

TRENDS

Style spectrum



The 3rd Islamic Fashion Festival explored new possibilities for Muslim women to dress in style without compromising their modesty. >4

DO IT AT HOME

Scent of spice

Make a lovely commander using local spices. >7

AUDIOPHILE

Typically tube-y

Valves... magic to some, anathema to others... If, however, you have an open mind, there's much fun to be had with tube amps. >10

TV



All about sharks

Discovery Channel celebrates Shark Week's 10th anniversary. >14

MUSIC

Scent of success

Anuar Zain delivers a winner with his new album, which has Indonesian input. >18

StarTwo

EDITOR: Tan Gin Ean

CONTACT

email: startwo@thestar.com.my
tel: 03-7967 1388
fax: 03-7966 4038

ADVERTISING

Janet Khoo
janet@thestar.com.my
(03) 7966-8221
Peter Hoo
peterhoo@thestar.com.my
(03) 7966-8238
Jeanie Chiew
jean@thestar.com.my
(03) 7966-8224



Young activists: Volunteers promoting activism against gender violence at the Putra LRT KJCC terminal as part of a public education programme jointly organised by Women's Aid Organisation, Sisters in Islam and the Malaysian AIDS Council.

By WONG LI ZA
wongli@thestar.com.my

LALITHA (not her real name) dreaded it whenever her husband was in the mood to watch pornography. To add insult to injury, he forced her to watch with him, after which he sometimes forced himself on her.

Having to sit through scenes of lewd acts was mental torture for Lalitha, not to mention the sexual violation that ensued.

In her 40s, Lalitha was also subjected to physical abuse when she did not meet his demands. Despite her trauma, she eventually sought help from the Women's Aid Organisation only because she feared that her son might be negatively influenced by her husband.

In 1959, the United Nations designated Nov 25 as the International Day for the Elimination of Violence Against Women.

The date also marks the start of the 16 Days of Activism Against Gender Violence, an annual global campaign started in 1991 by the Centre for Women's Global Leadership in the United States.

This year's theme is "Demanding Implementation, Challenging Obstacles: End Violence Against Women".

Marital rape is a clear form of violence against women and local women's groups have been trying to make marital, or spousal, rape a crime for more than a decade.

However, dispelling the myth that husbands cannot rape their wives is very much an uphill task.

It does not help that under Sect 373 of the Penal Code entitled "Rape", there is an exception that essentially allows a husband to rape his wife with impunity.

This exception states that, "Sexual intercourse by a man with his own wife by a marriage which is valid under any written law for the time being in force, or is recognised in the Federation as valid, is not rape."

JAG, or Joint Action Group for Gender Equality (formerly known as Joint Action Group Against Violence Against Women), is pushing for the removal of this exception. JAG comprises the All Women's Action Society (Awam), Women's Aid Organisation (WAO), Women's Centre for Change, Penang (WCC), Women's Development Collective (WDC), Sisters in Islam (SIS) and Malaysian Trade Union Congress - Women's Committee (MTUC).

Arresting marital rape

Yesterday was International Day for the Elimination of Violence Against Women. *StarTwo* looks at marital rape and why it is still not considered a crime in our country, despite legal amendments to make it so.

"Malaysia inherited this exception from an archaic British common law, which provided that when a woman marries, she is deemed to have given herself to her husband and thus, he has a right to her body."

"However, countries like Scotland and England have since amended their laws and thus, recognise marital rape," said Honey Tan, Awam's executive director.

Last year, after much debate and lobbying, the Penal Code (Amendment) Act 2006 and Criminal Procedure Code (Amendment) Act 2006 finally came into being and took effect this September.

In its attempt to address marital rape, a new sub-section, Sect 375A, was formed and states that, "Any man who during the subsistence of a valid marriage causes hurt or fear of death, or hurt to his wife or any other person in order to have sexual intercourse with his wife shall be punished with imprisonment for a

term which may extend to five years".

The earlier exception mentioned was left untouched, something that women's groups have opposed.

»First, we must have a section that criminalises marital rape. Then we find the proof, as in any other form of crime. Oral evidence is evidence«

HONEY TAN

"The crime being punished here is not rape. The Act still calls it sexual intercourse," emphasised Tan.

"In addition, causing hurt and criminal intimidation are already crimes that exist under the Penal Code," she said.

Tan added that with the new section, cases would only be prosecuted in the Magistrates' Courts, and not the Sessions Courts.

"Generally, magistrates are less senior and the police will be prosecuting these cases, not DPPs (deputy public prosecutors). But these police personnel will be up against actual lawyers. That is a disadvantage," she said.

As a whole, women's and human rights groups view the amendment as a poor compro-

mise that does not deal with the problem of marital rape.

"It is only a half step towards recognising marital rape," said Tan.

Chin Oy Sim, programme director with WAO, echoed this point.

"We want rape to be recognised every time a woman does not consent to sex, no matter who the man is. Rape is rape," she said.

