
PATRIARCHY, HONOUR CRIMES AND THE RIGHT TO MARRY BY CHOICE

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ABSTRACT

Marriage in India has historically operated not merely as a private relationship between two individuals but also as a significant social institution through which family, caste, religion, property, status and community identities are reproduced. Consequently, the choice of a marriage partner has often remained subject to familial and community control. Patriarchal structures, caste endogamy and religious boundaries continue to influence matrimonial choices, particularly where individuals seek inter-caste or inter-religious marriages. At the extreme end of such social control are so-called “honour crimes”, including honour killings, abduction, confinement, assault, forced separation and other forms of violence committed to punish or prevent relationships considered unacceptable by families or communities. The constitutional framework, however, places individual liberty, dignity, equality, privacy and autonomy above such extra-constitutional claims of family or community honour. The Supreme Court of India has progressively recognised that the decision regarding whether to marry and whom to marry forms part of the individual’s personal liberty and autonomy under Article 21. In *Lata Singh v. State of U.P.*, *Shafin Jahan v. Asokan K.M.* and *Shakti Vahini v. Union of India*, the Court firmly rejected the proposition that family, caste groups or community institutions can exercise authority over the matrimonial choices of consenting adults. The constitutional protection of choice has subsequently been understood as an important component of dignity and individual identity. This article examines the relationship between patriarchy, social control and honour crimes and analyses the constitutional and judicial protection of the right to marry by choice. It argues that legal protection cannot be confined to punishing violence after it occurs. Effective protection requires preventive mechanisms, police accountability, safe accommodation, sensitive administration and transformation of social attitudes that legitimise control over adult matrimonial choices. The article concludes that constitutional morality must prevail over notions of collective or family honour and that matrimonial choice must be protected as an essential aspect of individual autonomy, dignity and personal liberty.

Keywords: Patriarchy, Honour Crimes, Honour Killings, Matrimonial Choice, Constitutional Morality.

I. INTRODUCTION

Marriage is not merely a private relationship between two individuals; in Indian society, it has traditionally functioned as an important social institution through which family, caste, religion, property and community identities are preserved. Consequently, the decision regarding whom an individual should marry has often been subjected to familial and social regulation. While family participation may have social and cultural significance, the insistence that matrimonial choice must conform to family, caste or community expectations raises a fundamental constitutional question: whether collective notions of honour can override the individual's freedom to determine the course of his or her intimate life.

The Constitution of India places individual liberty and dignity at the centre of its normative framework. Articles 14, 15 and 21, read together, provide an important constitutional basis for challenging discriminatory and coercive restrictions on personal choice. The expansion of Article 21 has particularly strengthened the protection of privacy, dignity and decisional autonomy. The Supreme Court has progressively recognised that choices concerning intimate relationships and marriage fall within the protected sphere of individual liberty. In *Lata Singh v. State of U.P.*,¹ the Court affirmed the right of an adult to marry a person of choice and directed protection against harassment and violence arising from an inter-caste marriage. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*,² privacy was recognised as a constitutionally protected right closely connected with autonomy and personal decision-making.

The jurisprudence reached a significant stage in *Shafin Jahan v. Asokan K.M.*,³ where the Supreme Court recognised the choice of a life partner as an essential aspect of personal liberty. The Court emphasised that intimate personal decisions cannot be made dependent upon social approval and that neither the State nor private persons can dictate the choice of a partner. This principle was reinforced in *Shakti Vahini v. Union of India*,⁴ where the Court addressed honour crimes and held that the assertion of choice is inseparable from liberty and dignity. It rejected the authority of family or community groups to punish individuals for exercising their matrimonial choice.

¹ (2006) 5 SCC 475.

² (2017) 10 SCC 1.

³ (2018) 16 SCC 368.

⁴ (2018) 7 SCC 192.

