

HONOUR KILLING IN PROSPECTIVE OF KHAP PANCHAYATS OF HARYANA



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Abstract: Honour killings are basically the crimes that seek to place within the context of society, family or under the head of it. As we all know recently, there has been a spate of honour killings which has shocked the country. These got sanction in the name of traditional values in Indian societies especially in Haryana. In Haryana, Khap Panchayats plays crucial role in most of the killings on the name of honour. Most of the honour killings have been decided and ordered by the so-called caste Panchayats or Khap Panchayats comprising members of a particular caste. Very often, these Panchayats encourage honour killings or other atrocities in an institutionalized way on boys and girls of different castes and religion, who wish to get married or have been married or interfere with the personal lives of people. These Panchayats are organized through clans and gotras by which they uphold social norms in the community. Such assemblies gathered on caste lines assume to themselves the power and authority to declare on and deal with objectionable matrimonies and exhibit least regard for life and liberty and are not deferred by the processes of administration of justice.

Keywords: Honour killing. Khan Panchayats, laws, Human Rights, justice.

INTRODUCTION

In Indian culture, an individual's identity is closely tied to his family unit. Hence, the family's honor is viewed as a personal reflection on each member of the family. As a result, family members may have strong responses to actions of other family members that appear to bring dishonor on the family. These strong responses sometimes lead to great violence, which is the case in the practice of honor killings. The phenomenon referred to as honor killing typically occurs when a female family member is thought to have brought dishonor on the family. The type of dishonor is generally sexual in nature, such as engaging in premarital sex or having an extramarital affair. A woman may also be killed for seemingly less serious transgressions, such as socializing with males, seeking a divorce etc. honour killings are an extreme and brutal abuse of human rights, violating the most basic of human rights-- the right to life- as well as every other article in the International Convention on Human Rights (1948).

However, *Khap Panchayats* in some parts of India define their own laws by running their own parallel judicial institution to the courts. Not only do these *Khap Panchayats* declare marriages null and void, but go beyond by awarding death as a punishment in many cases. These killings are used to restore faith in the orthodox approaches of the rural people. They believe that these socially unapproved marriages must be punished by extreme measures, including death.

The Pernicious practice of *Khap Panchayat* and the life taking law into their own hands and pronouncing on the invalidity and impropriety of *Sagotra* and inter-caste marriages and handing over punishment to the couple and pressurizing the family members to execute their verdict by any means amounts to flagrant violation of rule of law and invasion of personal liberty of the persons affected. There are reports that drastic action including wrongful confinement, persistent harassment, mental torture, infliction of severe bodily harm, even like death is resorted to either by close relations or some third parties against the so-called erring couple. Social boycotts and other illegal sanctions affecting the young couple, the families and even a section, of local inhabitants are quite often faced with such depicted practices of *Khap Panchayats*. Khap elements zealously guard age old marital restrictions. They are fostered a culture of intolerance, making a family pariah in village' society, if its member happens to violate Khap marital norms. The family is subjected to repeated taunts, making its existence unbearable. This drives some of its members to commit murder to restore family honour. It is this social milieu spawned by Khap elements which leads to honour crimes.

The honour killings are on the rise as it is response from a rigid society in which couples are exercising the right to choice. With the state becoming a party to the exploitation of the couple (with no proactive response) exercising choice it provides ground to for the mobilization of the caste and the community to interfere. Instead of becoming a private choice the choice itself becomes part of the larger debate in which the caste groups and Khap Panchayats can easily interfere. The people behind the law enforcement also support it and the couple has no choice but to fall to their diktats. In cases where the couples don't have the means to fight this community attack they can become victim of this state supported violation of right. The right to choice of marriage is almost non-existent and for the women it is illegal to even imagine it. There is a complete rejection of choice of the person concerned in relation to whom to marry. Even most of our laws mention about women rights but has has no mention about the right to choice. This leads to criminalization of runaway couples (elopement, abduction, kidnapping) which are put on the men if he dares to be part of a women choice. Our legal system is a big hindrance to the right of choice. The marriage under the Special Marriage Act is very lengthy and cumbersome so that instead of enabling couples exercising choice it goes on to become a big hindrance and the couples have nowhere to go

but to get married under the personal laws which are unable to provide the validity which a registered marriage in a court of law can provide. Thus, the couples become victim of the push and pull and get caught in legal problems which are created by their own people. In most of the 415 cases which has been recorded from the Haryana and Punjab High Court for its case studies it is very clear that the state comes as a major hindrance in negating the right to choice. Though the Supreme Court and the various High Courts have been laying down guidelines for streamlining such exercise of choice it doesn't have the desired effect until and unless the state legislates and provides the support. The real questions we need to ask today in the face of such heinous crimes are how the state can facilitate the exercise of choice. Till the state legislates or provides the necessary support for the right of choice the exploitation will continue. The state needs to facilitate the process of marriage becoming choice between two individuals.

