fact that his wife is willing or not. She is required and expected to surrender herself to her husband's will. Impunity for marital rape is presumed to be established with an aim to preserve the marriage and ultimately the family.

It is observed that since the last decade, feminist movements have occurred around the world and many dialogues pertaining to gender justice and the rights of women have surfaced. As a result of which, the dialogues on the rights of married women have also been increasing. Therefore, the study is conducted to ascertain whether impunity for marital rape and marital rape exemption have attracted any increasing attention of researchers in this period.

The research that is so far available with respect to marital rape is relatively little and there is a need for exploring the uncharted areas by highlighting the research gaps that exist on the subject of impunity for marital rape. The authors have conducted a bibliometric analysis to know the research scope of marital rape and its exemption and to evaluate the published literature in this area and to pave way for future researches on this subject.

IV. Objectives of the study

To find out publications and contributions on the topic, the authors have conducted this bibliometric study on the basis of the following objectives:

- To appraise the available literature from 2010 to May 2021 and to examine trends in publications and contributions on the topic of marital rape;
- To determine the country-wise affiliation of authors, their contribution, and evaluation of the growth of publications on the issue of marital rape;
- To map the frequently used keywords in documents relating to marital rape and examine the

citation of the documents;

- To analyze the research contribution by the countries where women suffer from marital rape.

V. Research Methodology

a. Source of Information

The primary data for conducting this bibliometric analysis is collected from the Scopus database. The developer of Scopus database is Elsevier since its launch in 2004. Scopus database is peer-reviewed and provides a literature publications database of journals, conference proceedings, and books on various disciplines like medicine, social science, life sciences, political sciences, arts and humanities, technology and warfare, etc. The secondary data used for this study include which include case laws, reports, research papers, newspaper reports, journal articles, magazines and books. The authors used tools of visual representation of data available from the Scopus database. Metrics which are used in this paper includes document type, authors and their affiliation, year of publication, document type, total no. of papers, total no. of citation, H-index, CiteScore, SNIP etc.

b. Methodology

Bibliometric method of study is adopted for this study as it helps in appraisal of literature which was written over the period of time, gradually. Bibliometric analysis helps in providing a complete vision of the fundamental publications pertaining to the subject of researchers' interest. The bibliometric analysis aids the researchers as well as academicians to classify the authors in the orders of popularity and citations. It also helps in exploring quality literature and also aids in highlighting research gaps thereby paving way for further scope of research.

c. Scope and Limitation

The limitation of the technique of bibliometric analysis is that often informative and highly educational articles get missed out because of not being cited as much even though they might have a positive impact on the dissemination of information on the subject of research. In this study only a total of 146 documents have been retrieved for conducting the analysis under the headings of Marital Rape Laws: Not a global phenomenon, Growth of Publication, Subject Area and Number of Documents, the top 10 countries to have actively contributed to publishing documents and the number of documents published per year in Journals. And the period of study is limited to the period from 2010 to May 2021.

d. Study Design

The study is based on the bibliometric analysis method. The period of study is limited to the period

from 2010 to May 2021. The authors have conducted this study to ascertain whether impunity for marital rape and marital rape exemption have attracted any increasing attention of researchers in this period. The data has been analysed under the following heads:

- Marital Rape Laws: Not a global phenomenon
- Presentation and Analysis of Data
- Analytical Reflections

e. Search Strategy

The keywords and title work as important constraints and tools which aid the representation of only the relevant data and also reduces the generation of false-positive results. The keywords were accessed from the represented data on marital rape. The limitations of source type and language were set during the study. The analysis is limited to the data published in English only. The keywords and title words used for the study are indicated in Table 1.

VI. Marital Rape Laws: Not a global phenomenon

Despite the commonness of the concept of marital rape, and its prevalence in almost all societies may it be developed or developing, this issue has gained quite a little attention from academicians, researchers, social scientists, justice systems and society as a whole. It was only in the 1970s that people began to recognize that rape can occur in a marriage. The general and the socially acceptable rule is that a husband cannot be convicted of having committed the offence of rape because it is the implied rule that the husband is entitled to have sexual intercourse with his wife as a matter of marital right.

