Though these lines have been taken from a novel, it is a reflection of the sexual life of many married couples in India. If you do not believe what has been said above, lets have a look at the real life stories outside the novel. Read through the views of some real life couples:

Husbands say:
'... Whenever I say something, no matter whether she is well or unwell, my work has been done.'
'... Whenever I wanted, she also wanted.'
'... Say if I want something and she does not do that, first I will try to convince her and then will beat her.'
'... Doesn't a man force her wife in a relationship (sexual)'
'... Be it in the bed or elsewhere, woman should create an environment where men would be happy'

Wives say:
'...Husband forces'
'...Anything forcible is not good. If someone forcibly makes us eat something, will we like it?'
'...My husband only fulfils his lust'

These lines have been taken from the conversations with some husbands and wives living in villages in Lucknow and Aligarh.

Undesired sex is the truth behind every married woman's life. If we look at it from this angle, in our society conjugal life is in reality male dominated.

In our masculine or patriarchal society, a marriage is an unequal relationship. In this relationship, the role of a woman is that of giving service. The services are provided in many forms from morning till evening. This also includes sexual service. Rather,
it would not be wrong to state that sexual service is of the utmost importance among all services. Like other services where the wish of the wife is not important, in sexual relationship too the willingness of the wife is not important.

In a male dominated society, it is taken for granted that when a man wants, the wife will want too. Not only this, it is her duty towards her husband which she has to fulfill at any cost. As she is born for the service of a particular man, if a man wants sexual satisfaction, like his other demands she has to fulfill this demand of his too. A woman’s sexual willingness is what her husband wants. Not just this, if she does not provide sexual service to the man who is called her husband and with whom she is tied in a legal relationship, she is not performing her duty. It is believed that though a woman’s body is that of her own, but the right over her body is that of her husband. Therefore, if the husband forces her for sex then that is not wrong because a woman’s body and her sexuality is not hers at all. A big reason for this is also because society has been presenting marriage as the only option for a woman to live in.

In the sexual relationship between husband and wife, authority, power and inequality play the same role that they play in other areas of life. Meaning this relationship too favours men and is controlled by them. Masculinity is seen in full measure in all its colours in the conjugal sexual relationship.

In a sexual relationship, masculinity or the desire to be the winner or best performer is also there. And for achieving this, all that is done which is seen as being the qualities of a man or the recognition of masculinity. Meaning show of strength, being aggressive and attacking, showing impulsiveness, being violent, using force, etc. For men, this is a very natural thing in a sexual relationship. A wife’s wish is not respected and her ‘no’ is considered yes.

Now think - if a man has or tries to establish such a sexual relationship with a known or unknown woman outside marriage, what is that called?

**Rape or forcible sexual relationship, isn’t it?**

According to Section 375 of the Indian Penal Code (IPC), if a man without the consent of the woman and against her wish commits the following acts, or takes her consent for the acts by threatening her or intoxicating her, it will be termed as rape. It is a crime and the offender will be strictly punished:

- If a man inserts/penetrates his penis to any extent into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person, it will be considered rape.
- If a man inserts to any extent any object or a part of the body, not being the penis, into the vagina, urethra or anus of a woman or makes her to do so with him or any other person; it will be considered rape.
- If a man manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; it will be considered rape.
- If a man applies his mouth to the vagina, anus, and urethra of a woman or makes her to do so with him or any other person, it will be considered rape.

Be it the female character of Tehmina Durrani’s novel or the women living in Lucknow and Aligarh, the sexual relationship established with them is neither with their consent nor are they happy about it. All that happens with them is a crime under Section 375 of the IPC. But the big difference here is that even if these women want they will not be able to file a case of rape against their husbands.

Why? Because a husband does not come under the purview of the law on rape. There cannot be any case against the husband. Meaning, according to the IPC, a husband has the right to do all that which comes under the rape law. According to this law, in a married life there is nothing called rape. But in the above stated stories, we got to see some facts about conjugal life. Lets look at some other:

The National Family and Health Survey (NFHS)-3 is one of the major surveys conducted on women. According to it, many women are victims of rape in their married relationship. Forty per cent of the women who participated in the survey stated that they have faced some kind of physical, mental and sexual violence from their husband; 37 per cent women have faced sexual violence. Sexual violence is of two kinds: One is establishing a sexual relationship forcibly, the second is forcing the woman for a sexual act against her wish. 10 per cent of women accepted that they are a victim of sexual violence and 5 per cent spoke about the pressure on them to do a sexual act against their wish.
In our environment, the question of a forcible sexual relationship is something which is difficult for women to answer. It is a very personal matter, which is not easy for a woman born and brought up in a patriarchal society to answer. Still, if a few wives have accepted that sexual violence takes place against them, keeping in view the status of women in our society it should be taken very seriously. By speaking about the figures and percentage, we cannot lessen its seriousness.

