
KHAP PANCHAYAT SYSTEM IN INDIA – A DETAILED ANALYSIS

Kushagra Vashishth, University of Petroleum and Energy Studies

ABSTRACT

The Khap Panchayat system in India has long been a subject of intrigue, scrutiny, and controversy. This research paper provides a comprehensive analysis of the Khap Panchayat system, delving into its origins, functions, sources of power, and impact on various societal aspects, particularly marriage rules and the alarming phenomenon of honor killings.

The paper begins with an introduction to the Khap Panchayat system, tracing its historical roots and evolution within the Indian social fabric. It then explores the distinctions between Khap Panchayats and traditional Panchayats, shedding light on their respective roles and functions within rural communities.

A significant portion of the paper is dedicated to elucidating the functions performed by Khap Panchayats and their demands, as well as the sources and strength of their power. Special attention is given to the impact of Khap Panchayats on marriage rules, examining how they influence and regulate matrimonial alliances within their jurisdictions.

Furthermore, the paper critically examines the concept of honor killings in the context of Khap Panchayats, analyzing the prevailing laws, criminal jurisprudence, and societal attitudes surrounding this egregious practice. It presents arguments against proposed legislation aimed at curbing honor killings, highlighting the complexities and challenges inherent in addressing such deeply entrenched issues.

The research also incorporates insights from the Supreme Court of India, exploring its views and interventions concerning honor killings and the role of Khap Panchayats in perpetuating them. Additionally, it discusses the relationship between Khap Panchayats and legislative bodies, assessing efforts to regulate their activities and mitigate their adverse impacts on society.

Drawing parallels with caste atrocities, the paper contextualizes the actions of Khap Panchayats within broader patterns of social injustice and

discrimination. Finally, it concludes by synthesizing key findings and offering reflections on the future prospects of the Khap Panchayat system in India.

Through a multifaceted analysis of the Khap Panchayat system, this research paper contributes to a deeper understanding of its complexities, challenges, and implications for Indian society and governance.

Introduction

In Hindu civilization, the caste system has long been seen as a vital institution. The caste system is one of the many problems that Indian society has had to deal with; it is widely accepted as a major obstacle. The caste system is thought to have been instituted with the goal of dividing society into four distinct groups according to the professions of its members. The Hindus have been mainly divided into Brahmin, Kshatriya, Vaishyas, and Sudras, with their sub castes¹. The caste system and its subgroups uphold rigorous observance of their traditions and laws. Breaking these rules results in consequences, most commonly in the form of social exclusion.

The present generation's worldview has been profoundly influenced by Western philosophy. Inter-caste weddings are on the rise as a result of people's growing tendency towards love marriages or marrying partners of their choice. But, among few castes, inter caste marriage is a grave offence, which not only results in boycott from the community but sometimes also amounts to death, by the members of their own family or “khap panchayats².”

Among Indians, the rule of endogamy is followed, that is the rule restricting marriage among the members of the same tribe, village, caste, sub-caste, or other social group³. Caste systems' inflexible borders are increasingly disappearing as Westernization's impact grows. At the same time, many socialists believe that both the systems are working simultaneously⁴.

¹ VITHAL RAJAN, DALITS AND THE CASTE SYSTEM OF INDIA-SOME EXPLORATIONS AND CONJECTURES, A Transcend Research Paper for Discussion.

² Ms. Sunita and Mr. Yudhvir, Khap Panchayats: Changing Perspectives, Vol. 2, Issue 7, July, ASIAN JOURNAL OF MULTIDIMENSIONAL RESEARCH, 2013.

³ Jyothi Vishwanath & Srinivas C. Palakonda, Patriarchal Ideology of Honour and Honour Crimes in India, Vol. 6, Issue 1 & 2 [Combined Issue], INTERNATIONAL JOURNAL OF CRIMINAL JUSTICE SCIENCES (IJCS)

⁴ Supra Note 2

Origin of Khap Panchayat

In rural areas, the Khap Panchayats have traditionally served as a vehicle for upholding social order. They developed from the tribal councils that the tribes formed to deal with internal issues. These Khap Panchayats were initially made up of delegates from various castes. The contemporary circumstances, however, are very different. Nowadays, his khap institutions are acting merely as a jat institution⁵. A "panchayat" is an assembly of five esteemed community elders who are elected by their fellow villagers. These panchayats are usually made up of powerful and respectable people, usually the elders of a certain caste. It is their duty to uphold the customs, principles, and moral guidelines of their faith or society.

As of right now, the Khap Panchayat is acknowledged as an organisation with power that extends beyond the parameters of the constitution. Moreover, due to role of khap panchayats in matters relating to inter-caste marriages, they have been the headlines in news channels⁶. They are heavily criticised for being involved in intercaste weddings and for frequently using harsh punishments like "honour killings" as a form of discipline. Inter-caste weddings are frowned upon as sins, and the Khap Panchayats penalise the persons who enter into them. However, the most surprising, is that even the police officials, fail to help the people, who become the victim to the khaps⁷.

Some of the practices enforced by the Khap Panchayats include:

- To determine innocence, the accused is compelled to retrieve a coin from a vessel of boiling oil. Success signifies innocence.
- If the character of the accused is doubted, they are made to tie turmeric paste and peepal leaves on their hands. Then, a hot iron stick is placed in their hands, and they are instructed to take seven steps. If no burns or injuries occur, the accused is deemed innocent.
- To ascertain a woman's guilt, she is coerced to fry puris bare-handed in hot oil. If no injuries

⁵ M. C. Pradhan, *The Jats of Northern India: Their Traditional Political System—II*, THE ECONOMIC WEEKLY, 18th December, 1965

⁶ Ravinder Kaur, *Khap Panchayats, Sex Ratio and Female Agency*, Vol. XLV No. 23, ECONOMIC & POLITICAL WEEKLY, 5th June, 2010.