In the USA, marital rape was made a punishable crime under the sexual offence codes in all fifty states in the year 1993. Researchers in the USA estimated that around 10% to 14% of married women experience rape in their marriage. While examining the occurrence of different types of rape, the researchers have found that out of all the rapes that occur, about 25% of it is accounted for as marital rapes.

In England, no man could be held to be guilty of rape if it committed upon his lawful wife because the consent of wife was implied as a part of the marriage contract and such consent could not be retracted. However, in 1991, the impunity for marital rape was totally abolished. The House of Lords in *R. v. R.* held that the rule that the immunity that a husband enjoyed on the presumption that he could not be guilty of raping his wife even if the sexual intercourse occurred against the will of his

wife was an antiquated, offensive, and outmoded fiction of law, women in contemporary society will no longer be represented as the chattel of their husbands. Correspondingly, an amendment was made to the legislation through Section 147 of the Criminal Justice and Public Order Act, 1994. The judgment in *R v. R* was affirmed by the European Court of Human Rights and it is reflected in the verdict of *SW v. UK*.

New Zealand abolished immunity from committing the offence of marital rape and made marital rape a penal offence under Section 128 to the Crimes Act, 1961. This section provides that any person can be convicted of sexual violence irrespective of the fact that the person committing the crime is married to the person upon whom the act is committed. There is no difference between sexual violations either committed in a marriage and outside of marriage. The country Congress ratified a bill that makes domestic violence punishable by law in Mexico. Under the Domestic Violence Act, if any person is convicted of unconsented sexual intercourse, rigorous imprisonment of 16 years could be imposed. In Sri Lanka, Penal Code has been amended to recognize forced sexual intercourse as marital rape but only in the context of judicially separated couples and not married couples.

However, there are many countries that refuse to accept the existence of marital rape. Most countries have penal laws that only punish the convicts of rape if it is committed outside marriage. For example, in India, there is neither law on marital rape nor the courts are empowered to take cognizance of the offence of rape by a husband upon his wife. The United Nation population fund clarifies that around 2/3rd of the married women in India, suffer from domestic violence and marital rape and their age group of such wives ranges between as young as 15 years to 50 years of age. It is important to note that in every society where impunity for marital rape exists, indicates an erroneous and entirely outdated understanding that in a marriage, the wife is the property of their husbands.

VII. Presentation and Analysis of Data

The search result, relating to marital rape, on the Scopus database showed a total of 146 publications. All the publications on marital rape were selected for the purpose of the study. For the visualization of maps, data was collected from the Scopus database using VOSviewer software.

Table 1:

Research strategies and keywords used to retrieve documents concerning marital rape

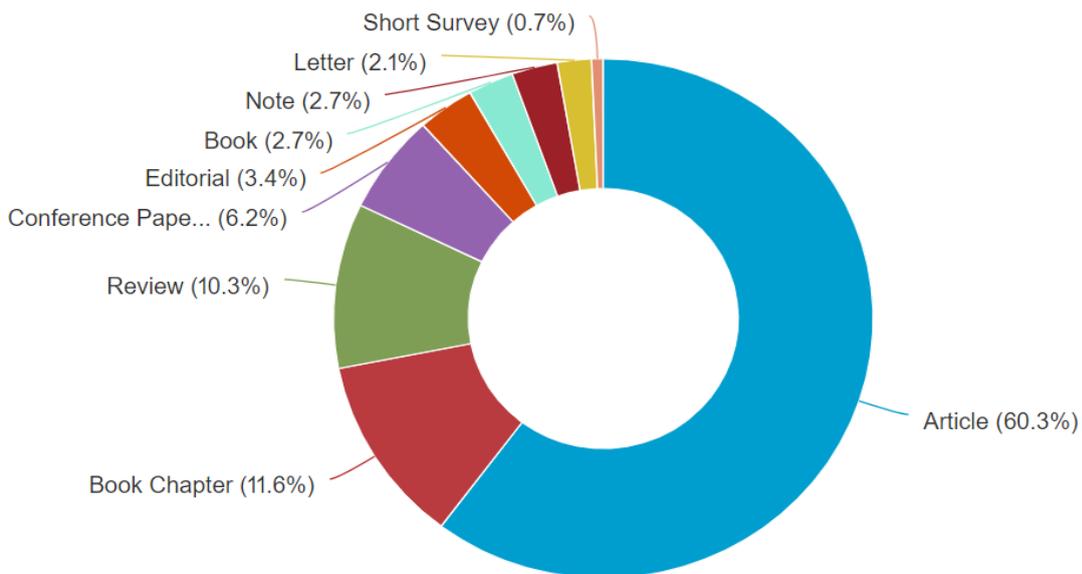
Search method	Keywords	Constraints	Exclusion
Title words	Marital Rape	None	None
Limit	1. Source type: Journal 2. Time-interval: 2010 – 2020	None	None