Despite this constitutional and judicial recognition, patriarchal, caste-based and community-based structures continue to regulate matrimonial relationships. Women's sexuality and choice of partner are particularly vulnerable to family control, while inter-caste and inter-faith relationships may be perceived as threats to established social boundaries. At its extreme, such control manifests through honour crimes, including threats, confinement, forced marriage, assault and killing.

This article argues that the choice of a spouse is an important expression of individual autonomy, dignity and personal liberty, and that honour crimes constitute an extreme form of social control designed to suppress that autonomy. It examines the constitutional protection of matrimonial choice, the operation of patriarchy and caste in regulating marriage, the nature of honour-based violence, judicial responses and existing institutional gaps. It ultimately argues that constitutional morality must prevail over patriarchal and community notions of honour and that effective protection requires not only punishment after violence occurs but also preventive and institutional mechanisms capable of protecting individuals before their constitutional freedom is extinguished.

II. THE CONSTITUTIONAL RIGHT TO MARRY BY CHOICE

The right of an individual to choose a spouse is rooted in the constitutional guarantees of equality, liberty, dignity and privacy. Although the Constitution does not expressly use the phrase “right to marry by choice”, the Supreme Court has developed this protection through Articles 14, 15 and 21. The constitutional significance of matrimonial choice lies not merely in the act of marriage but in the individual's authority to determine intimate aspects of his or her own life without coercive interference from the State, family or community.

Article 14 guarantees equality before law and equal protection of laws, while Article 15 prohibits discrimination on specified grounds, including religion, race, caste, sex and place of birth. These provisions become particularly relevant where matrimonial choices are restricted because of caste, religion or gender. A social arrangement that treats an individual's choice as illegitimate merely because it crosses established caste or religious boundaries conflicts with the constitutional commitment to equality. Article 21, however, provides the principal constitutional foundation for decisional autonomy in matters concerning intimate relationships.

The interpretation of Article 21 has progressively moved beyond a narrow protection against

physical deprivation of life and liberty. In *Maneka Gandhi v. Union of India*,⁵ the Supreme Court transformed Article 21 into a substantive guarantee requiring fairness and reasonableness in State action. This expansive interpretation enabled subsequent courts to recognise dimensions of personal liberty that are essential to an individual's ability to live with dignity.

The jurisprudence of privacy further strengthened this protection. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, a nine-judge Bench recognised privacy as a constitutionally protected right under Article 21. Privacy was understood not simply as freedom from physical intrusion but as protection of decisional autonomy and the ability of individuals to make intimate choices concerning their lives. The Court specifically connected privacy with dignity, autonomy, family life, procreation and personal decision-making.

The application of these principles to matrimonial choice became explicit in *Shafin Jahan v. Asokan K.M.* The Supreme Court held that the choice of a partner is an essential component of individual liberty and that the right to marry a person of one's choice falls within the protection of Article 21. The decision rejected the proposition that parents, courts or society could substitute their preferences for the autonomous decision of a competent adult. The judgment is therefore important in shifting the legal understanding of marriage from a primarily familial institution towards one in which individual choice receives constitutional protection.

The Court subsequently addressed the specific problem of honour-based interference in *Shakti Vahini v. Union of India*. It recognised that once two consenting adults choose each other as life partners, neither family nor community has the authority to interfere with that decision. The Court's approach is particularly significant because it treats threats and violence against couples as an assault upon constitutional liberty rather than merely as a private dispute within a family.

The jurisprudence was further reflected in *Lata Singh*., where the Court protected an adult woman who had entered into an inter-caste marriage and directed the authorities to ensure that she and her husband were not subjected to harassment or violence. The decision recognised that caste-based opposition to matrimonial choice cannot become a justification for private violence or state inaction.

⁵ (1978) 1 SCC 248.