⁷ Kavita Kachhwaha, *Khap Adjudication in India: Honouring the Culture with Crimes*, Vol. 6 Issue 1 & 2 [Combined Issue], INTERNATIONAL JOURNAL OF CRIMINAL JUSTICE SCIENCES.

result, she is considered innocent.

- Several times, heinous methods are adopted such as chopping or cutting of the ear or nose or hair, face polished with black color, is made to ride donkey in the whole village or is forced to run naked and bare footed⁸.

Distinction between Khap Panchayat and Panchayat

Above all, the 'Khap Panchayats' are not democratic and do not fall under the purview of the constitution. They are unelected bodies without official status that are based on caste or gotra systems and behave similarly to joint families. In the past, Khaps were in charge of resolving conflicts and monitoring the behaviour of people or groups, especially in rural North India. They have garnered prominence recently, nevertheless, for their archaic patriarchal and feudal ideologies that target youngsters, especially females, and for their decrees and regressive behaviours.

On the other hand, the village panchayat functions as a constitutionally based local government, drawing its power and jurisdiction from the Indian Constitution. These democratic organisations are essentially set up to use elected representatives to advance democracy at the local level. Notably, the Panchayat Raj Act of 1993's regulations govern the establishment of local panchayats.

Functions Performed by Khap Panchayat

1. Prior to the establishment of formal judicial systems, Khap councils held significant social standing and were instrumental in fostering peaceful resolutions to conflicts.
2. The primary function of the Sarv Khap is to preserve peace and unity among various Khap groups, either by mediating disputes or by enacting resolutions pertaining to societal welfare, such as promoting girls' education, prohibiting female foeticide and dowry, and regulating wedding expenses.
3. In both structure and operation, Khap Panchayats embody a participatory ethos, functioning as public arenas where disputes could be resolved through direct negotiations, minimizing time

⁸ Ibid

and financial resources expended.

4. Leaders of Khap councils serve as influential figures within their respective communities, commanding respect from younger generations.

5. Khaps have historically played pivotal roles in peasant movements, notably in Kandela, Adampur, and Nisingh, as evidenced by their involvement in initiatives led by the Bharatiya Kisan Union.

Over the years, Khap Panchayats have enacted a number of resolutions and guidelines controlling social conduct in their villages. One of these laws forbids being married to someone from the same Gotra since it is believed that these kinds of couplings establish familial ties between the parties. Furthermore, if two people are from the same village or nearby villages, they cannot marry each other if they are from separate Gotras. The deeply ingrained caste-based social system is reflected in the severe prohibition against inter-caste marriages. In addition, girls are subject to strict clothing regulations, such as those that forbid wearing jeans. Khap Panchayats have the ability to control marriage decisions; females are required to follow the expectations of their families and communities when choosing a spouse. In addition, cell phone usage by girls is restricted, highlighting the authority these traditional authorities have over several facets of people's life that fall under their purview.

Demands of the Khaps

Khap Panchayat demands cover a broad range of concerns, mostly related to caste relations and marriage administration. Khap Panchayats seek a number of legal reforms in addition to pushing for restrictions on intra-gotra and inter-caste weddings, which they claim are essential to averting social unrest. These include pushing for changes to the Hindu Marriage Act that would decrease the legal age at which women can marry and requesting more authority akin to Lok Adalats. Additionally, they advocate for Jat reservation policies in government jobs and educational settings. Khap Panchayats have the power to control even the most intimate of affairs, including what women may and cannot wear or own, even cell phones. However, the way they execute their demands—issuing decrees that typically carry harsh consequences for noncompliance—is unlawful. Khap Panchayats manage social norms by creating dread of social repercussions. This fear causes relatives of those who disobey their orders to shun them, thereby suppressing opposition and maintaining their authority through coercion and terror.

Sources of the Khap Power

The ingrained challenges of gender inequality, rights, and development persist in the desert landscapes of Haryana, where Khap Panchayats steadfastly maintain sacred societal traditions. Khaps enforce their principles and seek revenge against those who transgress, operating with impunity thanks to the overt assistance of law enforcement and government elites. A few prominent members of the Congress party, such as Om Prakash Chautala, the former chief minister of Haryana, and so-called 'modern' members of parliament like Naveen Jindal, have supported the Khap demands by using their power as vote banks. Khaps have received backing from even BJP heavyweights, including the current chief minister of Haryana, Manohar Lal Khattar, who describes their methods as "scientific." In a similar vein, Delhi Chief Minister Arvind Kejriwal has defended Khap interests by opposing proposals for their outlawing. Locals see Khap Panchayats as defenders of custom in rural areas, and they consider them to be more fair and effective arbitrators of disputes than formal channels. The public's general mistrust of statutory courts is one of the main sources of Khap Panchayat authority. According to studies, people still prefer traditional and informal conflict resolution procedures because formal judicial authorities are seen to be more interested in deciding who wins and who loses than in upholding societal peace, which is thought to encourage unfairness. Since justice is ultimately seen as a complicated idea, many people think that courts may ignore the complex social issues surrounding a case and that the expensive and procedural structure of the judicial system may fail to offer reform-backed justice. People also favour Khaps because they settle conflicts quickly in one sitting, as opposed to the drawn-out legal proceedings in official courts. Furthermore, people frequently feel overwhelmed by the convoluted formal court procedures and believe Khaps to be more sensitive to these issues and to be unbiased in their hearings.

