



Conjugal Rights and Marital Coercion: An Institutional Economic History of the Tension Between Spousal Restitution Laws and Sexual Autonomy in Europe and Its Colonial Legacy in India

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Abstract

This paper examines the doctrine of restitution of conjugal rights as an institutional instrument of marital coercion, tracing its intellectual and legal origins in European ecclesiastical and common law traditions, its transplantation into colonial India, and its persistence in the contemporary Indian legal order under Section 9 of the Hindu Marriage Act, 1955. Using an institutional economic history lens, the paper argues that conjugal rights law was never merely a domestic remedy it was a mechanism through which the state enforced a particular model of marriage as an economic and social contract in which the wife's body, labour, and reproductive capacity were treated as alienable assets belonging to the marital institution. Drawing on the Halean doctrine of implied consent, English equity jurisprudence, the Indian colonial encounter with personal law, and post-independence constitutional challenges, the paper evaluates the structural tension between spousal restitution decrees and the emerging constitutional recognition of sexual autonomy. The paper concludes that Section 9, while formally gender-neutral, carries an institutional memory of coercion that cannot be neutralised by procedural reform alone, and that its retention represents an unresolved colonial inheritance in Indian family law.

Keywords: Conjugal rights, restitution, marital coercion, sexual autonomy, colonial law, Hindu Marriage Act, institutional economics, family law, India

1. Introduction

There is a kind of legal fiction that runs through centuries of marriage law the idea that a spouse, particularly a wife, surrenders a permanent and irrevocable consent to cohabitation and sexual access at the moment of marriage. This fiction was not accidental. It was carefully constructed, defended by jurists, enforced by courts, and embedded in statutes on both sides of the colonial divide. The remedy of restitution of conjugal rights which allows a spouse to petition a court to compel the other spouse to return to cohabitation is one of the clearest surviving expressions of this fiction in modern law.

In India, Section 9 of the Hindu Marriage Act, 1955 codifies this remedy. It provides that when either spouse withdraws from the society of the other "without reasonable excuse," the aggrieved party may approach a district court for a decree of restitution. On its face, the



provision looks like a neutral mechanism to preserve marriages. But its history tells a very different story. The doctrine was introduced by British colonial administrators, drawn from English ecclesiastical courts and modified for the Indian context, and applied to a society where women had almost no legal standing to resist it.¹ This paper attempts to read this history through the lens of institutional economics the study of how formal rules, informal norms, and enforcement mechanisms shape economic and social behaviour. Marriage, from this perspective, is not merely a sentimental union. It is an institution with property dimensions, labour implications, and power asymmetries. Conjugal rights law has historically served to lock in those asymmetries, making exit from the institution costly for the weaker party.² What we inherit today in Section 9 is not simply a relic of British law it is an institutional residue of a particular arrangement of gendered economic power.

The paper proceeds in the following sequence. Part II traces the European origins of conjugal rights doctrine in canon law and English common law. Part III analyses the Halian doctrine and its relationship to the marital rape exemption. Part IV examines the colonial transplantation of English family law into India. Part V analyses Section 9 under the Hindu Marriage Act and its constitutional challenges. Part VI situates the discussion within an institutional economic framework. Part VII addresses the tension between restitution decrees and sexual autonomy as now understood under Indian constitutional law. Part VIII offers conclusions.

2. European Origins: Canon Law and the Ecclesiastical Roots of Conjugal Debt

The idea that marriage creates a legally enforceable obligation to cohabit and provide sexual access to one's spouse has roots that go back well before English common law. Medieval Catholic canon law developed the concept of the *debitum conjugale* the "conjugal debt" a theological-legal principle holding that both spouses owed each other sexual service as part of the marital covenant. This was drawn partly from Saint Paul's First Letter to the Corinthians and elaborated by canon lawyers from the twelfth century onwards.