At the same time, the constitutional position requires an important distinction between a general fundamental “right to marry” and the right to make autonomous choices concerning intimate relationships and a life partner. In *Supriyo @ Supriya Chakraborty v. Union of India*,⁶ the Supreme Court declined to recognise a general fundamental right to marry as an institution while recognising the significance of individual choice and decisional autonomy under Article 21. This distinction demonstrates that constitutional protection is principally concerned with preserving individual autonomy rather than requiring the State to create or recognise every form of marriage.

Thus, the development of constitutional jurisprudence establishes a clear principle: the choice of a spouse belongs primarily to the individual, not to the family, caste group or community. The constitutional protection of such choice derives from the combined values of equality, privacy, dignity and personal liberty. Any attempt to suppress that choice through coercion, threats or violence therefore raises not merely a question of social conflict but a serious constitutional concern. This becomes particularly significant where patriarchal and caste-based notions of honour are invoked to justify interference with matrimonial decisions.

III. PATRIARCHY AND THE CONTROL OVER MATRIMONIAL CHOICE

Patriarchy provides an important social framework for understanding restrictions on matrimonial choice. It operates through a system in which authority within the family and community is predominantly structured around male power and control over women's sexuality, mobility and relationships. Marriage consequently becomes not only a personal relationship but also a mechanism through which family status, lineage and social expectations are maintained. The regulation of whom a woman may marry is therefore closely connected with the preservation of established gender hierarchies.⁷

Control over women's sexuality is particularly central to patriarchal notions of family honour. A woman's relationships, sexual conduct and matrimonial decisions are often treated as matters affecting the reputation of the entire family. Consequently, conduct that would ordinarily fall within the sphere of individual autonomy may be subjected to surveillance and regulation. The Supreme Court in *Shakti Vahini v. Union of India* recognised that honour-based violence may

⁶ (2023) 14 SCC 1.

⁷ Uma Chakravarti, “Locating Consent: The Social and Historical Contexts of ‘Choice’ in Marriage”, in Lata Singh and Shashank Shekhar Sinha (eds.), *Gender in Modern India: History, Culture, Marginality* (Oxford University Press, 2024).

arise from attempts to regulate relationships and choices considered unacceptable by families and communities. The Court observed that the collective can seek to subordinate women and girls to notions of family honour, thereby denying their independent identity and autonomy.⁸

The patriarchal character of such control is also reflected in the unequal expectations imposed upon men and women. Women may be expected to preserve family reputation by accepting arranged marriages, maintaining prescribed standards of sexuality and avoiding relationships that cross caste or religious boundaries. A woman's decision to choose her own partner may consequently be interpreted as disobedience or a rejection of family authority. The resulting conflict is not simply between two competing personal preferences; it reflects a deeper struggle between individual autonomy and a social structure that claims authority over women's choices.

The problem becomes more pronounced when matrimonial choice challenges existing caste or community boundaries. A woman who chooses a partner independently may be perceived as transferring control over her sexuality and reproductive choices from the family to herself. This can be especially threatening to patriarchal structures where marriage is expected to preserve caste status, family lineage and community identity. Honour-based violence therefore performs a disciplinary function: it seeks not only to punish an individual choice but also to deter others from making similar choices.

The Supreme Court's decisions have increasingly rejected this conception of family authority. In *Lata Singh v. State of U.P.*, the Court held that an adult woman has the freedom to marry a person of her choice and directed the authorities to protect couples from threats and violence arising from inter-caste or inter-religious marriages. The Court specifically rejected the idea that such violence could be justified in the name of honour. In *Shakti Vahini*, the Court went further by affirming that the consent of the family, community or clan is irrelevant where two competent adults have chosen to marry.