Strength of Khap Panchayats

Today, the khap panchayats have proved to be an essential body among the community of jats⁹. For Jats in particular, the institution of Khap Panchayats is extremely important since it provides justice, handles everyday issues, and protects customs, rights, and beliefs. The strengthening of Khap Panchayats is attributed to several social and political issues. Socially, the existence of such councils in nearby villages discourages intra-village marriage relationships by fostering a sense of unity among clan members. Politically speaking, people

⁹ Supra Note 5

cannot appeal Khap decisions, and the shortcomings of the Panchayati Raj structure serve to reinforce Khap power. Furthermore, despite the ineffectiveness of political and legal institutions to counter them, Khap Panchayats have grown into significant vote banks. In India's rural communities, Khap Panchayats are primarily male-led organisations that are usually headed by members of the higher caste.

Impact of Khap Panchayat on Marriage Rules

The Khap Panchayat is an exploitative body that enforces rigid rules that classify all boys and girls in the Khap as siblings, irrespective of their biological relationship. This grouping also includes the idea of gotra, in which people who belong to the same gotra are considered to be siblings. In Khap-governed communities, love marriage is highly stigmatised. Residents are prohibited from getting married within their own gotra or even within any gotra from the same village.

Several young couples have tragically perished in the past for disobeying Khap regulations because of the widespread notion that all villagers who are the same age and gotra are considered siblings.

When a boy and girl from the same village, gotra, and Khap got married in the past, the usual punishment was frequently death, a practice known as honour killing. Nevertheless, these severe patterns have partly abated over time, with societal boycotts of the guilty parties and their families taking hold as the new standard.

Khap Panchayats exercise control over the people and regions they are responsible for, and they make a number of choices that have an effect on the community. Many of these choices have an impact on women and girls. In addition to strictly prohibiting practices like love marriage, intercaste marriage, gotra endogamy (marriage within the same lineage), village endogamy (marriage within the same village), and cell phone use, Khap Panchayats also control when girls and women can go to the market alone.

A Supreme Court bench made up of Justices Markandeya Katju and Gyan Sudha Mishra rendered a historic ruling on Khap Panchayats on April 19, 2011. According to the ruling (Supreme Court, April 19, 2011), Khap Panchayats in Northern India are unlawful organisations that make decisions based on a feudal and savage mindset.

Khap Panchayats have long been a part of the rural communities in western Uttar Pradesh's traditional local government system. There was a belief that these Khap Panchayats would disappear even after independence, even with the implementation of the Panchayati Raj System. But they have endured and still have influence in western Uttar Pradesh's rural communities. When it comes to decisions pertaining to women's issues, these Khap Panchayats are heavily involved. They set dress codes, control the choice of spouses, have a say in educational institutions, oversee dowry practices, uphold caste hierarchy, and enforce other patriarchal social norms.

It has been noted that women sometimes disagree with the choices made by Khap Panchayats. According to Bhupendra Yadav (2009), a few courageous people have come up and openly demanded that these Khap Panchayats be held accountable. This demonstrates how women are forced to accept the judgements made by Khap Panchayats, demonstrating a lack of agency and autonomy in topics that impact their life.

The Concept of Honour Killing

Although the phrase "honour killing" is not well defined, it often refers to killings that are carried out under the authority of a Khap Panchayat, usually by members of the deceased's family or by members of the same caste or class. These murders are carried out as a kind of retribution, frequently in reaction to deeds seen to have brought "dishonour" or "shame" upon the caste, class, or family. The term "dishonour" or "shame" refers to a variety of actions, such as:

- Clothing or dressing, which is not acceptable to the society;
- Showing unwillingness to enter into an arranged marriage or willing to marry at own will with person of own choice;
- Engagement in sexual activities either with same sex or opposite sex.¹⁰

Essentially, honour killing results from the conflict between conventional wisdom and contemporary values. Younger generations are generally more impacted by contemporary thought, which frequently runs counter to the traditional ideals that their parents have defended.

¹⁰ Vipin Kumar Singhal, Honour Killing in India: An Assessment

This generational divide fuels conflict and a variety of opposing ideas. Furthermore, the current generation feels compelled to demonstrate their independence in decision-making, regardless of their preparation or ability, due to the effect of Western ideas on their quest for freedom.

In addition, this shift has freed women from the constraints of male authority and given them more independence. Consequently, women are typically seen as the "property" and "honour" of their husbands, families, castes, and society at large. This directly challenges patriarchal standards. Now here the chastity of the women is linked with the old hindu scriptures, which prohibit same gotra or inter-caste marriages, has been said to be main reason for honour killings¹¹.

Mehrana Killing, 1991: A Jat middle-class lady named Roshni tragically eloped with a Jaatav guy named Vijendra, who belonged to an extinct caste, in a hamlet. One of the boy's pals helped them. But all three of them were captured by the locals. A terrifying order was issued by the Village Khap Panchayat, directing them to be burnt and hung from a tree. This heinous command was executed the following morning, and all three were brutally burned alive in front of the whole community.