The figures stated in the NFHS report reveal that sexual violence in married life is not the story of a few women only. We can now clearly state that the current conjugal relationships are frequently based on dominance of the male partner. Yet still our law states that the law of rape cannot be applied on husbands.

As discussed earlier, this view has been established based on the viewpoint that a wife is the property of the man. He has the same right over his wife as he has over his other properties. And so he can treat his wife the way he wants and can also use her as he wants.

During the nation-wide movement for women’s rights that took place after the Nirbhaya rape case in Delhi, the issue of marital rape was also taken up. When the issue of amendment in criminal laws was raised, organisations and people working on the issue of violence against women also demanded amendment in the rape law. They demanded that husbands should come under the ambit of the rape law. The Committee formed under the chairmanship of Justice JS Verma for undertaking amendments in criminal law also looked into this demand.

Giving the example of a judgement of the European Human Rights Commission, the Committee said a rapist will always be a rapist. It does not matter what kind of a relationship he has with the victim. This was in accordance with the Human Rights Convention and the spirit which respects human justice, dignity and freedom.

The Committee had clearly recommended that the provision of keeping husbands out of the purview of the rape law should be removed. Along with that it recommended that it should be made clear in the law that it is not a legitimate excuse that the person committing rape or sexual violence has a marital or any other kind of relationship with the victim.

However, the Verma Committee’s recommendation on marital rape was not accepted and when the criminal law was being amended, husbands were once again excluded from it.

If we consider marital rape as a crime, we will not be doing anything that is a wonder nor will be the first country to accept it as a law. Marital rape is illegal in many countries. South Africa, several states in America, Russia, Canada, Poland, Norway, Sweden, Australia, New Zealand, France, Denmark, Norway and some other countries have declared it is illegal.

Albeit, the Protection of Women from Domestic Violence Act, 2005, speaks about curbing all kinds of violence by a male relative in the family. It includes the husband under its purview and states that sexual violence is a distinct form of violence. It includes within its ambit forced sex with the wife or conducting any sexual act against the wife’s wish or forcing her into a sexual act against her wish. All this comes under the law and is a crime, no matter that the offence may have been committed by the husband.

This means that while under one law sexual violence in a marriage is a crime, on the other hand under the law made especially for sexual violence the husband is excluded from such a law. In the last couple of years several debates have begun on this issue. Congress MP Avinash Pandey had introduced a private bill in the Rajya Sabha for amendment in the law. According to a news report, during a discussion in the Rajya Sabha the Minister of State Kiran Rijiju had said that sexual violence in married life is a serious issue. According to the report the Law Commission is reviewing the matter and the government will take a decision after the Commission’s recommendations are made.

However, moving a rape case against a husband is not that easy. Had that been the case, then like many other laws where amendments were made based on the Justice Verma Committee report, husbands would also have come under the ambit of the rape law. This did not happen. Had it been so, the state would have had to believe that any sexual act by the husband against the wish of the wife was rape. For a state which is highly masculine and patriarchal in nature, it is not an easy transition to make. For the state, the husband - a man - is still important.
At the same time, in a country where men and women are equal according to the Indian Constitution, how can this unequal relationship be accepted? This inequality also goes against human rights, reproductive rights and is even against humanity. If men use violence in their very personal moments against their partner or wife, how can there be love in the relationship? It is an issue which men should think about more than women. How men want their life to be depends on how much they respect their partner. For a better life, it is important to respect one’s partner. Inequality should be removed from sexual relationships.

“From several incidents seen in a common man’s life, it is clear that a woman is unhappy and mentally knocked when men treat them as animals or if an incident takes place all of a sudden. A man should not use force to raise sexual urge in a woman. He should think before proceeding. If a girl gives up her shyness gradually, recognises and understands her husband, she can then enjoy his love for her...” (Page 159 of Stree:Upekshita of Hind Pocket Books, translated by Prabha Khetan, Author: Simone D. Beauvoir)

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