The important thing to understand is that this doctrine was bilateral in its formal statement both husband and wife owed the debt but deeply asymmetrical in its enforcement. Church courts had jurisdiction over matrimonial matters throughout the medieval period in Europe, and it was these courts that first developed remedies to compel cohabitation. A spouse who separated without cause could be ordered to return to the matrimonial home. The remedy was framed in terms of preserving the sacramental character of marriage, but it also served clear economic purposes: it protected property arrangements, secured inheritance lines, and ensured that the household unit which was the basic unit of agricultural and artisan production remained intact.³As England moved through the Reformation and the ecclesiastical courts were gradually displaced in matrimonial jurisdiction, the principles they had developed were absorbed into equity and, eventually, common law. The Court of Chancery and later the Probate, Divorce and Admiralty Division of the High Court inherited the remedy of restitution. By the nineteenth century, it had become a standard part of English matrimonial law, exercisable in civil courts after the Matrimonial Causes Act of 1884 removed imprisonment as a sanction and substituted property attachment.⁴The transition from ecclesiastical to civil enforcement did not change the underlying logic. Marriage was still treated as a contract in which conjugal access was a term, and the state stood ready to enforce that term coercively. The shift was from spiritual compulsion to financial compulsion but compulsion remained the core mechanism.



3. The Halian Doctrine: Implied Consent and the Architecture of Marital Coercion

The single most consequential statement in the history of conjugal rights law came not from a legislature but from a seventeenth-century English judge writing a private treatise. In his *Historia Placitorum Coronae* (c. 1670s, published 1736), Sir Matthew Hale wrote that "the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by this mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract."⁸This statement unsupported by any prior authority, inserted without citation into a treatise became the foundation of the marital rape exemption in English and American common law for over two hundred years. Its importance for conjugal rights doctrine is direct: if a wife's consent to sexual access was irrevocably given at marriage and could never be retracted, then the state's enforcement of cohabitation through restitution decrees was not merely a property remedy it was the architecture of permanent sexual availability.⁵The Halian doctrine rested on two related ideas. First, that marriage transferred the wife's body to her husband an idea consistent with the common law doctrine of coverture, under which a wife's legal identity was "incorporated and consolidated" into her husband's. Second, that this transfer was not merely symbolic but permanent, irrevocable, and enforceable by state power. The logical consequence was that a wife who refused to cohabit was not simply breaching a domestic obligation she was attempting to retract a consent that the law said she could never retract.⁶This doctrine was extraordinarily durable. Courts across England, the United States, and eventually the British colonies accepted it without significant challenge through the nineteenth and well into the twentieth century. When the first American case formally recognised the marital exemption in Massachusetts in 1857, it simply incorporated Hale's reasoning without independent analysis. The exemption endured virtually unchanged for over a century after that, and it was only in 1978 that the first American prosecution for marital rape occurred under Oregon's reformed statute.⁷The Halian doctrine did not exist in isolation. It was part of a broader system of rules coverture, the doctrine of consortium, the tort of alienation of affections, and the remedy of restitution that together constituted what we might call, in institutional economic terms, an enforcement bundle designed to preserve the husband's claim over his wife's person and domestic labour. Each rule reinforced the others. Coverture denied the wife independent legal standing. The consortium doctrine gave the husband a property-like interest in his wife's services. Restitution provided the court remedy for enforcing return. And the Halian doctrine removed sexual coercion from the reach of criminal law entirely.

4. The Institutional Economics of Marriage: Property, Labour, and the Enforcement Bundle

Before proceeding to the colonial transfer, it is worth pausing to state more precisely what an institutional economic analysis of conjugal rights law involves. Institutional economics understands institutions as "the rules of the game in a society" the formal and informal constraints that structure human interaction. Institutions persist not because they are efficient or just, but because they create path dependencies: once established, they generate constituencies that benefit from them, and the costs of changing them are high.

Marriage as an institution in pre-modern Europe was organised primarily around the transfer and preservation of property. A woman brought a dowry into the marriage. The husband managed the household's productive assets. Children were the mechanism of intergenerational property transfer. In this arrangement, the wife's sexual faithfulness was not merely a moral

matter it was an economic one, since it determined the legitimacy of heirs and hence the security of property transmission.¹⁰Conjugal rights law, from this perspective, served as an enforcement mechanism for this economic arrangement. It was not primarily concerned with the emotional or companionate dimensions of marriage those were later additions to the legal conception of the institution. It was concerned with ensuring that the economic contract was performed. The wife's obligation to cohabit was, at its core, an obligation to make herself available as a reproductive and domestic labour resource within the household economy.⁹The persistence of this institutional logic well into the industrial and post-industrial period is explained precisely by path dependence. The economic rationale weakened substantially as women entered paid labour markets, as contraception severed the link between sexual access and reproduction, and as the household ceased to be the primary unit of production. But the formal rules remained on the books, enforced by courts that inherited the doctrines without always examining their origins. Institutional change lags behind economic change and it lags most severely in societies where the rule of law is transplanted rather than organically evolved.