Manoj-Babli Murder, 2007: In the history of honour killings, the Manoj-Babli murder case is considered a historical landmark. The sad event involving Manoj and Babli, a newlywed couple, happened in June 2007. A Khap Panchayat from the Karoara village in the Kaithal area of Haryana planned the murder. The judgement made by the Khap Panchayat was based on the mistaken assumption that Manoj and Babli were brothers even though they were not related by blood since they were members of the same Banwala gotra in the Jat clan. As such, the Khap Panchayat declared their marriage to be null and void. The pair continued their marriage in spite of this decision, which finally resulted in their kidnapping and subsequent murder by the deceased's family. This case represents a historic turning point in the legal system since it led to the accused's unprecedented conviction for an honour killing.

Shiva Kumar and Megala, 2010: Honour murders are a widespread problem in India that are frequently planned with the help of Khap Panchayats. A heartbreaking occurrence occurred when Megala, a 20-year-old, was told she could not marry Siva Kumar, a 24-year-old, because of their alleged familial ties. As a result, in June 2010, Megala's family set up her marriage

¹¹ Anantanand Rambachan, A Hindu Perspective.

abroad. Megala did, however, elope with her partner. Following the family's discovery of the pair, Siva Kumar was brutally murdered with sickles in a horrific turn of events. This sad tale underlines the terrible effects of peer pressure and the extreme measures some families will go to uphold antiquated customs, which frequently lead to horrifying violent crimes.

Law on Honour Killing

Even while honour murders have claimed many lives in India, there isn't yet a particular criminal legislation that forbids this horrible practice. However, under the India Penal Code, 1860 and Code of Criminal Procedure, 1973, the practitioners of the honour killing are regarded as "murderers"¹². Since the society frequently defends honour killings, it might be difficult to identify the offenders. In addition, Khap Panchayats execute members of their own families under what they view as a "legal system." This makes it more difficult for law enforcement to find the offenders. Due to a lack of success in capturing the offenders and gathering evidence, police officers frequently fail to file First Information Reports (FIRs). Somehow, if a FIR is lodged, and the cases are pursued, the conviction rate is equivalent to null¹³.

The Special Marriage Act of 1954 was passed with the intention of providing Indian residents, irrespective of caste, class, religion, or other social divisions, with a unique type of marriage. It also aimed at facilitating inter-caste marriages with recognition and registration of the same under law¹⁴. But there are limitations imposed by the statute. Its laws provide that the partners to a marriage cannot be in any degree of relationship that is banned. Even if they fall within the parameters of forbidden partnerships, a marriage of this kind may nonetheless be formally consummated if at least one of the parties is subject to a tradition that authorises marriages between them.

Caste still matters a lot in some regions of the nation even with laws prohibiting intercaste unions. Although there has been some shift away from the rigid structures of the caste system in urban places, India's social order is still firmly rooted in this system. When a result, when people cross conventional caste lines, a large number of intercaste weddings have been registered in metropolitan areas.

¹² Satnam Singh Deol, Honour Killings in India: A Study of the Punjab State, Vol. 3(6), INTERNATIONAL RESEARCH JOURNAL OF SOCIAL SCIENCES, 7-16, June (2014).

¹³ Anand Mishra, Honour Killing: The Law It Is and The Law It Ought To Be, Manupatra.

¹⁴ Ibid.

Nonetheless, successful legal penetration in rural regions has been difficult. Panchayats, often known as informal courts, are powerful institutions in these areas that are fundamentally extra-constitutional. They have the authority to make decisions on a range of issues impacting the community, such as divorce, water and land conflicts, and other social problems. Perhaps, due to illiteracy, the villagers give prime importance to the verdicts given by the panchayats rather than judicial courts¹⁵.

Criminal Jurisprudence of Honour Killings

Honour killings are considered "murders" since the law does not handle them expressly. As such, they may be subject to the provisions of Indian Penal Code, 1860, Section 300 (4). According to this clause, murder is the crime committed by someone who, under all circumstances, knows that their conduct is likely to result in death or serious bodily harm that is likely to result in death. It is clear that the act is deliberate, hazardous, and has a high likelihood of ending in death when the idea of honour killing is applied to the rules outlined in Section 300, IPC. As a result, Section 300 of the IPC allows for the prosecution of those responsible for honour murders. The government is considering amending Sections 300 and 354 of the Indian Penal Code (IPC), Section 105 of the Indian Evidence Act of 1872, and the Special Marriages Act of 1954 in light of the seriousness of the situation. These changes are intended to do rid of clauses that require weddings performed under the Special weddings Act to have a 30-day notice period. In order to simplify the legal system and solve the problems presented by honour murders and associated difficulties, this project entails presenting the Indian Penal Code and Other Laws (Amendment) Bill in Parliament. By the virtue of the amendment in the aforesaid provisions, the onus shall be shifted upon the accused, that is members of the khap panchayats and family members to prove their innocence, which at present, is upon the on the state to prove the guilt of the accused¹⁶.

The main focus of the government is to introduce 5th clause under Section 300, IPC which runs as "If it is done by any person or persons acting in concert with, or at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called) in the belief that the victim has brought dishonour or perceived to have brought dishonour upon the family or caste or clan or community or caste

¹⁵ Supra Note 6.

¹⁶ Supra Note 12

panchayats¹⁷." It has been explained that the terms "dishonour" and "perceived to have brought dishonour" refer to a range of behaviours, such as dressing in a way that is considered inappropriate by one's family, caste, clan, community, or panchayat. The new clause will also extend to killings carried out as retaliation for marrying outside one's caste or tribe. In addition, it will include behaviours like having sex that are frowned upon by one's caste, community, family, or panchayat. Under the proposed law, each of the aforementioned offences will be punished by up to two years in prison, a fine, or both. However, the draft suggests, that all the members of the panchayat or clan or caste or family, committing or abetting or indulging in the commission of honour killing, shall be deemed to have committed murder and hence to be punished with death sentence¹⁸.

