

NOTO RAPE

[Name of MP]
[Address of MP]

[Date]

[Your name]
[Your address]

Dear [Name of MP]

Re: Abolish marital immunity for rape completely

I am a resident in your constituency. I ask you, my democratic representative, to write to the Prime Minister and the Ministry of Home Affairs to urge the complete repeal of Sections 375(4) and 376A(5) of the Penal Code, under which non-consensual sexual intercourse by a man with his wife is exempted from the offences of “rape” and “sexual penetration of a minor”.

Every woman in Singapore should enjoy security and control over her own body. Forced intercourse is rape, whether the rapist is the victim’s husband or a complete stranger. Marriage is not ownership, and does not require a woman to be sexually available to her husband at all times regardless of her own feelings or desires.

Non-consensual intercourse is violence. Being sexually penetrated without your consent is invasive and humiliating regardless of whether there is any other accompanying violence, and regardless of whether you have had consensual sex with the rapist before. In fact, the violation of trust that comes from being raped by your husband may make it, in some ways and in some cases, worse than stranger rape. All forms of rape should be punished in the same way.

These principles are recognised in the offence of sexual penetration (Section 376) which criminalises non-consensual acts of anal penetration, oral penetration and penetration of the vagina using the hand or other part of the body which is not a penis. There is no marital immunity for this offence, which recognises that these forms of non-consensual penetration are just as severe regardless of the marriage between the victim and offender. Removing marital immunity from Sections 375 and 376A makes the law more consistent with this recognition.

There can be evidential difficulties with proving rape. Victims may

remove physical evidence from their bodies, and it is not always easy to establish non-consent. But these considerations apply whether or not the victim and perpetrator are married to each other. They also apply to other forms of forced sex, which, as I have explained, do not enjoy marital immunity. It should be up to the Attorney-General's Chambers to decide whether evidence for an instance of marital rape is sufficient for a prosecution to be worth attempting, just like with any other crime, and it should be up to the courts to determine whether a conviction is justified in any given case, just like with any other crime. Under current law, even where both penetration and non-consent can be proven, the assailant is not guilty of rape. This is inadequate protection for married women.

I am aware that amendments to the Penal Code in 2007 removed marital immunity where the couple is separated, where the woman has taken out an injunction restraining her husband from sexual intercourse, or where there is a protection order in force against the husband. This is not sufficient. Women cannot predict attacks against them. If protection is provided only to women who are savvy enough to obtain legal orders, this leaves women with mental or physical disabilities, economically dependent wives, and wives under the age of 16 especially vulnerable to abuse. Non-consensual intercourse is a violent attack whether or not a protection order, separation or injunction is in place.

Finally, the availability of divorce or a prosecution for sexual assault is not enough. Rape is a heinous act deserving of a response by the criminal law and much more serious than any grounds for divorce. Even if a woman can divorce a husband who has raped her, justice under the criminal law is still required.

I urge you to write to the Prime Minister and the Ministry of Home Affairs, requesting that they amend the law so that non-consensual intercourse of any kind always constitutes rape. I look forward to hearing what action you will take on this serious matter.

Yours sincerely,

[Your name]