

Haryana's Honour Killings: A Social and Legal Point of View

Dr. Praveen Dublish¹ and Yamin Khan²

¹Associate Professor, Department of Law, Meerut College, Meerut, India

²Research Scholar, Department of Law, Meerut College, Meerut, India

²Corresponding Author: mymk69@gmail.com

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ABSTRACT

Life is unpredictably unpredictable. Nobody knows what will happen in the next minute of their lives. In this circumstance, every human being has the right and desire to conduct their lives according to their own desires. No one should be forced to live a life solely for the benefit and reputation of others. Honour killing is defined as the assassination of a person, whether male or female, who refuses to accept the family's arranged marriage or decides to move her or his marital life according to her or his wishes solely because it jeopardizes the family's honour. The family's supreme authority looks after the family's name but neglects to consider the love and affection shared among family members. I have discussed honour killing in India in my research work. This sort of murder occurs as a result of particular triggers, which are also examined in relation to the role of the law in honour killing. No one can be released free if they break the law, and in this case, it is a felony that violates various regulations designed to safeguard citizens. This crime is similar to many others, but it is distinct enough to be differentiated in the report. When the husband is of low social standing, it lowers the position and caste of the female family, prompting the male family members to murder the girl. But they forget that the girl is their kid and that while rank may be attained, a girl's life can never be replaced, and that caste is less valuable than the girl's life and love spent with them.

Keyword: approach cultural, honour killing, law commissions, khap panchayats

I. INTRODUCTION

In today's heterogeneous culture, the debate over India's marriage system is still relevant. In Indian society, there are many different castes, races, languages, and identities. It is debatable if it is "honour killing" or "dishonour killing." This is referred to as "media connotation." In Indian society, many types of marriage can be found in different communities, such as tribal, Muslim, Christian, and Hindu. The marriage system based on the Hindu religion is extremely intricate. It is dependent on a number of intangible variables. It is far easier to marry a foreigner than it is to marry an Indian. The marriage system was sanctioned by both the legal system and customary law. The Hindu social structure is founded on inequity and hierarchy. In the caste structure, women are always placed behind men. It is permissible for upper-caste males to marry lower-caste women, but not the other way around.

The patri-local and patriarchal dominance elements are a feature of Hindu marriage. Additionally, in society, there is a feudal ruling system. Brahmonical hegemony has taken up the Hindu marriage system. It is anti-pollution and believes in purity. Under this system, marriage occurs once and for all, but Hindu tribes can adopt or marry multiple times, as long as the circumstance is allowed in the social order. This social structure forbade anyone from leaving on their own volition. The caste-based marriage system is promoted on the matrimony website. It was illegal in Hindu orthodox culture for a couple to kill each other without their consent. It does not advocate for a choice-based or open-ended marriage structure. In today's world, you have options for food, clothing, and housing, but not for marriage.

The term "khap" refers to a social and political grouping and is also used in a geographical sense. A khap is a group of village elders organised along caste or community lines with the goal of maintaining a feudal and patriarchal society. They have the authority to issue fatwas (orders) declaring marriages null and void without going through the proper legal channels. According to history, khaps began in the 14th century as a way for upper caste 'Jats' to consolidate their power and position.

A khap is a cluster of multiple villages and castes according to the "Jat" social system of Haryana, Uttar Pradesh, and Rajasthan. They were organised into clans and gotras, and they enforced community social rules. While they may have historically served as a harsh form of justice, they are now a terrifying power for peasants and townspeople who have no choice but to accept the pronouncements, even if they are without legal basis. One of the deadliest fears in this set-up is marrying within one's gotra (or a collection of gotras), a deeply destabilising force upon which khap panchayats (community tribunals) impose the most dreaded punishments, such as death, banishment, and complete social shame. Given its hold over much of Haryana's traditional society, this mediaeval oppression system has operated with near impunity thus far. The divide between customary law and the judicial system is one key stumbling block. In a diverse country like India, the cultural system does not