Under criminal law, it is deemed "murder" when lovers take their own lives because their families have threatened them. Honour killing perpetrators face harsh penalties from the courts, which frequently include the death penalty. This is because honour killings are considered to be among the "rarest of rare cases" because of how horrific they are and how much of an influence they have on society. At the same time, punishments like life imprisonment to other accomplices on the basis of quantum of guilt under Section 302 IPC have also been awarded by the courts¹⁹.

Additionally, the government intends to change the Special Marriage Act to do away with the requirement for a 30-day notification period. The purpose of this proposed amendment is to protect the lives of couples who choose to marry outside of their caste in spite of opposition from their relatives. Family members who oppose these weddings frequently use a variety of tactics, such as threats and even murder, to stop the marriage from happening during the 30-day notice period. It currently takes 45 days to register a marriage, which is a long and tedious process. The pair is exposed to several risks and hazards during this extended procedure. So, the steps need to be taken to simplify and expedite registration process²⁰.

The legal system is closely connected to jurisprudence, which includes a range of views related to the offence of honour killing. Among these theories are the following:

¹⁷ Supra Note 7

¹⁸ Available at <http://www.dnaindia.com/india/report-government-plans-totighten-noose-on-khap-panchayats-1400914>. Last visited on 01.10.2014.

¹⁹ Supra Note 12.

²⁰ Ibid.

1. The renowned criminal law jurist Jeremy Bentham, often hailed as the "father of English Jurisprudence," is associated with the legal philosophy known as "Utilitarian Individualism." Bentham was critical of the law-making process and highlighted inefficiencies in the administration of justice. He criticized restrictions on individual freedom and advocated for laws that prioritize utility. According to Bentham, the primary objective of the law should be to maximize utility, defined as the "greatest happiness of the greatest number." He has said that the object of the law is to bring pleasure and avoid pain²¹.

According to Bentham's ideology, people should behave in a way that maximises advantages for the largest number of people. In a similar vein, Bentham believed that the goal of the law ought to be to maximise benefit for as many people as possible. Regarding Khap Panchayats, one may argue that they are not beneficial to society as a whole, neither nationally nor locally in the areas they oversee. Based on Bentham's utility theory, it may be inferred that Khap Panchayats should not be allowed to carry out their judgements since they do not adhere to the maximisation of utility for the largest number of people.

2. Immanuel Kant highlighted the value of human autonomy and free choice within society in his theories of legal philosophy and natural law. Kant believed that people should be allowed to express their will free from outside influence or limitations since they are naturally independent. Kant did stress, though, that this freedom cannot be attained at the expense of another person's freedom or well-being. He maintained that the state had an obligation to limit its people's freedoms to the degree required to protect the rights and welfare of others. Therefore, even if everyone has the freedom to exercise their will, this freedom is constrained by the state in order to safeguard the liberties and rights of others. The people shall exercise their will, subject to restrictions under the law²².

Kant's thesis states that Khaps are in fact acting in accordance with their will in order to protect society's honour. But their expression of will violates other people's rights,

²¹ V.D. MAHAJAN, JURISPRUDENCE & LEGAL THEORY, 5th Ed. Reprint, p. 445, Eastern Book Company, Lucknow, (2011).

²² DR. S.N. DHYANI, FUNDAMENTALS OF JURISPRUDENCE, 3rd Ed. Reprint, p. 92, Central Law Agency, Allahabad. (2011).

especially those of the young, who can't exercise their freedom to marry anyone they choose. Khaps contend that those who get into intercaste marriages ought to be punished and that it is their obligation to uphold the honour of their society. It's crucial to remember that laws like the Hindu Marriage Act already exist and regulate intercaste unions. Moreover, Khaps function as extra-constitutional entities, meaning they do not adhere to the guidelines set down in the 1950 Indian Constitution. The institution of Khap Panchayats and their rulings lack legal validity in light of Kant's philosophy, the constitutional framework, and the regulations that govern inter-caste marriages. Their acts are invalid because they go against the Constitution's cherished ideals of individual liberty and the rule of law.

3. The "jurisprudence of interest" thesis was first presented by the well-known sociological jurist Rudolf von Ihering. Ihering contends that because people in society have different goals, conflicts are unavoidable. He proposed that will originates from these aims, a concept he called the "law of purpose." Ihering argues that protecting the interests of all members of society is the main goal of law. He made the case that the law should only support and defend interests that advance society as a whole. All the conflicting interests or interests which are harmful for the society shall be parted with²³.

According to Ihering's thesis, Khap Panchayats—which its members see as organisations intended to serve their community—are in reality opposed by the courts, the general public, and even the people they are tasked with governing. Even while Khap Panchayats assert that they protect the dignity of their people, many institutions and the general public strongly condemn their actions—including the issuance of execution orders—with the exception of the Khap Panchayats themselves.

In accordance with Ihering's idea, the benefit of society and the general public should come before the interests of the Khap Panchayats. Therefore, it is essential to sacrifice the interests of the Khap Panchayats in order to advance the larger welfare and profit of society. Therefore, it is time to dismantle this unconstitutional organisation.