This added that if a husband threatened his wife without using violence, then under the amended law, women are not covered.

"What if the husband threatens to go to a prostitute, take away the children, take another wife or withhold money?" she asked.

Tan reiterated that submission to sex does not mean consent, as a wife may do it out of fear or coercion.

Since marital rape is not recognised in Malaysia, there are no official statistics on such cases.

However, Awam's research shows that between 2000 and 2002, 52% of wives in domestic violence relationships face marital rape, often repeatedly.

"That is already a majority," said Tan.

Another issue remains that many women do not think the husband's act is rape but that it is part of domestic violence and it is his right to have sex with them at all times.

Senior policy officer of SIS Razlanawati Razali said not having marital rape legislation left women with no recourse, but that did not mean marital rape does not occur.

"As the Government does not even see it as a crime, women will not come forward to report marital rape," she said.

Razlanawati added that culture and societal perception that the issue is a family matter meant that people are afraid to even talk about it.

"People still think that a husband has every right to have sex with his wife even though she does not consent to it," she said.

Matter of respect

The reason given by the Special Select Committee on the Penal Code (Amendment) and Criminal Procedure Code (Amendment) for not criminalising marital rape was that it goes against Syariah laws and other religions.

However, this has been strongly countered by JAG.

"Please do not use religion as a reason because religion does not condone violence," said Razlanawati.

"The Prophet Muhammad (saw) himself treated his wives with love and respect," she said.

Furthermore, Abu Hurairah reported that the Holy Prophet said, "The most perfect of the believers in faith is he who is the best in conduct, and the best of you are those who are the best to their wives." (Tarmizi).

SIS highlighted that the Qur'an proposes men and women "dwell in tranquility" (30:21) and forbids men "to inherit women against their will nor should you treat them with harshness". (4:19)

Another reason policy-makers appear hesitant about making marital rape a crime is proof of rape within a marriage.

"We should not put the cart before the horse. First, we must have a section that criminalises marital rape. Then we find the proof, as in any other form of crime. Oral evidence is evidence. Medical evidence is also evidence," asserted Tan.

She added that certain quarters have difficulty accepting women as credible witnesses.

"That's why in sexual abuse and rape cases involving children and women, it is a practice in court to have corroborative evidence."

A recent survey conducted by the WCC on the conviction rate of rape cases in Penang between 2000 and 2004 reveals that only 4% of contested cases saw perpetrators being convicted.

"One reason for this low rate is the lack of corroborative evidence," said Tan.

She felt that pre-marriage counsellors should clearly advocate that after marriage, the wife still has autonomy over her own body.



Honey Tan: Countries like Scotland and England have since amended their laws and now recognise marital rape.

"It is an issue of respect," she said. Stress and anger management are also important in a marriage.

"People tend to take things out on those with a lower status or lack power. The husband will tend to take it out on his wife, who in turn may take it out on the domestic helper."

"If there are no repercussions, these acts will continue," she said.

Time to make it a crime

Many women worldwide face sexual violence, including marital rape, some on a regular basis.

Out of 10 countries surveyed in a 2005 study by the World Health Organisation

(WHO), more than 50% of women in Bangladesh, Ethiopia, Peru and Tanzania reported having been subjected to physical or sexual violence by intimate partners, with figures reaching a staggering 71% in rural Ethiopia.

Marital or spousal rape is a clear form of violence against women, despite misperceptions that a husband cannot rape his wife.

Today, many countries have either enacted marital rape laws, repealed marital rape exceptions, or have laws that do not distinguish between marital rape and ordinary rape.

These countries include Albania, Algeria, Australia, Belgium, Canada, China,

WHERE TO GET HELP

- Awam: 03-7677 0224 (helpline) (7677 4221); e-mail: awam@awam.org.my; website: awam.org.my
- WAO: 03-7960 3030 (helpline) (7955 3488/7955 4426); e-mail: wao@pajaring.my; website: wao.org.my
- WCC: 04-228 0342; e-mail: wcc@wccpenang.org; website: wccpenang.org
- SIS: 03-7785 6121/7784 2733/7784 4357; e-mail: sistersinislam@pajaring.my; website: sistersinislam.org.my



Razlanawati Razali: "Please do not use religion as a reason because religion does not condone violence."

Denmark, France, Germany, Hong Kong, Ireland, Italy, Japan, Mauritania, New Zealand, Norway, the Philippines, Scotland, South Africa, Sweden, Taiwan, Tunisia, Turkey, Britain, the United States and Indonesia.

Thailand and Mauritius are two countries that outlawed marital rape this year.

However, according to the 2006 UN Secretary-General's In-Depth Study on Violence Against Women, marital rape is still not a prosecutable offence in at least 53 countries.

At present, such offences can be prosecuted in at least 104 countries, while 90 countries have some form of legislative provision against sexual harassment.



Mime artistes urging men to break the violence during the launch of the fourth annual White Ribbon campaign last year to raise awareness of violence against women.