5. Colonial Transplantation: How English Matrimonial Law Came to India

The transplantation of English matrimonial law into India occurred through a complex process that was neither straightforward imposition nor simple adoption. British colonial administrators faced a distinctive problem: India had multiple personal law traditions Hindu, Muslim, Parsi, and Christian each with its own rules about marriage, divorce, and succession. The colonial response was to develop a layered system in which English common law applied directly to certain categories of persons (Christians, Europeans, those married under civil law) while Hindu and Muslim personal laws were preserved but preserved in a form that was increasingly shaped by English legal categories and English courts.¹²The remedy of restitution of conjugal rights entered Indian law through this process of selective transplantation. English ecclesiastical courts had exercised the remedy as part of their matrimonial jurisdiction. When the British established civil and high courts in India, they imported this remedy as part of the general corpus of matrimonial law that these courts applied. The Privy Council, which served as the final appellate court for British India, applied English matrimonial law principles in cases that came before it, and Indian high courts followed.

The key case often cited in this context is the Madras High Court decision in *Rukhmabai v. Lallubhai Pratidas* (1885), which raised foundational questions about the enforceability of cohabitation obligations under Hindu marriage practice. Rukhmabai, a young educated woman who had been married as a child and refused to join her husband, was threatened with imprisonment by the court for refusing to comply with a restitution decree. The public outcry that followed in both India and England was significant enough to prevent her imprisonment, and the case became a touchstone for debate about women's rights, colonial law, and the relationship between English legal categories and Indian social practices.¹¹What the Rukhmabai case revealed was the fundamental tension in the colonial legal enterprise. The British claimed to be introducing more rational, humane legal institutions to replace what they characterised as backward custom. But the remedy they introduced coerced cohabitation, backed by imprisonment and later property attachment was more coercive in its application to Indian women than many of the local customary arrangements it displaced. The colonial state was not liberating women from tradition; in many cases, it was deploying the machinery of English property law to enforce a model of marriage that served economic and administrative convenience.

The post-independence framers of the Hindu Marriage Act, 1955 retained Section 9 the

restitution provision despite debate within Parliament. The stated rationale was that the remedy served as a tool for marriage preservation and could help reconcile estranged couples before resort to divorce. This rationale will be examined critically below.

6. Section 9 of the Hindu Marriage Act: The Provision and Its Legal Architecture

Section 9 of the Hindu Marriage Act, 1955 reads as follows: "When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the District Court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly."

The provision is formally gender-neutral either spouse may petition. But in practice, the overwhelming majority of restitution petitions have been filed by husbands seeking to compel wives to return to the matrimonial home. This asymmetry is not coincidental. It reflects the structural position of women in the marriage institution: it is wives who typically leave the matrimonial home in situations of domestic difficulty, and it is husbands who have the economic resources to engage in costly litigation.¹³ The consequences of a restitution decree are significant. Non-compliance does not result in imprisonment the Civil Procedure Code was amended to remove that sanction but it does permit attachment of the defaulting spouse's property. More importantly, one year's non-compliance with a restitution decree entitles the decree-holder to petition for divorce under Section 13(1A)(ii) of the same Act. This creates a strategic litigation dynamic: a husband can obtain a restitution decree, wait for the wife to remain in non-compliance, and then use that non-compliance as grounds for divorce potentially enabling him to divorce a wife who has not consented to the marriage's termination, and to do so on grounds that effectively blame her for the breakdown.¹⁴ The Supreme Court of India, in *Saroj Rani v. Sudarshan Kumar Chadha* (1984), upheld the constitutional validity of Section 9, holding that the right of a spouse to the society of the other is "inherent in the very institution of marriage itself" and that Section 9 merely codifies pre-existing law. The Court held that the provision serves the "social purpose" of preventing the breakdown of marriage. This reasoning is significant for what it assumes: that marriage as an institution takes precedence over the individual preferences of the parties within it, and that state coercion is an appropriate tool for preserving institutional integrity.