²³ Ibid. pp. 313-315

Arguments against New Law

Honour killings are not specifically covered by any laws, but those that do exist can be used to successfully punish those who commit them. It is imperative that Section 300 of the Indian Penal Code (IPC), which deals with murder, be applied correctly. To do this, law enforcement authorities must be strengthened in order to compile substantial evidence and proof against those who carry out honour killings or who issue death threats via Khap Panchayats.

In addition, criminal conspiracy charges under Section 120-B of the IPC and common purpose to murder charges under Sections 34 and 36 of the IPC may be brought against defendants. Even if the current legal system might not be perfect, justice can nonetheless be served via strong enforcement.

The implementation and enforcement of new legislation may be necessary to prevent honour murders, but this is not a guarantee. In order to end this abhorrent practice, the focus should be on strengthening and training law enforcement authorities, correctly enforcing existing laws, and increasing public awareness.

Supreme Court Views on Honour Killings

The perpetrators of an honour killing were given life sentences by the Supreme Court in the case of *State of U.P. v. Krishna Master and Anr*²⁴. Three people were responsible for the deaths of six family members in the tragedy. The culprits were held accountable even though the court decided against applying the death penalty, noting the age of the crime and criticising the High Court's acquittal due to the rejection of testimony.

In another notable case, *Lata Singh vs. State of U.P. and Anr*²⁵, a two-judge bench expressed deep concern over instances of harassment, torture, threats, and violence against young men and women who enter into inter-caste marriages. The bench unequivocally stated that such actions are completely illegal, and those responsible must face punishment for their behavior. The court condemned honor killings as

²⁴ *State of U.P. vs. Krishna Master and Anr.*, AIR 2010 SC 3071.

²⁵ *Lata Singh vs. State of U.P. and Anr.*, AIR 2006 SC 2522.

barbaric and shameful acts of murder perpetrated by individuals with brutal and feudal mindsets, emphasizing the need for harsh penalties for such crimes.

The court in *Armugam Servai v. State of Tamil Nadu*²⁶ highlighted that people become independent and have the freedom to marry anyone they want when they achieve maturity. The most that can happen, even if the individual decides to marry someone from a different caste or whose parents do not approve of, is for their parents to break off contact with them; nevertheless, they are not allowed to intimidate or harass them.

In addition, the bench instructed the government's administrative branch to guarantee that a legally grown person getting married to someone from a different caste won't result in harassment, threats, or physical harm. It was established that anybody threatening, harassing, or violently attacking one of these couples would be subject to criminal charges.

To address the issue of honor killings, the government may take the following steps:

To effectively address the issue of honor killings and ensure justice for victims, it is imperative for both the Central and State governments to implement the guidelines established in landmark cases such as *Lata Singh vs. State of UP* and *Arumugam Servai vs. State of Tamil Nadu*. Several measures can be taken to achieve this:

1. Electoral Disqualification: Any individual convicted under the law for committing an act of honor killing should be barred from contesting elections for a minimum period of five years. This measure serves as a deterrent and imposes consequences for those involved in such heinous crimes.

2. Establishment of Fast Track Courts: Specialized fast track courts should be set up to expedite the trial process for cases related to honor killings. This ensures swift justice for victims and their families, preventing prolonged legal battles and delays.

3. Amendment to Special Marriage Act: An amendment should be introduced to the Special Marriage Act, reducing the mandatory period for registering marriages from

²⁶ *Armugam Servai vs. State of Tamil Nadu*, AIR 2011 SC 1859.

one month to one week. This facilitates prompt registration of marriages, especially for couples facing opposition due to inter-caste or inter-religious unions.

4. Amendment to Indian Evidence Act: The burden of proof in cases of honor killings should be shifted onto the accused. This amendment to the Indian Evidence Act would help ensure that perpetrators are held accountable for their actions and are required to provide evidence to justify their innocence.

5. Amendment to Indian Penal Code: A new provision defining honor killing should be added to the Indian Penal Code, accompanied by prescribed punishments for the offense. This clarifies the legal framework surrounding honor killings and enables appropriate punishment for those found guilty.

By implementing these measures, governments can strengthen the legal framework, expedite the judicial process, and deter individuals from engaging in acts of honor killing, ultimately ensuring justice and protection for vulnerable individuals and couples.

Khap Panchayats and the Legislature

The main objections from Khap Panchayats are on the grounds of inter caste and intra gotra marriages. Section 2 of the Hindu Marriage Disabilities Removal Act 1946 specifically mentions that intra gotra and inter caste marriages are permissible in India, neither does the Hindu Marriage Act 1955 provide any restrictions of such marriages.²⁷ Legislative bodies are working to limit the power of Khaps and stop them from interfering with marriage partnerships. Proposed legislation has been used to address this issue even though no explicit statute has been passed at the federal level.

The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliance) Bill was presented in Parliament in 2011 with the intention of making it illegal for groups of people to get together and criticise marriages that they believe defame caste, customs, or communities. Comparably, the Rajasthan State Legislative Assembly

²⁷ Although the section 5 (v) of the Hindu Marriage Act 1955 prohibits sapinda marriages, the Khap Panchayats demand extends beyond sapindas.

heard introductions of the Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill in 2015.

These legislations aim to forbid and punish any gathering of individuals that attempts to impede the freedom of marriage, especially on the grounds of caste, gotra, custom, or social honour. These legislative actions seek to limit the power of Khaps in deciding whether weddings are lawful and to impose penalties by making such intervention illegal.