a. Growth of Publication and Typology of Documents

Out of the total of 146 documents, there were eight different varieties of document types: Articles accounted for 60.3%, Book Chapters for 11.6%, Note and Book for 2.7% each. Review contributed 10.3% of the documents, whereas, Conference Papers accounted for 6.2%, Editorials for 3.4%, Letters for 2.1% and short surveys accounted for 0.7%.

Figure 1: Document type and No. of Documents
(Source: visited scopus.com/ on June 3rd 2021)

Documents by type



The retrieved number of documents are shown in Table 2.

Table 2: Types and Numbers of documents

Type of Document	Number of Document
Articles	88
Book Chapters	17
Note	4
Review	15
Book	4
Conference Papers	9
Letters	3
Editorials	5
Short Surveys	1
Total	146

During the period of study, the number of documents has been fluctuating [illustration in Figure 2]. There was a peak in the publication in 2017 with 22 publications, however, it was followed by a sudden dip in 2018 which gradually picked up in 2020.

Figure 2 illustrates that the research on marital rape saw a high point in the wake of feminist movements in the contemporary times.

Figure 2: Growth of publication and typology of documents

(Source: visited scopus.com/ on June 3rd 2021)

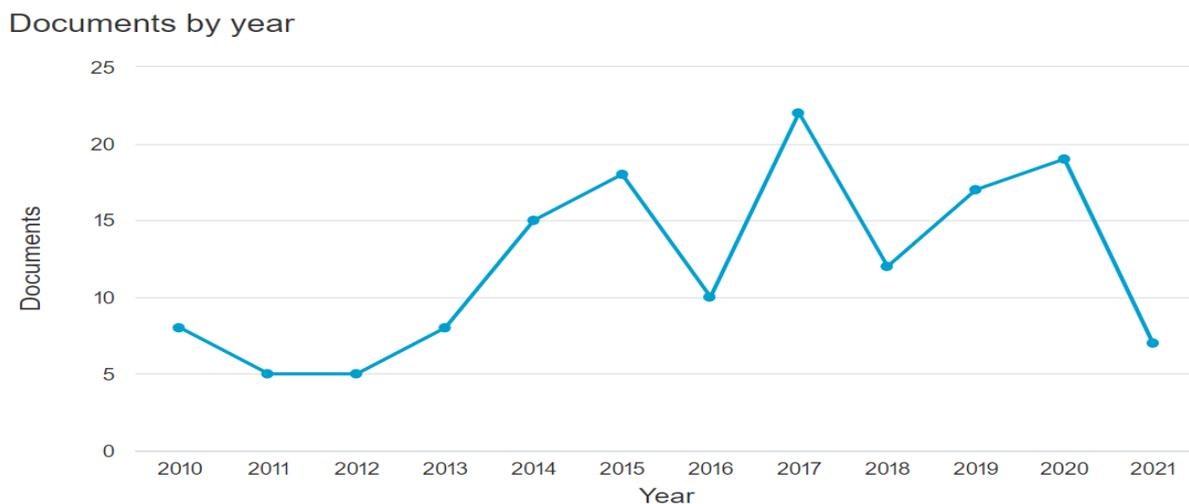


Table 3 indicates the occurrence of the most common and recurring keywords in the document retrieved from the Scopus database. It is observed that the keywords ‘Marital Rape’, ‘Marriage’, and ‘Domestic Violence’ occurred more often than the keywords ‘Sexual Violence’ and ‘Sexual Assault’. Also, it was only after 2017 that the keywords ‘Marital Rape’, ‘Marriage’, and ‘Sexual Assault’ began to appear frequently.