The *Saroj Rani* decision stands in contrast to an earlier Andhra Pradesh High Court decision in *T. Sareetha v. T. Venkata Subbaiah* (1983), in which Justice Choudary struck down Section 9 as unconstitutional on the ground that it violated the right to privacy, bodily integrity, and personal liberty guaranteed by Articles 19 and 21 of the Constitution. Justice Choudary's reasoning was striking: "A decree of restitution of conjugal rights... is a savage and barbarous remedy, violating the right to privacy and human dignity guaranteed by Article 21 of the Constitution of India." The *Sareetha* decision was subsequently overruled by the Supreme Court in *Saroj Rani*, but its reasoning has continued to influence academic debate and lower court jurisprudence.

7. Gender, Coercion, and the Reasonable Excuse Defence

The central mechanism through which Section 9 operates is the concept of "withdrawal from society without reasonable excuse." The burden of proving reasonable excuse rests on the respondent the spouse who has left. This allocation of burden has significant gendered

consequences.¹⁶In practice, what counts as a "reasonable excuse" is determined by courts drawing on norms about what a marriage should look like and what level of domestic difficulty justifies a spouse's departure. Courts have recognised cruelty, adultery, and venereal disease as reasonable excuses. But the threshold is set by judicial attitudes that have historically underestimated the severity of domestic violence, normalised a degree of marital discord that women were expected to endure, and been sceptical of women's claims about their husbands' conduct.

The coercive character of the provision is clearest in its enforcement mechanism: property attachment. A woman who refuses to return to a husband from whom she has fled perhaps because of violence, perhaps because she has secured independent employment, perhaps because the marriage was one she did not freely choose can have her property seized by court order for non-compliance with a decree requiring her to return. This is not a theoretical possibility. It is a remedy that exists in the statute and is available to any petitioning spouse.¹⁵The interaction between Section 9 and marital rape law deepens the problem considerably. India has not criminalised marital rape the exception under Section 375 of the Indian Penal Code (now Section 63 of the Bharatiya Nyaya Sanhita) exempts sexual intercourse by a husband with his own wife from the definition of rape. The Supreme Court, in a series of cases culminating in the ongoing constitutional challenge, has not yet definitively resolved this question. In this legal environment, a restitution decree that compels a wife to return to cohabitation effectively compels her to a situation where she has no legal protection against sexual coercion by her husband. The two provisions restitution under Section 9 and the marital rape exemption work together to recreate, in twenty-first century Indian law, precisely the institutional bundle that Hale articulated in the seventeenth century.

8. Constitutional Challenges and the Right to Privacy

The landscape of Section 9's constitutional status changed significantly after the Supreme Court's landmark nine-judge bench decision in *K.S. Puttaswamy v. Union of India* (2017), which recognised the right to privacy as a fundamental right under Article 21 of the Constitution. The *Puttaswamy* decision held that privacy encompasses bodily integrity, informational self-determination, and sexual autonomy all dimensions directly engaged by restitution law.

The consequence of *Puttaswamy* is that the reasoning of *Saroj Rani* has been significantly undermined, even if not formally overruled. If the right to privacy includes sexual autonomy and bodily integrity, then a state remedy that compels a spouse to return to cohabitation and that does so in a legal environment where sexual access cannot be refused within marriage is at least constitutionally suspect, if not directly unconstitutional.

The Delhi High Court acknowledged this tension in *Ojaswa Pathak v. Union of India* (2019), a petition challenging both the marital rape exception and Section 9 on constitutional grounds. The matter has wound through the courts and remains pending, making it one of the most consequential ongoing constitutional litigations in Indian family law.¹⁷What *Puttaswamy* does for the Section 9 debate is supply the constitutional vocabulary that Justice Choudary had to construct from first principles in *Sareetha*. The right to privacy, bodily integrity, and sexual self-determination are now clearly recognised as constitutional rights. A provision that allows the state to attach a woman's property for refusing to return to a husband in a legal environment where she cannot legally refuse him sexual access is difficult to reconcile with this recognition.