By passing new laws, the government has made more progress in addressing the problems of honour murders and the power of Khaps. The Endangerment of Life and Liberty (Protection, Prosecution and Other Measures) Act was enacted in 2011 with the intention of punishing Khaps guilty of social boycotts, denial of facilities and services, and deprivation of livelihood in addition to those involved in honour murders. Plans were also afoot to change the Special Marriage Act of 1954 to eliminate the thirty-day notice requirement that was previously in place for court weddings. The purpose of this modification was to stop "extra-judicial" actions taken against couples who wanted to get married under this Act.

Politicians and state governments' involvement in Khaps' judgements is troubling, especially if they put vote banks ahead of justice. Thus, the onus shifts on the Central Government to take immediate action to stop Khaps' retrogressive actions. It is possible to lessen the impact of extrajudicial organisations like Khaps on the freedom of couples and families to make their own marital decisions by highlighting the importance of the nation's marriage laws. With this acknowledgment, people would be able to express their rights without worrying about facing backlash from society or conventional forces.

Caste Atrocities similar to Khap Panchayats

Extra-judicial bodies are not limited to Northern India; such institutions also exist in South India, especially in Tamil Nadu, where they are referred to as Katta Panchayats. The media has referred to these committees as the "devil's court," and they are frequently linked to illegal activity, which has earned them the moniker "criminal caste panchayats." Similar to Khaps, Katta Panchayats function informally and occasionally indulge in illicit activities without government acknowledgement or local credibility.

Even though people in Tamil Nadu are aware of its shortcomings, they frequently choose to use Katta Panchayats as a court of appeal because they feel that the harm done under their watch is less serious than it would be in regular courts or police stations. Popular beliefs that are popular in both Khap and Katta Panchayats, such as "God Lives in the Panch" and "Panch Parmeshawar," are reflections of this confidence in the superiority of these extra-judicial entities.

But there is a clear distinction between the atrocities committed against the caste system in Eastern and North-Western India. Whereas caste-based violence in the latter usually stays at the level of Khaps, in the former it is frequently organised and institutionalised on a broader scale. This contrast might help to explain the absence of groups in North-Western India such as the Ranvir Sena, which is notorious for carrying out large-scale murders in reaction to caste disputes. Rather than being planned assaults, caste atrocities in this area typically target specific transgressors and are typified by rather spontaneous instances.

Suggestions

In addition to the state judiciary, Khap Panchayats, which are primarily made up of landowners from the upper and middle castes, function as quasi-judicial organisations with significant influence over their local communities. Their power stems from their past oppression of the underprivileged and disenfranchised, mostly for the sake of maintaining caste systems. These Panchayats make decisions that govern several facets of social life, especially weddings and partnerships that cross limits of caste and gotra, endangering the deeply ingrained power structures of these communities. People who break these standards frequently suffer harsh consequences from both their families and the community as a whole.

The Indian judiciary has responded to the excessive power of Khap Panchayats by taking aggressive steps to limit their jurisdiction, in accordance with both international human rights norms and constitutional grounds. The futility of these attempts is shown by Khap Panchayats' ongoing impact, which is demonstrated by their unrelenting issue of unlawful directives. When it comes to reporting incidents or taking action against those who commit injustices, law enforcement organisations frequently take a

conciliation-focused stance. This forbearance may be the result of political and law enforcement officials' inherent interests in upholding the Khap Panchayats' status quo, making it more difficult to overthrow their power. In this light the following suggestions are submitted.

- **Prohibition on Sagotra marriages:** It is imperative to educate the general public about the irrelevance of prohibiting Sagotra marriages in contemporary society. With hundreds of generations separating individuals from the original founders of their respective Gotras, the significance of these classifications has diminished over time. Many Gotra names are rooted in territorial or professional contexts, further underscoring the outdated nature of such prohibitions.

- **Legislative measures to curb caste panchayats:** The authority wielded by caste panchayats must be restrained through appropriate legislation. Currently, there is no specific criminal law addressing honor crimes in India. It is essential to either enact dedicated legislation or introduce specific provisions within the Indian Penal Code to combat this menace effectively. Additionally, individuals convicted under such laws should face repercussions, including disqualification from contesting elections.

- **Establishment of fast-track courts:** Specialized fast track courts should be established to expedite the adjudication of honor killing cases. These courts would prioritize these sensitive cases, ensuring swift justice for the victims and their families. Moreover, amendments to the Evidence Act should be considered to shift the burden of proof onto the accused, compelling them to prove their innocence in honor killing cases.

- **Creation of support infrastructure:** The administration should establish helplines and dedicated cells to provide assistance and protection to individuals at risk of honor-related violence. These resources would serve as crucial lifelines for vulnerable individuals seeking refuge from oppressive social norms and punitive measures enforced by caste panchayats.

- **Education and Mass Awareness:** In fact, education is essential for overcoming patriarchal attitudes and fighting gender discrimination. The state may successfully address the causes of gender disparity by implementing widespread awareness

campaigns and requiring education on gender problems. Socioeconomic mobility may be effectively facilitated by education, which also gives people the confidence to question established power systems and promote gender equality. Education may aid in the demolition of damaging stereotypes and the advancement of an egalitarian and respectful society by increasing understanding of the intrinsic worth and rights of women. Education also gives people the ability to question ingrained attitudes that support gender inequality and critically examine society norms. Individuals can cultivate empathy, comprehension, and respect for gender difference through extensive gender sensitization programmes, contributing to the development of a more equitable and inclusive society. Societies may establish a solid basis for long-term development and social transformation by emphasising education as a way to bridge the gender gap. Governments and communities must fund education programmes that advance gender equality and provide people the tools they need to confront prejudice in all of its manifestations.