Table 3: Keywords and Occurrence

Source: VOSviewer

Selected	Keyword	Occurrences	Total link strength
<input checked="" type="checkbox"/>	human	60	711
<input checked="" type="checkbox"/>	marital rape	72	668
<input checked="" type="checkbox"/>	female	42	584
<input checked="" type="checkbox"/>	article	37	478
<input checked="" type="checkbox"/>	humans	30	455
<input checked="" type="checkbox"/>	adult	30	442
<input checked="" type="checkbox"/>	male	29	395
<input checked="" type="checkbox"/>	rape	37	338
<input checked="" type="checkbox"/>	major clinical study	17	266
<input checked="" type="checkbox"/>	marriage	26	259
<input checked="" type="checkbox"/>	domestic violence	21	229
<input checked="" type="checkbox"/>	middle aged	12	218
<input checked="" type="checkbox"/>	sexual violence	20	215
<input checked="" type="checkbox"/>	sexual assault	19	194
<input checked="" type="checkbox"/>	young adult	12	187
<input checked="" type="checkbox"/>	partner violence	13	184
<input checked="" type="checkbox"/>	psychology	10	181
<input checked="" type="checkbox"/>	priority journal	14	179
<input checked="" type="checkbox"/>	prevalence	10	178

c. Analysis of Citation

Out of all the 146 documents retrieved from the Scopus database, only 61 documents met the threshold after an option of a minimum of 3 citations per document was opted. These documents are classified into four clusters as visually shown in Figure 4.

Cluster I – Lazar R. (2010), Lunch K.R. (2017) and Lunch K.R. (2019).

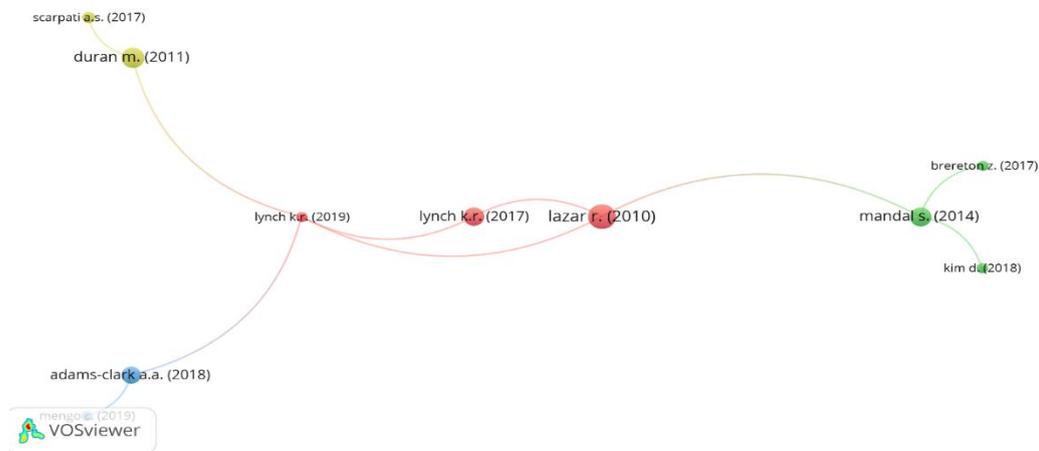
Cluster II – Berereton Z. (2017), Kin D. (2018) and Mandal S. (2014).

Cluster III – Adams-Clark A. A. (2018) and Mengo C. (2019).

Cluster IV – Duran M. (2011) and Scarpati A.S. (2017)

Figure 4: Citation analysis

Source: visited scopus.com/ on June 3rd 2021



d. Research Domain

An illustration is shown in Figure 5, where it indicates that a total of 39.6% of the documents were retrieved from the field of social sciences. The contribution by the field of medicine is about 22.6% of the documents. The documents retrieved from Arts and Humanities account for 12.3%. Whereas the documents retrieved in the field of Health Professions, Economics, Econometrics and Finance, and Computer Sciences amount to 0.9% each. The studies conducted by the field of Psychology contributed 14.6% of the documents. About 3.3% of documents were retrieved from the other fields. 0.5% documents were retrieved from Biochemistry, Genetics, and Molecular Biology, 1.4% from Environmental Sciences and 2.8% from Pharmacology, Toxicology, and Pharmaceutics [Figure 5]. It can be concluded that there are no contributions to this research from the field of law. The potential research prospects in the field are being explored.