9. The Colonial Legacy: Path Dependence and Institutional Inertia



Why does Section 9 remain on the statute books in 2026, more than seventy years after independence? The institutional economics framework offers a persuasive answer: path dependence. Once an institution is established and embedded in a legal system, it generates constituencies that benefit from it and creates administrative and jurisprudential investments that make change costly.¹⁹In the case of conjugal rights law, the constituencies include husbands who use restitution petitions strategically in matrimonial disputes, lawyers who have built practices around matrimonial litigation, and a judiciary that has developed a substantial body of precedent interpreting Section 9. There is also an ideological constituency: those who argue that marriage preservation is a legitimate state interest and that the state may appropriately intervene to prevent marital breakdown. This argument was accepted by the Supreme Court in *Saroj Rani* and reflects a view of marriage as a social institution whose integrity the state has a duty to protect, even at some cost to individual autonomy. The colonial origin of this institutional logic is important. As the preceding sections have shown, the remedy of restitution was not borrowed from any indigenous Indian legal tradition it was a transplant from English ecclesiastical and equity law. The argument that Section 9 codifies some pre-existing Hindu law of marriage, as the Supreme Court suggested in *Saroj Rani*, is historically contestable. Pre-colonial Hindu legal texts addressed the obligations of marriage in terms of dharma and ritual duty, but the specific judicial remedy of compelling cohabitation through court decree and property attachment was an English innovation.

This matters because it means that the retention of Section 9 is not the result of Indian society choosing, on the basis of its own cultural deliberation, to preserve a traditional marital institution. It is the result of an institution imported under colonial conditions becoming embedded in post-colonial law without adequate critical examination of its origins or its effects. The colonial state had reasons for importing this remedy it served administrative convenience and reinforced a model of the household that suited colonial governance. Post-independence legislators retained it partly out of institutional inertia, partly because the debate about women's rights was not yet sufficiently developed, and partly because the political consensus was oriented toward other priorities.

10. Comparative Perspectives: Abolition in Europe and Its Aftermath

The jurisdictions from which India borrowed the remedy of restitution have largely abandoned it. England abolished the remedy of restitution of conjugal rights by the Matrimonial Proceedings and Property Act, 1970, on the recommendation of the Law Commission, which found that the remedy was ineffective in achieving genuine reconciliation and served mainly as a tactical weapon in matrimonial disputes. Scotland had abolished it even earlier. Australia abolished the remedy in the Family Law Act, 1975. New Zealand, Hong Kong, and other common law jurisdictions followed suit.¹⁸The reasoning behind these abolitions is instructive. The English Law Commission found that a restitution decree, even when obtained, rarely resulted in genuine cohabitation the respondent either complied formally while the marriage continued to fail, or remained in non-compliance and accepted the property sanction. In neither case was the marriage actually preserved. The remedy achieved its stated purpose in almost no cases. What it did achieve was to give the petitioning spouse a tactical advantage in subsequent divorce proceedings and to subject the non-complying spouse to financial penalties.

This finding that restitution decrees do not achieve reconciliation should be read against the Indian Supreme Court's reasoning in *Saroj Rani* that the provision serves the "social purpose" of preventing marital breakdown. If the empirical evidence from England, where the remedy

was available for far longer and in comparable social conditions, shows that the remedy does not achieve this purpose, then the social purpose rationale is not an empirical justification it is an ideological one. It reflects a choice to prioritise the institution of marriage over the autonomy of the individuals within it, dressed up as social welfare reasoning. Meanwhile, European human rights jurisprudence has moved decisively in the direction of sexual autonomy. The European Court of Human Rights, in *M.C. v. Bulgaria* (2003), held that states are obliged under Articles 3 and 8 of the European Convention on Human Rights to criminalise all non-consensual sexual acts, including those within marriage. The court held that consent is the central organising concept of modern sexual autonomy law, and that the state's failure to criminalise marital rape constitutes a violation of its positive obligations to protect persons from degrading treatment. This jurisprudence has influenced legislative reform across European jurisdictions and has contributed to the global movement toward recognition of marital rape as a crime.