match the legal system. The practise has been resisted by governmental officials, who recognise it as a "custom," a way of life in the region. The criminality of such crimes is tolerated by lawmakers and law enforcement authorities, who ignore the khap's aggressive and anti-women aspects. Under the Indian Penal Code, intimidation is a simple crime to prosecute, and anyone who aids it can be charged with criminal conspiracy. The worst betrayal, in reality, is political, because caste unity supports their vote banks and Panchayat Raj institutions stay weak. The Haryana administration said that prosecuting khap panchayats under the Prevention of Unlawful Activities Act 1967 would disrupt law and order. However, district administrations have made some changes after the Haryana high court took a hard stance on the issue, most recently suspending a pair of revenue officers in Rohtak for participating in a khap panchayat that declared a married couple brother and sister.

Khap panchayats are a type of rural social organisation that has existed in the past. In rural north India, there are four types of traditional panchayats. Traditional panchayats are unique in that they are exclusively male-dominated institutions. Because strong members of the ruling caste frequently participate in their debates and act as guarantors for their decisions, their appeal and efficacy are enormous. This patriarchal and male-dominated social framework encourages honour killing.

II. THEORY OF HONOUR KILLINGS

The term "honour crime" refers to a wide range of violent acts perpetrated against a female victim. Beatings, mutilation, kidnappings, acid attacks, rapes, and even murder are examples of this violence (Welchman, Hossain, 2005). All of these heinous crimes have one thing in common: a specific reason for doing them: the pursuit of honour. Honour-based violence is motivated by the conviction that the victim's previous actions or behaviour have brought shame to the family or community. The abusers are frequently family members or members of the victim's community.

In his findings to the UN Human Rights Council in 1999, the Special Rapporteur on Violence Against Women for the first time mentioned honour crimes. Coomaraswamy (1999) describes the phenomenon as "crimes against women," in which a family member is killed for allegedly defiling the family's honor. Human Rights Watch, a non-governmental group based in New York, provided a more detailed explanation. According to the organization, the phrase can be defined as an "act of revenge usually perpetrated by male family members against usually female family members." The victims often bring dishonour to the family by refusing to attend a family arranged marriage, being the victim of sexual abuse, being accused of adultery, or requesting a divorce. "In other words, an "honour killing" is the assassination of a family member, generally a woman, who is thought to bring shame to the family due to inappropriate behaviour. Extramarital sexual interactions, in particular, are frequently regarded as unbearable by one's family.

An honour killing is carried out to remove the dishonor or shame that has fallen on the head of the family or community in which they reside, according to the perpetrator's opinion. Offenders rarely feel remorse or humiliation for their actions, and they frequently explain their actions by blaming the victim. In a multitude of circumstances, a woman can become the victim. Many women are murdered because they do not meet tight chastity requirements or fail the so-called "virginity test" on their wedding -physical marker connected with chastity, virtue, and respect. It represents virginity. A woman is thought not to fail the social test if she does not bleed during penetration. Then, as is customary, she is returned to her family, where a family member conducts a murder in order to defame them. Only her death from bleeding can wash away the humiliation she felt when she didn't bleed on the wedding night. All money and gifts given by the wedding party and family members must be refunded (Abu-Odeh, 1996, 2010). As a result, the wedding night is extraordinarily significant for women, as it contains the critical moment at which society passes judgment on their morality. A woman's sexual virtue has not only monetary value, but also represents the family's honour in general. From this perspective, failure to protect honour might erode a family's social standing. As a result, the precise causes of honour are located at the macro level of social norms and ideals rather than at the micro level of individual perpetrators (Gartner and McCarthy, Oberwittler and Kassel, 2014).

The victim's refusal to enter into an arranged marriage is also a typical motive for the death. If a woman is seen chatting with a guy of the opposite gender, she may face violence. The reason for the woman's death in this case was not because she had a previous relationship, but because she had broken a set of communal norms for women.

When men are homosexual, bisexual, or transsexual, however, they can be the victims of honour killings. Honor killings are thus a problem that affects both men and women. Young men make up the majority of the victims in these incidents. Regrettably, no systematic documentation exists on the subject (Gartner and McCarthy, Oberwittler and Kassel, 2014).