Figure 5 - Documents by subject area

(Source: visited scopus.com/ on June 3rd 2021)

Documents by subject area

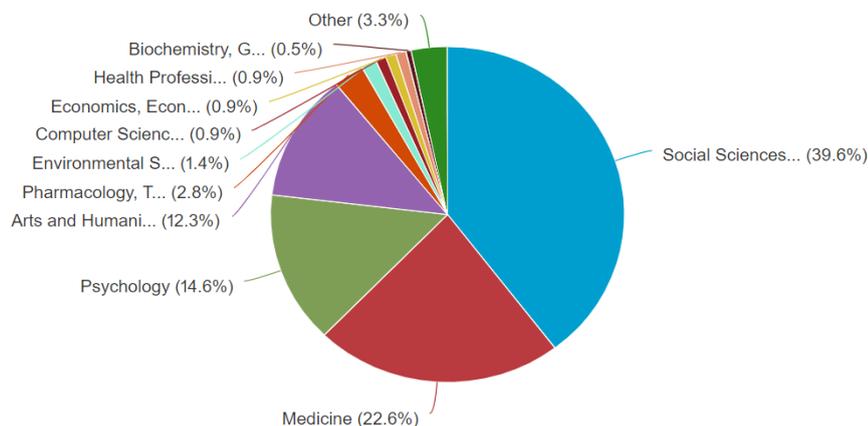


Table 4 represents all the 146 documents retrieved and their categories.

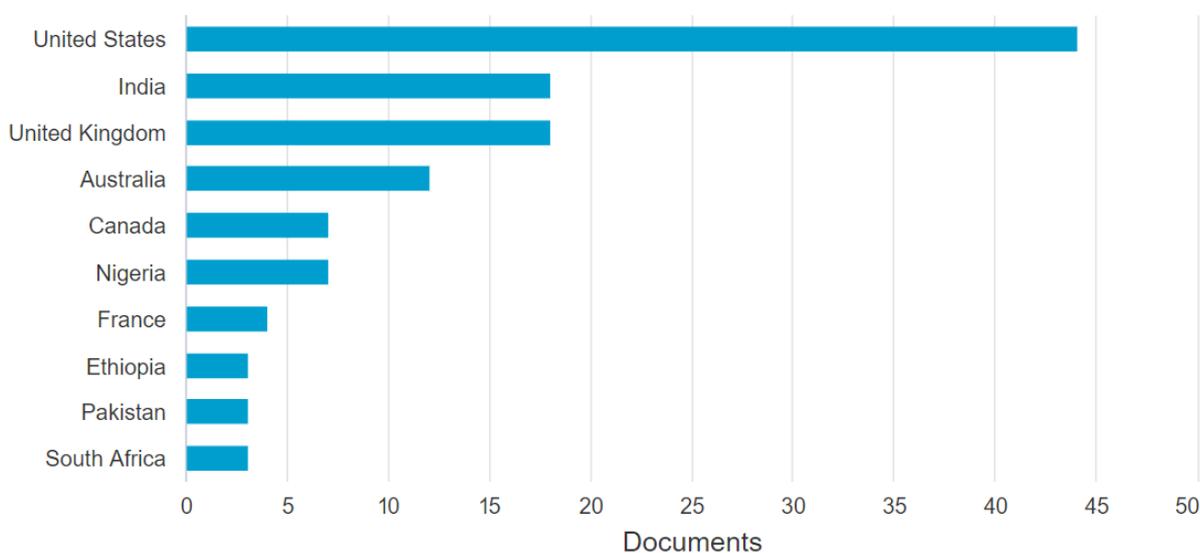
Table 4: Subject Area and Number of Documents

Subject Area	No. of Documents
Social Sciences	84
Medicine	48
Psychology	31
Arts and Humanities	26
Pharmacology, Toxicology and Pharmaceutics	6
Environmental Science	3
Computer Science	2
Economics, Econometrics and Finance	2
Health Professions	2
Biochemistry, Genetics and Molecular Biology	1
Business, Management and Accounting	1
Energy	1
Engineering	1
Immunology and Microbiology	1
Multidisciplinary	1
Neuroscience	1
Nursing	1
Total	146

e. Top 10 active countries

Authors from around the world have contributed to publications that are retrieved for this study. The top 10 countries who have actively contributed to publishing documents are the United States, followed by India, the United Kingdom, Australia, Canada, Nigeria, France, Ethiopia, Pakistan, and South Africa. The graphical representation is indicated in Figure 6.