Patriarchal control, therefore, represents a direct challenge to the constitutional conception of the individual as an autonomous rights-bearing person. The constitutional protection of matrimonial choice becomes particularly important for women because it provides a legal basis

⁸ Sucharita Sen, "The Uneasy Gaze – Appearing for Interviews to get Married – An Empirical Investigation into the Pre-marital Arranged Marriage Negotiations in Urban Kolkata" 13 *Rupkatha J. Interdiscip. Stud. Humanit.* 1 (2021).

for resisting the conversion of family authority into coercive control. The question is consequently not whether families may express disagreement with a matrimonial decision, but whether such disagreement can lawfully become a basis for coercion, confinement, threats or violence. Under the constitutional framework, social disapproval cannot extinguish an individual's liberty.

Patriarchy also demonstrates why honour crimes cannot be understood merely as isolated acts of violence. They are often the culmination of a continuum of control beginning with restrictions on communication and mobility and progressing to threats, forced separation, confinement and physical violence. The protection of matrimonial choice must therefore address these forms of coercion at an early stage rather than intervening only after violence has occurred.

IV. CASTE, RELIGION AND COMMUNITY CONTROL OVER MARRIAGE

Marriage in India has historically been closely connected with the preservation of caste and community boundaries. Caste endogamy, in particular, operates by regulating marriage within the group and thereby sustaining caste identity across generations. Consequently, an individual's decision to marry outside the caste may be perceived not merely as a personal choice but as a challenge to the social structure itself. The conflict between matrimonial autonomy and caste control therefore represents an important dimension of the broader struggle between constitutional liberty and social conformity.

Inter-caste marriage has significant constitutional implications because it challenges the assumption that caste identity should determine intimate relationships. In *Lata Singh v. State of U.P.*, the Supreme Court expressly recognised that there is no legal prohibition against inter-caste marriage and held that an adult is free to marry a person of his or her choice. The Court strongly condemned threats and violence against inter-caste and inter-religious couples, making it clear that parental or community disapproval cannot justify interference with the couple's liberty.⁹

The problem is not confined to individual family opposition. Community institutions may attempt to enforce caste conformity through informal sanctions and collective pressure. In

⁹ Reena Kukreja, *Why Would I Be Married Here? Marriage Migration and Dispossession in Neoliberal India* (Cornell University Press, 2022).

Shakti Vahini v. Union of India, the Supreme Court considered the role of caste-based assemblies and *khap panchayats* in interfering with matrimonial choices. Such bodies may assume the role of community guardians and attempt to impose their own conception of acceptable marriage upon individuals. The Court recognised that these practices reflect a form of social authoritarianism fundamentally inconsistent with individual liberty and autonomy.

The regulation of inter-faith marriage similarly reflects the connection between matrimonial choice and community identity. Marriage across religious boundaries may be viewed by families or community groups as threatening religious continuity, cultural identity or collective cohesion. Yet the constitutional framework does not make an individual's matrimonial choice dependent upon community consent. The protection of personal liberty necessarily includes the freedom to determine intimate relationships without being compelled to conform to religious expectations.¹⁰ In *Shafin Jahan v. Asokan K.M.*, the Supreme Court emphasised the centrality of individual choice in intimate relationships and rejected the assumption that family or social considerations could override the autonomous decision of an adult. The Court's reasoning placed intimate decisions within the core zone of personal liberty and privacy.

The significance of caste and religion becomes particularly apparent when they intersect with patriarchy. Women's matrimonial choices may be subjected to greater scrutiny because marriage is often treated as a means of preserving caste purity, family lineage and religious identity. A woman's decision to marry outside the prescribed group may consequently be viewed as a threat to the collective status of the family. The resulting restrictions can include surveillance, threats, confinement, forced separation and forced marriage, eventually escalating into honour-based violence.

Social conformity is therefore maintained through both formal and informal mechanisms. Families may use emotional and economic dependence, while communities may employ ostracism, social boycott, intimidation or collective pressure. Where such mechanisms fail, violence may be used as the ultimate means of restoring perceived social boundaries. The Supreme Court has recognised that the State cannot remain passive in such circumstances. In *Shakti Vahini*, it emphasised that the consent of the family, community or clan is irrelevant once two consenting adults decide to enter into a marital relationship. The Court also linked

¹⁰ Mir Muntazir, "When Saying Yes Is the Only Option in Kashmir", *Kashmir Observer*, Dec. 27, 2025.

the freedom of choice with dignity, observing that the erosion of choice necessarily affects the dignity of the individual.