The standards of behaviour are uneven from an honor-based standpoint, with women being held to a higher level. Women, on the other hand, have a lot more power. It appears that women are primarily responsible for the family's honour, and it is a woman who can bring dishonour to the family by breaching communal values. Men, on the other hand, may be able to reclaim their lost honour through their subsequent actions (Baker, Gregware, Cassidy, 1999). Because of the large number of female victims and the disparity in standards, honour killings are sometimes misunderstood as domestic violence.

III. CULTURAL POINT OF VIEW

Rural-urban India is diverse in terms of religion, region, and culture. Every society's most vital institution is marriage. The Hindu social order prohibits the use of a choice-based marriage system. There are two types of marriage systems: anulama and proximal. In comparison to legal approaches, cultural rights or cultural approaches have received more attention. Cultural rights have always prevailed in the marriage institution. An honour killing, also known as a customary killing, is the assassination of a family or clan member by one or more family members because the murderers (and possibly the wider community) believe the victim has brought dishonour to the family, clan, or community. This perceived dishonour is usually the result of (a) violating family dress codes, (b) opting out of an arranged marriage or marrying on one's own terms, (c) engaging in certain sexual acts, and (d) marrying within the same gotra. These killings stem from the belief that defending one's clan or family honour justifies killing a person whose actions dishonour them.

According to the United Nations Population Fund (UNFPA), the annual global total of honour-killing victims could be as high as 5,000. Honour killings are defined as follows by Human Rights Watch: Honour crimes are acts of violence, usually murder, perpetrated by male family members against female family members who are thought to have brought the family into disrepute. For a variety of reasons, including refusing to enter into an arranged marriage, becoming the victim of sexual assault, seeking a divorce—even from an abusive husband—or (supposedly) committing adultery, a woman can be targeted by individuals within her family. The slightest suspicion that a woman has acted in a way that "dishonours" her family is enough to bring about a life-threatening attack.

In our villages, the usual definition of "honour killing" is the murder of womenfolk by family members, generally males. However, the phrase has a deeper connotation and serves a different motive. Who is obligated to clean up stains on their family's reputation? A woman might bring shame to her family for a variety of reasons, including refusing an arranged marriage, eloping with her spouse, being the victim of sexual assault, or simply wanting a divorce. Illiteracy, cultural lag, patriarchal dominance, and a feudal mindset are all contributing factors.

IV. LEGAL POINT OF VIEW

The government has published a draught of the "Indian Penal Code and Certain Other Laws (Amendment) Bill, 2010", which would make modifications to the IPC, the Indian Evidence Act, 1872, and the Special Marriage Act, 1954, as well as put a stop to the recent rash of honour killings. The Supreme Court had issued letters to the Centre, as well as the governments of Haryana, Uttar Pradesh, Punjab, Rajasthan, Jharkhand, Bihar, Himachal Pradesh, and Madhya Pradesh, requesting information on efforts taken to prevent honour killings. The interior ministry wants such killings to be classified as murder and for a proper definition of shame or perceived dishonour to be established. According to the new IPC clause, Khap members will be considered accomplices in the crime and will be prosecuted alongside caste panchayat leaders. The accused, rather than the victims, will have the burden of proof during the trial. The Indian Evidence Act will be amended to add a new section 105A to this effect.

In addition, the government seeks to eliminate the current mandatory 30-day notice period in the courts under Section 5 of the Special Marriage Act to safeguard the safety of couples marrying against their families', communities', and caste panchayat's preferences. The rules could be changed by the court. This means that a couple will be able to marry in court immediately after filing a marriage application. It was thought that the current notice period, during which the couples' photographs were pasted on the court's notice board, was allowing the couples to be easily identified. Later, they were harassed and even killed by their families. In the traditional "mores" society, the legal procedure combined with technology is unsuitable.

In terms of the IPC amendment, the ministry believes that because caste panchayats are informal organisations with no legal status, caste and clan members must be classified as co-conspirators in the crime. By virtue of their connection with such a group, all members of the caste panchayat ordering the killing will be considered guilty under the new law, whether or not they approved the crime.