It is ironical that most of the honour killings are happening in the areas where the sex ratio is low and girls are being bought for marriages. One thing is quite clear that the skewed sex ratio will have more devastating affect over the women in these regions. They will be susceptible to various push and pulls of the society and thus marginalizing them. The women who will be few in number will be manipulated by the community and there will be a sort of competitive bidding. In a scenario, where the Khap Panchayats are adamant to increase exclusion of certain gotras while marrying it will be increasingly difficult for boys to get married. To tackle the menace of honour killings and the criminalization of choice it is very important that the State removes the barriers and hindrances. Removal of such barriers will lead to greater support to individuals and couples who may exercise their choice guaranteed under the law with facilitation from the state.

Now the *Khap Panchayats* of Haryana demanded a legal bon on same-gotra and same-village marriages, saying such a measure could solve the problem of rising crime against women. Leaders of 30 *Khap Panchayats* passed a resolution calling for an amendment in the Hindu Marriage Act to bring the ban on such marriages into effect, Terming modern culture as "obscene", the leaders said the state's social fabric had been vitiated because people were "blindly following so-called modernization which is the root cause of crime against women and incidents of rape". "The minds of the younger generation have been corrupted due to invasion of obscene and vulgar culture. They say their youngsters have forgotten the rich values and customs of our society. Addressing the meeting, one of the leaders demanded a change in the law to ban matrimonial ties between couples from same gotras and same villages--traditionally viewed as brothers and sisters. A legal ban on such marriages would also help curb the menace of honour killings and female feticide which has brought a bad name to Haryanvi society said a Khap leader. They argued that there would not be any hour female feticide if the same-gotra marriages were banned". "People kill their daughters out of the fear that one day they might elope with men of the same gotra." A delegation of Khap Panchayat visited Delhi on November 5 with copies of memorandum to be handed over to India's top leaders. They also decided to call on the National Commission for Women the same day and asked it to raise the demand. The Khap leaders distanced themselves from a recent statement of *Khap Mahapanchavat* spokesman who had sought lowering of the marriageable age of girls from 18 to 16 years to avoid rapes. The leaders said such statements had been spoiling the image of *Khap Panchayats*.

The Supreme Court has declared illegal the Khap Panchayats. "This is wholly illegal and has to be ruthlessly stamped out. There is nothing honorable in honor killing or other atrocities and, in fact, it is nothing but barbaric and shameful murder... Moreover, these acts take the law into their own hands, and amount to kangaroo courts, which are wholly illegal," said a Bench of Justices Markandey Katju and Gyan Sudha Misra. In his report to the Supreme Court Raju Ramachandaran, Senior Advocate appointed by the Court to assist it in

PILs against *Khap Panchayats* has called for arrest of "self-styled" decision makers and proactive action by the police to protect the fundamental rights of the people. It also asked for the recommendations being converted as directions to all States and the Union, till a law is enacted by the Parliament.

CONCLUSION:

A specified caste is powerful in Haryana and they constitute *Khap Panchayat* and they would not easily give up *Khap Panchayats*. Since the Caste Councils are powerful instruments during election times, they have received the blessings of the political parties. Senior leaders of Haryana are now pleading the cases of *Khap Panchayats* with the Central Government. The dominant caste is also trying to have the State Legislature amend the Hindu Marriage Act, 1955, to lend legal authority *Khap Panchayats*. They are happy with the *Khaps* since they decide cases promptly unlike the Courts.

Recently, due to the intense public uproar and awareness, Bibipur village of Haryana decided to bring about a positive change in the panchayati system. On July 14, 2012, it managed to create history by hosting the first women-driven *Khap Panchayat*. Issues such as female foeticide and sex determination tests were discussed at the meeting and ways to control them were boldly encouraged by all. The *Khap Panchayats* are social entities and not legal entities. Thus, without trying to eradicate them and possibly facing backlash from the *Khaps*, a better option would be to force to these councils to operate with a limited mandate, such as quickly solving minor disputes amongst brethren of a caste. The panchayats of Bibipur and Sonapat offer some hope that a section among the *Khaps* wants be more humane. Unfortunately, the media and the intellectuals have not been able to capitalize on these incidents. The Government needs to support these progressive elements and Initiate sensible discussion on the demands of the *Khap*.

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