-Strong Political Will: Politicians frequently use the historical justification of khaps or kangaroo courts to defend their practices, allowing them to carry on with their operations. With the creation of legally recognised Panchayati Raj Institutions, these institutions may have naturally declined, but vote-bank politics have given them new life and some legitimacy, allowing them to continue in a regressive form. Effectively addressing this issue calls for a strong political commitment. But unfortunately, politicians have mostly done little more than watch helplessly while khaps commit crimes. It appears that the political elite is hesitant to pay the price of putting social reforms in place to deal with this urgent problem. Rather, they prefer to minimise or minimise the horrific and savage crimes carried out by these organisations since it would be detrimental to their chances of winning elections if they are recognised. For example, B S Hooda, the chief minister of Haryana, called planned changes to the laws pertaining to honour killing cases "draconian" and rejected them. However, in the last three years, the state has seen a number of incidents when romantic couples have been targeted. Chautala and Naveen Jindal, two more well-known politicians, have expressed similar worries.

-Institutionalisation of PRIs: Panchayati Raj Institutions are a relatively new concept, compared to the long-standing Khap Panchayats. They are seen as the greatest level of

democratic decentralisation. In the past, before constitutional frameworks were established, Khap Panchayats were crucial to community governance and welfare. The significant authority that khaps have on the general populace is a result of this historical impact. It is imperative to tackle a number of issues in order to fortify and improve grassroots democracy, such as the predominance of proxies—male representatives who frequently act on behalf of women—and caste relations inside these organisations. By addressing these problems, grassroots democratic processes can become more deeply embedded.

- **Stringent and Specific laws:** It is known that transformation through mass educational programmes takes time, despite the fact that education plays a key role in changing society views. Legislation is thus desperately needed to stop crimes against women committed in the name of honour. The need for strict regulations to combat honour murders and associated crimes is increasing, which emphasises how urgent it is to take action against Khap Panchayats. 'Prevention of Interference with the Freedom of Matrimonial Alliances (in the guise of Honour and Tradition): A Suggested Legal Framework' is the title of a legislative framework created by the Law Commission of India. But even with this framework in place, the implementation of these policies has been hampered by political resistance and inaction on the part of the executive branch. The government might take a similar stance to the Sati (Prevention) Act of 1987 and impose a zero-tolerance attitude against honour murders in order to successfully handle this issue. This approach might result in harsh punishments for anybody implicated in honour killings, whether directly or indirectly—such as life in jail or the death penalty. To successfully discourage such atrocities, it is also necessary to criminalise the glorifying of honour killings.

- **Active and Vigilant Civil Society:** People must refuse to submit to the absurd rules that caste and community committees impose. To successfully tackle this issue, raising public awareness and educating the people are crucial. A well-known activist, such as Anna Hazare, is required to persuade the government to act decisively against this societal threat while simultaneously increasing public awareness. In a culture where the status quo is frequently maintained by clinging to antiquated habits, the younger generation should take the lead as proactive social activists and lead the drive for change.

Beyond tokenistic measures like universal adult franchise and reservations, a holistic strategy is needed to address the deeply ingrained power dynamics of Khap Panchayats. Deeper systemic adjustments are required to end the unofficial cooperation between State actors and Khap Panchayats, even though these activities have contributed to a greater diversity of representation in local government systems.

In order to properly solve this issue, the fundamental causes of Khap Panchayat domination must be addressed. This means taking on the ubiquitous effect of prejudice based on caste and questioning the societal norms that support violence and injustice. A persistent effort is required to advance democratic equality and contemporary ideals that reject caste-based prejudice, rather than giving in to political pressure or band-aid fixes.

Moreover, emphasis should be placed on programmes that empower marginalised groups, especially women and lower castes. This entails giving them access to legal assistance, economic opportunities, education, and decision-making bodies in addition to boosting their representation in such entities. We may progressively lessen the dominance of Khap Panchayats and create a more inclusive society founded on the values of justice and equality by strengthening these communities and advancing social justice.

Conclusion

The caste system, which is strongly embedded in Indian society, has several negative effects. The rise of khap panchayats, community-based organisations created to address problems with relationships, customs, and societal norms, is one example of this. These types of organisations are very common in western Uttar Pradesh and regions like Haryana. In endogamy-practicing communities, where people believe that their ancestry unites them, marriages between members of other castes are frowned upon. When such weddings take place, the pair may be subject to "honour killing" orders from khap panchayats, which are frequently carried out by members of their own family. The idea that intercaste marriages bring dishonour to the society serves as the justification for these deaths.

As of right now, honour killings are not specifically addressed or criminalised by legislation. The Indian Penal Code, 1860, Section 300, is usually used to convict offenders. The Special Marriage Act, 1956 was passed by the government in response to concerns surrounding intercaste weddings. Its purpose was to protect and legitimate these partnerships, unless they went beyond the laws regarding forbidden degrees of connection. But because to gaps in current legislation, such as the necessity for a 45-day registration period and a 30-day warning period, couples are left open to threats from khap panchayats and relatives.

The phenomena of khap panchayats may be directly explained by a number of legal theories. It is clear that khap panchayats are a negative influence that has to be dealt with right now. In order to enable the sovereign to forbid khap panchayat acts while guaranteeing that they uphold the majority's interests and maximise social gain with the least amount of loss, effective regulations must be passed.