Dishonour is defined in the new law as acts such as dressing in a manner that is offensive to one's family, caste, clan, community, or caste panchayat; choosing to marry within or outside one's gotra, caste, clan, or community; and engaging in sexual relations that are offensive to one's family, caste, clan, community, or caste panchayat.

People who make provocative statements in support of such killings face harsh punishment, according to the National Commission for Women. Section 300 of the IPC is to be amended as follows: Incorporating a new (fifth) clause stating that culpable homicide is murder if the act that results in death is done with the intent of causing death, or if it is done by any person or persons acting in concert with, or at the behest of a member of a family, or a body, or group of caste, or clan, or community, or caste panchayat (by whatever name called) in the belief that the victim has brought dishonour to the family, clan, or community. The Evidence Act of India is a piece of legislation that governs how When a family member dies and a person or a group of people is accused of

acts falling under the fifth clause of section 300 of the IPC, the burden of proving that the case does not fall under that section falls on the person or people accused.

The words "for a period of not less than 30 days" shall be deleted from Section 5 of the Special Marriage Act. In contrast, khap panchayats in Haryana are now determined to obtain legal recognition after being compared to the Taliban and kangaroo courts.

They will soon draught a set of suggestions for state-level revisions to the Hindu Marriage Act (1955) to make their findings legal.

V. LAW COMMISSION'S APPROACH

The Law Commission has proposed legislation to make "sagotra" or inter-caste marriage a non-boilable offence, citing the practice of khap panchayats punishing couples who opt for "sagotra" or inter-caste marriage as a "flagrant violation" of the law.

According to the draught Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011, offences under the Act will be cognizable, non-boilable, and non-compoundable. According to the draught bill, offences under the Act will be tried by special courts presided over by a Sessions Judge or an Additional Session Judge. The special courts, which will be established by the states in collaboration with the High Courts, will have Sessions Court-like powers. The Commission stated that there was no need to alter the IPC to include a provision bringing honour killings under the purview of Section 300 (murder) of the Indian Penal Code. "The Commission appears to believe that adding a provision to Section 300 IPC to include so-called honour killings in its scope is unnecessary. The present provisions in the IPC are sufficient to deal with conditions that lead to overt acts of murder... "According to the consultation paper, Honor killings ordered by khap panchayats, or self-styled caste councils, have claimed the lives of many young couples in northern states.

5.1 Threats Lawful Manner

Self-appointed bodies have increased their illegal intimidation of sagotra (same gotra) marriages, as well as inter-caste, inter-community, and inter-religious marriages between two consenting adults, in the name of defending the honour of their family, caste, or community.

On a number of occasions, such bodies have incited violence, and newly married or engaged couples have been subjected to intimidation and violence, which has resulted in their being driven out of their homes and, in some cases, slain.

Despite the fact that such intimidation or acts of violence are criminal offences under the IPC, it is necessary to prevent assemblies from taking place to condemn such alliances, according to the proposed Bill, which aims to stifle evil and prevent the spread of hatred or incitement to violence through such gatherings. The term "criminal intimidation" will have the same meaning as it does in Section 503 of the Indian Penal Code.

The bill also states that any member of an unlawful assembly who, alone or in concert with other members, counsels, exhorts, or applies pressure to any person or persons in order to prevent or disapprove of the marriage to which the said members of the unlawful assembly object, or creates a hostile environment toward such a couple, is deemed to have acted in endangering their liberty.

According to the Law Commission's consultation document, panchayats organized along caste lines believe they have the authority to deal with "objectionable matrimonies," have little concern for life and liberty, and are not deterred by legal proceedings. The penal code does not apply directly to the illegal acts of caste meetings, and this needs to be changed.

The Law Commission claims that the Hindu Marriage Disabilities Removal Act, 1946 was enacted to eliminate any uncertainties in this regard, pointing out that same-gotra weddings are not forbidden by law, despite what some may have believed in the past.