Thus, caste and religious control over marriage represents more than a dispute over personal preferences. It is a mechanism for preserving collective identities and established hierarchies by restricting individual autonomy. Inter-caste and inter-faith marriages expose the constitutional tension between the individual's right to determine his or her intimate life and the community's attempt to regulate that choice. When social conformity is enforced through threats or violence, the issue moves beyond social pressure and becomes a direct violation of constitutional liberty. Honour crimes, examined in the following section, represent the most extreme manifestation of this conflict.

V. HONOUR CRIMES: A MANIFESTATION OF SOCIAL CONTROL

Honour crimes represent the most extreme manifestation of attempts to regulate matrimonial choice through family and community authority. The expression is generally used to describe violence or coercion directed against individuals on the allegation that their conduct has brought dishonour upon the family, caste or community. The 242nd Report of the Law Commission of India observed that the terms “honour killings” and “honour crimes” are commonly used in relation to violence and harassment inflicted upon couples who marry or intend to marry against the wishes of their families or communities.¹¹

The concept of honour in such cases is fundamentally different from the constitutional understanding of dignity. It is a collective and hierarchical conception of honour under which the behaviour of an individual, particularly a woman, is treated as a reflection of the status and reputation of the family or community. Marriage outside an approved caste, religion or social group may therefore be represented as an act of dishonour. The individual's exercise of autonomy is consequently transformed into an alleged injury to collective identity. Violence is then employed to restore conformity and reinforce the authority of those claiming to protect that honour.

Honour crimes may take several forms. They can begin with verbal threats, surveillance, restrictions on movement, social boycott or intimidation and may progress to confinement,

¹¹ Law Commission of India, *Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework*, Report No. 242, 2012.

forced separation, forced marriage, assault, abduction and ultimately killing. Honour killing is therefore only the most extreme form of a wider continuum of honour-based violence. The Law Commission's 242nd Report specifically recognised the need to address interference with matrimonial alliances in the name of honour and tradition, reflecting the understanding that the problem extends beyond homicide alone.¹²

The gendered nature of honour violence is particularly significant. Women are frequently treated as carriers of family and community honour, resulting in greater control over their sexuality and matrimonial decisions. A woman's decision to choose a partner independently may be regarded as a challenge to patriarchal authority because it removes an important area of decision-making from the control of the family. Honour-based violence thus performs a disciplinary function by warning women and other members of the community against violating prescribed gender and matrimonial norms.

Caste constitutes another important dimension. Inter-caste relationships challenge the principle of caste endogamy and may therefore be perceived as threatening established caste boundaries. Similarly, inter-faith relationships may be portrayed as a threat to community identity. Honour crimes in these circumstances are consequently not simply private acts of anger or revenge. They may serve to preserve wider structures of social hierarchy by punishing individuals whose choices cross socially enforced boundaries.

In *Shakti Vahini v. Union of India*,¹³ the Supreme Court recognised this structural character of honour crimes. The Court rejected the authority of *khap panchayats* and other community bodies to interfere with the matrimonial choices of consenting adults. It emphasised that the assertion of choice is an inseparable facet of liberty and dignity and that notions of class or community honour cannot override an individual's constitutional freedom. The Court further held that preventive, remedial and punitive measures were necessary and directed States to develop mechanisms capable of addressing the problem before violence occurs.

The judgment is particularly significant because it shifts the legal response from punishment after an honour killing to prevention of social interference itself. The Court directed States to identify areas vulnerable to honour crimes, establish Special Cells, provide a 24-hour helpline for threatened couples and ensure appropriate protection. It also contemplated designated or

¹² Ibid.