11. Sexual Autonomy as a Constitutional Value in India

The recognition of sexual autonomy as a constitutional value in India has come through several pathways. The *Puttaswamy* decision's recognition of privacy as a fundamental right is the most significant, but there have been others. The Supreme Court's decision in *Navtej Singh Johar v. Union of India* (2018) which decriminalised consensual same-sex relations under Section 377 of the Indian Penal Code explicitly recognised sexual autonomy as a dimension of constitutional liberty. The court held that the state has no legitimate interest in regulating consensual sexual conduct between adults, and that criminal law's intrusion into private sexual choices violates Articles 14, 19, and 21.²⁰ The implications of *Navtej* for Section 9 and the marital rape exemption are significant. If the state may not criminalise consensual same-sex relations because sexual autonomy is constitutionally protected, the argument that the state may compel cohabitation or immunise non-consensual sex within marriage from criminal liability becomes increasingly difficult to sustain. The constitutional logic points in one direction even if the doctrinal development has not yet caught up. The persistence of the marital rape exemption and Section 9 in the face of this constitutional development reveals something about the relationship between institutional change and judicial reasoning in India. Courts have developed the constitutional vocabulary of sexual autonomy in one line of cases while declining to apply it to the marriage institution in another. This inconsistency is not logically defensible it reflects the ideological weight that the institution of marriage continues to carry in Indian legal culture, and the difficulty of confronting a colonial inheritance that has been naturalised as indigenous tradition.

12. Towards Reform: Institutional Change and the Path Forward

If Section 9 is to be evaluated honestly, the evaluation must account for both its historical origins and its contemporary effects. Its origins, as this paper has shown, lie in English ecclesiastical and equity law a tradition that treated the wife's body as an object of marital property rights, immunised marital sexual coercion from criminal law, and used the machinery of civil litigation to enforce a model of marriage as a permanent economic contract from which exit was deliberately costly.

Its contemporary effects are consistent with this history. Restitution petitions are disproportionately filed by husbands against wives. Non-compliance results in property attachment. The strategic use of restitution decrees in matrimonial litigation is well-

documented. And the interaction of Section 9 with the marital rape exemption means that a woman compelled to return to cohabitation by court decree has no legal protection against sexual coercion by her husband.

Reform requires action on both fronts simultaneously. The retention of the marital rape exemption makes Section 9 incomparably more dangerous than a mere procedural remedy for matrimonial breakdown. If marital rape were criminalised as the constitutional challenges now before the courts argue it should be the coercive force of Section 9 would be partly mitigated, since a wife who returns under compulsion would at least have criminal law remedies available if subjected to sexual coercion. But the better answer, as the English Law Commission concluded in 1969, is abolition. A provision that does not achieve its stated purpose, that serves primarily as a tactical weapon in matrimonial litigation, and that carries the institutional memory of coercion should be removed from the statute books.²⁷ There are voices within Indian legal academia that have made precisely this argument. The Law Commission of India has periodically addressed matrimonial law reform, though its recommendations on Section 9 have been cautious. The ongoing constitutional challenges offer an opportunity for the Supreme Court to bring its family law jurisprudence into alignment with the constitutional values of privacy, autonomy, and dignity that it has articulated in other contexts.

13. Conclusion

This paper has traced a long arc from the medieval canon law of conjugal debt, through Hale's doctrine of implied consent, through the colonial transplantation of English matrimonial law, to Section 9 of the Hindu Marriage Act and its interaction with the marital rape exemption in contemporary Indian law. The arc is not merely historical. It is institutional: the same logic of enforced conjugal access, the same treatment of the wife's presence and body as a marital asset to be compelled by state action, runs through each stage of this history.

An institutional economics framework helps explain why this logic has persisted so long past the economic and social conditions that originally generated it. Path dependence, ideological investment, litigation constituencies, and the natural conservatism of legal systems all contribute to the survival of provisions whose original rationale has long since dissolved. The remedy of restitution was abolished in England in 1970. It has survived in India for over half a century more, not because Indian society has affirmatively chosen to preserve a traditional marital institution, but because colonial transplants are notoriously difficult to dislodge once they have been naturalised. The constitutional development of the last decade from *Puttaswamy* to *Navtej* has created the intellectual and legal tools to complete the task of dislodgement. What remains is the political and judicial will to use them. The tension between conjugal rights law and sexual autonomy is not a tension between two equally valid constitutional values. One side of that tension represents an institutional inheritance of coercion. The other represents the constitutional commitment to human dignity. The resolution, in principle, is not difficult to identify.

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