5.2 Honor Vindicated

Marriages between Hindus belonging to the same gotra, or different sub-divisions of the same caste, were expressly deemed legal by the Act. It states that "no one has the right to use force or impose far-reaching sanctions in the name of vindicating community honour or family honour," and that "no one has the right to use force or impose far-reaching sanctions in the name of vindicating community honour or family honour."

The Commission, in response to the proposed amendments to Section 300 of the IPC, states that the motive for killing a person does not provide real justification for introducing a separate provision in this section, as the addition of such a clause may cause confusion and interpretational difficulties.

The Law Commission has already released a draught bill, the Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliance) Bill, 2011, and is seeking public feedback. Participants in Khap meetings organized to

condemn any inter-caste marriage face up to one year in prison and a fine of Rs 10,000. The bill also recommended a two-year prison sentence and a Rs 20,000 fine for anyone found taking steps to hinder such marriages, as well as a three-year prison sentence and a Rs 30,000 fine for anyone who resorts to criminal intimidation of such couples.

VI. HISTORIC BACKGROUND OF KHAP PANCHAYATS

According to historical records, the Hindu practice of sati-path, or widow-burning, can be seen in several places in India and South Asia. In cases where the act is voluntary, such as when a deceased man's widow immolates herself on his funeral pyre as an act of religious devotion and to maintain her and her family's dignity, it might be deemed "honour suicide." However, the historical and religious foundations for sati-path's predominance and acceptance are hotly debated. Evidence reveals that sati was not always "voluntary," but was compelled in some cases, both historically and in present times. The British have outlawed the sati path. It was a new kind of assassination. Sati has dominated northern rural India in the modern era. Sati still happens now and then, particularly in rural regions. Since India's independence in 1947, there have been about 40 occurrences, most of which have happened in Rajasthan's Shekhawati region.

In agrarian societies, the Khap Panchayats are said to have evolved as a social system's maintenance mechanism. These are the legacies of tribal councils, which were founded by various tribes to facilitate the resolution of intra-tribal conflicts and inter-tribal relations. When these tribes were co-opted into the caste system, they kept them as an internal control mechanism for resisting external threats and as bargaining bodies with Delhi's rulers.

All caste bodies were represented by all castes at one point in time. Hence, these khap panchayats are thought to have been multi-caste. However, it has just been discovered in a Jat community. Khap panchayats are frequently in the news due to their involvement in so-called "honour killings." The majority of these incidents involve the murder of couples who marry outside of community norms. According to native Haryanvi or western UP society, they are unacceptable. These unions are viewed as an "offence," and khap panchayats, as community leaders and members, continue to condemn and punish the spouses and their families. The moral pressure exerted by these extra-constitutional authorities, as well as the fear of questioning their barbaric ways, drives or encourages close relatives to murder the married couple, and their family is shunned by the rest of the village. Not surprisingly, even the police fail to assist the hapless victims, allowing retaliation and condoning the punishment of alleged transgressors.

The majority of these khap panchayats are made up of strong members of the dominant caste. They are mostly senior people who profess to be upholders of village customs, keepers of rural culture, and keepers of public decency. They have a strong presence both locally and provincially. Nobody wants to irritate these strong people. Even though he was aware of the allegations, Haryana's then-chief minister, Om Prakash Chautala, claimed in 2004 that "whatever the (caste) panchayat determines is right." Similarly, Haryana's current chief minister, Bhupinder Singh Hooda, has stated the same thing in a different way. He also failed to make strong decisions in the interest of the rule of law or to achieve justice's goals. These are social situations, he explained. Any impulsive action we take now could have a negative influence on the state's law and order situation. We have reassured the families who are anxious that they will be protected.

However, the absence of police officers at the time of Vedpal Mor's death at the hands of a village mob in Jind raises doubts about the legitimacy of such assurances. Against their parents' desires, Mor married Sonia of Singwal village. Later, he proceeded to the Punjab and Haryana High Court and arrived in Matour village with a police officer to pick up his wife from her parents' home. On July 22, however, he was lynched by a mob. This plainly implies that khap panchayats will continue to dominate in Hood's territory, and the fear of death will continue to loom over lovers or spouses.