¹³ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192.

fast-track courts for cases involving honour violence.¹⁴ These directions recognise that constitutional protection must operate before the threatened individual becomes a victim of irreversible violence.

Honour crimes must therefore be understood as an attack on both the individual and the constitutional order. They seek to replace legally protected individual choice with socially enforced conformity. The State's responsibility is consequently not confined to prosecuting the person who commits the final act of violence. It must also prevent intimidation, protect couples who face credible threats and ensure that family or community institutions cannot exercise extra-constitutional authority over matrimonial decisions.

The persistence of honour crimes demonstrates the continuing tension between constitutional morality and social morality. While the Constitution protects individual liberty and dignity, patriarchal and caste-based structures may continue to treat matrimonial choice as a collective matter. Effective protection of the right to marry by choice therefore requires recognition of honour violence as a form of social control, rather than viewing each incident merely as an isolated criminal offence.

VI. JUDICIAL RESPONSE AND LEGAL PROTECTION

The judiciary has played a central role in transforming the right to choose a spouse from a socially contested interest into a constitutionally protected aspect of individual liberty and dignity. The Supreme Court's jurisprudence demonstrates a gradual shift from merely recognising matrimonial choice to imposing positive obligations upon the State to protect individuals against threats, coercion and honour-based violence. This judicial development is particularly important because honour crimes frequently occur within the private sphere, where family and community authority may otherwise be treated as beyond effective legal scrutiny.

An important early decision is *Lata Singh v. State of U.P.*, where the Supreme Court protected an adult woman who had married outside her caste. The Court made it clear that an adult is free to marry a person of choice and that relatives cannot harass or threaten such couples merely because they disapprove of the marriage. The decision established an important principle that family disapproval cannot convert a lawful matrimonial choice into a criminal or socially

¹⁴ Ibid.

punishable act.

The constitutional dimension of matrimonial autonomy was subsequently strengthened through the privacy jurisprudence of the Supreme Court. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, the Court recognised privacy as encompassing decisional autonomy and intimate personal choices. This principle provided the constitutional foundation for later decisions dealing directly with marriage and relationships.

In *Shafin Jahan v. Asokan K.M.*, the Court applied these principles directly to matrimonial choice. It held that the choice of a partner is an essential aspect of individual liberty and that intimate decisions concerning marriage lie within a protected sphere of personal autonomy. The judgment is particularly significant because it rejected the assumption that parents or courts may determine what constitutes an appropriate matrimonial choice for a competent adult. The Court recognised that individual choice cannot be subordinated merely because it conflicts with the preferences of family or society.

The most comprehensive judicial response to honour crimes came in *Shakti Vahini v. Union of India*. The Supreme Court emphatically held that the consent of the family, clan or community is unnecessary when two consenting adults decide to marry. It treated the freedom of choice as inseparably connected with liberty and dignity and rejected the idea that “class honour” or collective thinking could override constitutional rights.

Importantly, *Shakti Vahini* moved beyond abstract recognition of rights and imposed concrete obligations upon the State. The Court directed State Governments to identify areas vulnerable to honour crimes, establish Special Cells in every district, provide a 24-hour helpline for threatened couples and ensure necessary protection. It further directed that cases involving honour killings or violence against couples be placed before designated or Fast Track Courts for expeditious trial.

The judgment also recognised that prevention is as important as punishment. Where authorities possess prior information regarding threats to a couple, failure to take preventive action may itself constitute a serious dereliction of constitutional responsibility. The State's obligation under Article 21 is therefore not exhausted by prosecuting offenders after a killing has occurred; it includes taking reasonable preventive measures to protect threatened individuals.

