LIFT MARRIAGE VEIL ON RAPE

Partial abolition of husband’s immunity to persecution won’t help abused wives paralysed by fear, denial

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The Government has just unveiled its proposed amendments to Singapore’s criminal law, one of which is to partially abolish a husband’s marital immunity from raping his wife. While this is a step in the right direction, it does not go far enough.

Under the current law, a husband who forces himself on his wife to have sexual intercourse is not guilty of rape — even when the same deed involving a woman not married to him would attract a maximum jail sentence of 20 years plus caning.

Marital immunity is an old English rule dating back to 1736, based on the concept that a woman, upon marriage, becomes the virtual property of her husband — and this includes an unlimited right of sexual access to her. In England, the rule was abolished in 1991.

The Ministry of Home Affairs says the half measure is meant to balance “the needs of women who require protection and the general concerns about conjugal rights and the expression of intimacy in a marriage”.

Is there something special about a marital relationship when it comes to sex? Of course there is. We wish there to be as little governmental intrusion into marital privacy as possible.

But where the same conduct between strangers is a criminal offence, such offenders cannot hide behind the shield of marital privacy. Our laws against family violence and child abuse attest to this.

Another argument frequently made is that the rule on marital immunity promotes reconciliation of spouses. This is highly unlikely.

If a husband’s use of force to have sexual intercourse with his wife is an isolated act in an otherwise salvageable marriage, it is unlikely the wife will allege rape by her husband.

On the other hand, if the husband is guilty of ongoing physical and sexual abuse, there is nothing in the marriage worth saving.

The interest in protecting women from non-consensual intercourse certainly outweighs any privacy or marital concerns. Married women should be able to say “no” to unwanted sexual contact, just like their unmarried counterparts.

The Government should take another look at its proposals and give married women the protection that they deserve.

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