In his research on the power of khaps, Ranbir Singhvi discovered the following: the maintenance of strong kinship feelings among various Jat clans (gotras) due to the persistent belief that they are the descendants of a common ancestor with connections of blood is the main secret of the khap panchayats' strength. B. Prevalence of the seem-simli notion, i.e., the concept of bhaichara (brotherhood) among clans living in surrounding villages with common boundaries. C. The traditional institution of neighborhood panchayats (Ghwand panchayats) for resolving inter-caste issues in neighbouring villages exists. D. The presence of bhaichara feelings among different gotras living in the same hamlet and avoiding matrimony. Nobody speaks out against the knaps decision since everyone agrees with it. E. The continuing strength of the knaps is due to the weakness of the Panchayat Raj Institutions (PRI's). F. The transformation of khap panchayats into vote banks has rendered them essentially invincible. G. All of the major political parties have refrained from speaking out against them.

VII. ENGAGEMENT OF LEGISLATORS

The most obvious reason for this practice's persistence in India is that the caste system is still in place, as well as rural people's unwillingness to change their attitudes toward marriage. As a result of their meddling, Khap Panchayats are dominated by influential members of a dominating caste. These Khap Panchayats believe they have the power and authority to deal with

"objectionable matrimonies" and thus issue "verdicts" and even pressurise their family members to carry out their verdicts, directly contradicting Articles 14, 15 (1), 15 (3), and 21 of the Constitutional Provisions, as honour killings affect the right to live, the right to move freely, the right to equality, and the right to security. So far, crimes of honour killing have been dealt with under Section 300 of the Indian Penal Code, which deals with murder with a life sentence, death penalty, or fine, Section 307, which deals with attempted murder, Sections 120 A and B for being a party to a criminal conspiracy, and Sections 107–116 for abetment of crimes like murder or culpable homicide.

Concerned about the rise in honour killings, the Indian government introduced a bill in 2010 to add honour killings to Section 300 of the Indian Penal Code and to place the burden of proof on the accused. However, the 242nd Law Commission Report recommended a bill called "The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011," which would prohibit a person or a group of people from gathering, assembling, or congregating at any time with the view or intention of condemning any marriage that is not prohibited by law. The Commission, on the other hand, did not believe it was acceptable to propose a change to Section 300 of the IPC to make honour killing a separate crime.

VIII. CONCLUSION

If a family member is unhappy with a young man's or woman's marriage, the most they can do is cut off their social ties with them, and honour killing does not bring honour to the family. However, the family members are unaware of this reality. Because life is a creation of God, he should have the last say over who lives and who dies. Where a deity has brought a human onto the earth, it is in his hands to take them out. Families are vital, but killing a member of the family is not. It is quite safe to prevent honour killings because it is the couple's life that is being decided, and it is in their power to live together or separate. No one has the authority to take another's life or liberty. Because the next moment of life is unpredictable, it is always best to enjoy life to the fullest with joy and happiness. As a result, it is preferable to follow the Live and Let Live policy.

The perpetrators of honour killings should be punished in today's society. Gender equality, as well as caste and class stereotypes, should be promoted in society. To eliminate societal biases, efforts should be made to educate sensitive people on heed. The only cure for this most dishonorable of conduct is active policing and severe penalties. It's also worth noting that it's tough to tie down a perpetrator when a mob is involved. Evidence collection becomes difficult, and eyewitnesses are rarely available. As a result, it is critical to amend the Indian penal code, the Indian Evidence Act, and the Special Marriages Act so that lawbreakers face the "strictest feasible" penalties. Killing or tormenting a spouse is hardly a sign of a prosperous society. Possessing a position in a khap panchayat should be prohibited or rationalized. Based on their circumstances, all marriages should be legal. Those who marry outside their caste should be rewarded and given social protection. Women's empowerment could be achieved through education, economic stability, and gender equality. The gender gap, or sex ratio, must be narrowed. There should be a separate cell for women who are victims of honour killings. The cultural divide should be bridged, and a logical lifestyle should be adopted.

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