Figure 6: Top 10 Active Countries
 (Source: visited scopus.com/ on June 3rd 2021)



As represented in Table 5, out of the 146 documents retrieved, contribution from United States, India, United Kingdom and Australia constitute a big chunk of the documents on marital rape.

Table 5: Top 10 Countries and Number of Documents

Country/ Territory	Number of Documents
United States	44
India	18
United Kingdom	18
Australia	12
Canada	7
Nigeria	7
France	4
Ethiopia	3
Pakistan	3
South Africa	3
Total	146

f. Analysis by Affiliation and Authorship

The total number of authors in respect of retrieved documents from the Scopus database account for 10 authors. As illustrated in Figure 7, the average number of documents per author is 2 documents.

Figure 7: Top 10 Authorship analysis
(Source: visited scopus.com/ on June 3rd May 2021)

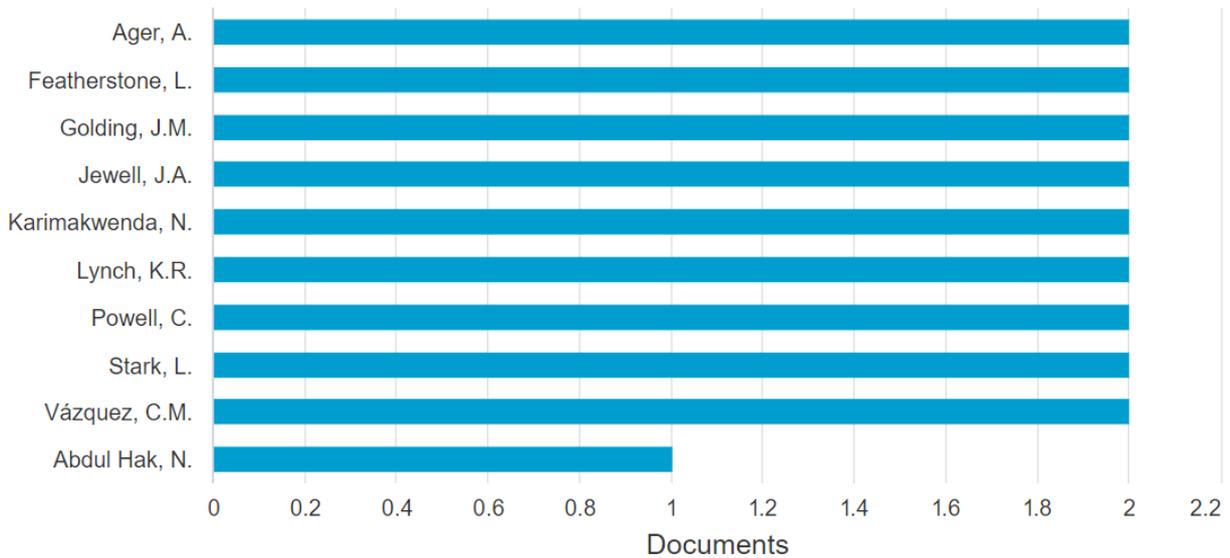
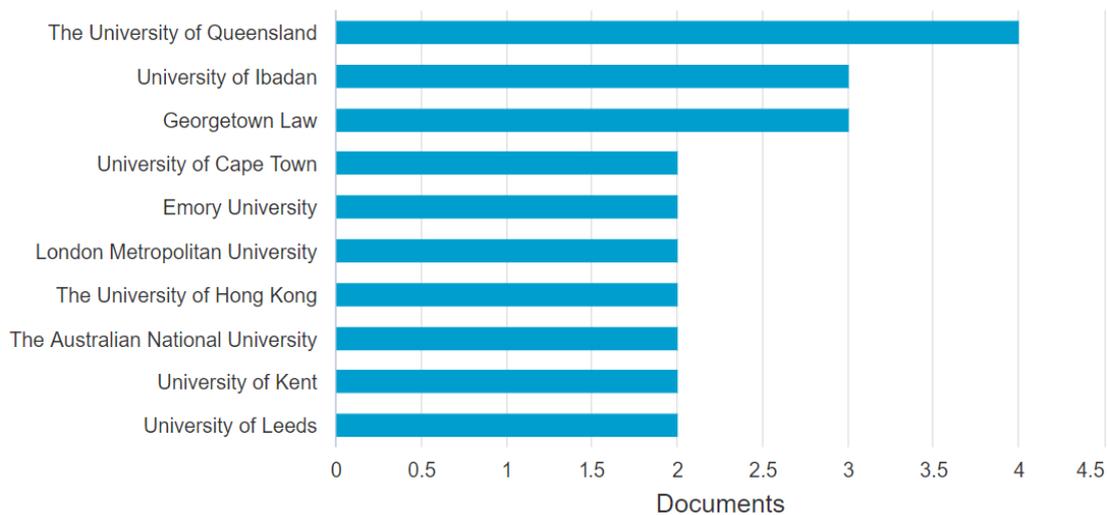


Figure 8 illustrates the affiliation of retrieved documents. The majority of documents are affiliated with the University of Queensland, the University of Ibadan and the Georgetown Law. It is interesting to note that the top 10 affiliations belong to various countries, the top 3 being Australia, Nigeria, and the United States. This is indicative of the factors like more funding and enhancement in research in this field is required to be conducted in other countries.

Figure 8: Top 10 Affiliation Analysis
(Source: visited scopus.com/ on June 3rd 2021)

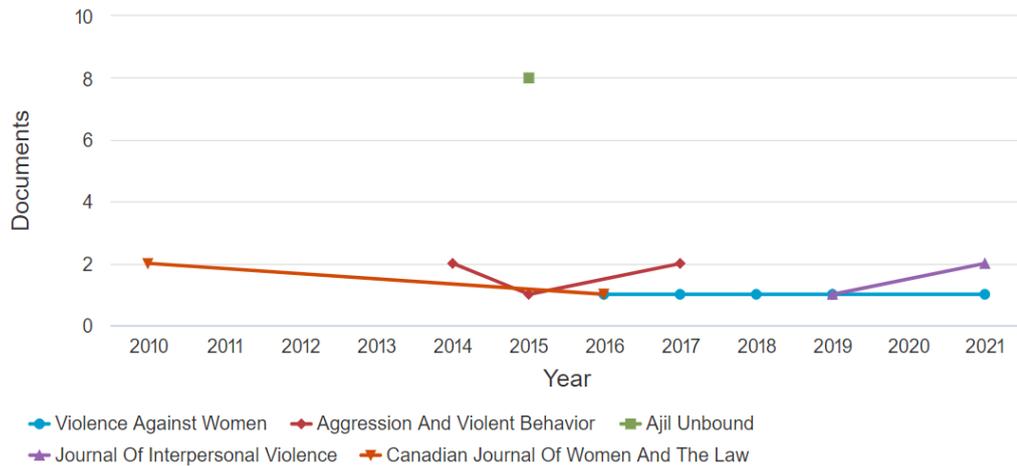


g. Journal for publishing documents

The documents retrieved were published in 92 journals. The most active journals are Ajil Unbound, Aggression and Violent Behavior, Violence against Women, and Canadian Journal of Women and the Law. The top 05 journal sources are identified and illustrated in figure 6.

Figure 9: Number of documents published per years in Journals

Source: visited scopus.com/ on June 3rd 2021



VIII. Analytical Reflections

The instant study was conducted for analyzing the research trends in the publications related to marital rape in order to trace the gap in research relating to the said topic. Out of all the publications that were retrieved for this study, it was observed that there were discussions about the existence of marital rape and the problems of occurrence of marital rape. Most of the documents talk about the need for rape-free marriages by highlighting the cruel and inhumane act of marital rape and the immunity that the husband enjoys in the name of matrimonial right.

It has also been observed that marital rape is constantly increasing even when society is headed in the direction of development. It is found out that some countries have repealed marital rape exceptions and the impunity enjoyed by husbands. A major chunk of the publications recognizes marital rape as a grave violation of the human rights of married women. It is observed that there is considerable scope for growth in the research on marital rape. The issues of marital rape are drawing the interest of academicians and researchers. The authors have suggested several measures to deal with the issues of marital rape in their respective publications. On the other hand, it is observed that the issues of marital rape are deep-rooted and find their origin in the patriarchy and as such very little attention is paid to such issues by under-developed societies and there is an evident lack of judicial activism in this regard.

Therefore, the study observes that there has been relatively little data available on the said subject, however, it is also observed that during the period 2010-2021 individual research on marital rape has increased since 2016. Documents focusing on the legal challenges and legal reforms to address such challenges are relatively few. Also, there are no research collaborations addressing this research gap.

IX. Conclusion

This bibliometric analysis has helped us in understanding the insufficiency in the research and publications available with respect to marital rape in contemporary context and its impunity. There are limited and very few researches that address these keywords jointly. In most of the countries, the rights of married women get compromised on a regular basis. It is imperative that future studies must come up with suggestions to tackle legal and social challenges faced by women in relation to marital rape. Furthermore, incentives for research as the need of the hour much be recognized and aided.

References:

1. Jaffe, A. E., Steel, A. L., DiLillo, D., Messman-Moore, T. L., & Gratz, K. L. (2021). Characterizing sexual violence in intimate relationships: An examination of blame attributions and rape acknowledgment. *Journal of Interpersonal Violence*, 36(1-2), 469-490.
2. Riaz, M. (2021). Semiotics of rape in Pakistan: What's missing in the digital illustrations? *Discourse and Communication*.
3. Sifat, R. I. (2020). Impact of the COVID-19 pandemic on domestic violence in bangladesh. *Asian Journal of Psychiatry*, 53.
4. Randall, M, Koshan, J., and Nyaundi P. (2020) The Right to Say No: Marital Rape and Law Reform in Canada, Ghana, Kenya and Malawi. *Canadian Journal of Women and the Law*, (32-1), 231-236.
5. Jermittiparsert, K., Kasemsukphaisit, P., (2016) Bangkok Men's Attitudes Towards Marital Rape. *Review of European Studies* 8 (1), 185-198.
6. Doherty, J. (2012) Marital Rape and the Third-Class Citizenship of Married Women in Cameroon. Available at SSRN: <https://ssrn.com/abstract=2229027> or <http://dx.doi.org/10.2139/ssrn.2229027>
7. Stafford, N.K. (2008) Permission for Domestic Violence: Marital Rape in Ghanaian Marriages. *Women's Rights Law Reporter* 29, 63.
8. Adams-Clark, A. A., & Chrisler, J. C. (2018). What constitutes rape? the effect of marital status and type of sexual act on perceptions of rape scenarios. *Violence Against Women*, 24(16), 1867-1886.
9. Kim, D. (2018). Marital rape immunity in india: Historical anomaly or cultural defence? *Crime*,

Law and Social Change, 69(1), 91-107.

10. Nasri, M. M. B. M., & Hamat, M. A. B. A. (2018). Islamic perspectives on the legality of marital rape in the framework of maqāsidal-sharī'ah. *Islamic Quarterly*, 62(1), 151-168.
11. Russell, K. J., & Hand, C. J. (2017). Rape myth acceptance, victim blame attribution and just world beliefs: A rapid evidence assessment. *Aggression and Violent Behavior*, 37, 153-160.
12. Burgess, R., & Campbell, C. (2016). Creating social policy to support women's agency in coercive settings: A case study from uganda. *Global Public Health*, 11(1-2), 48-64.
13. Semahegn, A., & Mengistie, B. (2015). Domestic violence against women and associated factors in Ethiopia; systematic review. *Reproductive Health*, 12(1).
14. Eze, U., & Eke, N. (2015). Sexual violence: An emergent epidemic. *Anil Aggrawal's Internet Journal of Forensic Medicine and Toxicology*, 16(1), 1-5.
15. Jackson, A. L. (2015). State contexts and the criminalization of marital rape across the united states. *Social Science Research*, 51, 290-306.
16. Stark, B. (2015). Symposium on the international legal obligation to criminalize marital rape: Does international law really require the criminalization of marital rape? *AJIL Unbound*, 109, 332-336.
17. Powell, C., & Vázquez, C. M. (2015). Introduction to symposium on the international legal obligation to criminalize marital rape. *AJIL Unbound*, 109, 187-188.
18. Lees, S. (2013). Marital rape and marital murder. *Home truths about domestic violence: Feminist influences on policy and practice - A reader* (pp. 57-74)