The judicial approach was reaffirmed in subsequent cases. In *Supriyo @ Supriya Chakraborty v. Union of India*, the Supreme Court clarified that the Constitution does not expressly recognise an unqualified fundamental right to marry. Nevertheless, the judgment reaffirmed the constitutional importance of individual choice concerning a partner and recognised the freedom to enter into relationships as part of the broader framework of constitutional liberty and autonomy. This distinction is important because the constitutional protection of matrimonial choice should not be confused with a general claim that every person possesses an absolute fundamental right to have the State create or facilitate a marriage.

The judicial response thus operates at three levels: recognition, protection and prevention. First, courts recognise matrimonial choice as an aspect of individual autonomy. Secondly, they provide constitutional remedies where family or community interference threatens that autonomy. Thirdly, particularly through *Shakti Vahini*, courts have imposed preventive obligations upon the executive and police authorities.

However, judicial directions alone cannot eliminate the social structures that generate honour crimes. Their effectiveness depends upon implementation by police and administrative authorities. The continuing relevance of the preventive directions in *Shakti Vahini* demonstrates that constitutional rights require institutional enforcement. The judiciary can declare that no family, caste group or community possesses legal authority over the matrimonial choice of consenting adults, but meaningful protection ultimately depends upon whether the State acts promptly when such choices are threatened.

The judicial response therefore represents a significant constitutional safeguard against patriarchal and community control, but it also exposes the limitations of rights without effective implementation. The next question is whether the existing legal and institutional framework is adequate to translate these judicial principles into practical protection for individuals exercising their right to marry by choice.

VII. GAPS IN THE EXISTING LEGAL AND INSTITUTIONAL FRAMEWORK

Despite the constitutional recognition of matrimonial autonomy and the preventive directions issued by the Supreme Court, significant gaps remain between the law on paper and its implementation. The principal difficulty is not the complete absence of legal remedies but the failure to provide timely and effective protection to individuals whose matrimonial choices

expose them to threats from family or community groups. Honour-based violence often develops through a progression of intimidation, surveillance, confinement and threats before culminating in physical violence. An effective legal framework must therefore intervene before the final criminal act occurs.

The judgment in *Shakti Vahini v. Union of India* directed State Governments to adopt preventive, remedial and punitive measures, including identification of vulnerable areas, establishment of Special Cells and provision of protection to threatened couples. The continuing importance of these directions demonstrates that prevention is central to the constitutional protection of matrimonial choice. Yet the effectiveness of such mechanisms depends substantially upon police and administrative implementation. Where complaints of threats are treated as merely familial disputes, the opportunity for preventive intervention may be lost.

A further difficulty arises from the involvement of family members themselves in honour-based violence. The traditional assumption that the family is primarily a source of protection may obscure the fact that, in some cases, family members constitute the principal source of danger. Police authorities must therefore treat complaints made by couples against relatives or community members seriously, irrespective of the social status or relationship of the alleged perpetrators. The constitutional right to protection cannot depend upon whether the threat originates from a stranger or a close relative.

The availability of safe accommodation is another important component of preventive protection. Couples facing credible threats may be unwilling or unable to return to their families, while ordinary shelters may not provide adequate security or confidentiality. *Shakti Vahini* recognised the need for institutional mechanisms through which threatened couples could seek assistance. Such mechanisms must be accessible, confidential and capable of providing immediate protection rather than requiring victims to navigate complex administrative procedures during an emergency.

The existing criminal law framework also raises questions concerning the distinct character of honour crimes. India does not presently have a separate central offence titled “honour crime”. The Bharatiya Nyaya Sanhita, 2023 (BNS), which came into force on 1 July 2024, contains offences dealing with murder, culpable homicide, hurt, wrongful restraint, wrongful confinement, criminal intimidation and other forms of violence that may apply to conduct

constituting an honour crime.¹⁵ The absence of a separate offence does not mean that such conduct is legally unpunishable; rather, the difficulty lies in recognising and addressing the collective and motive-based character of the violence.

The BNS has also introduced a specific provision concerning murder committed by a group of five or more persons acting in concert on grounds including race, caste, community, sex, place of birth, language or personal belief.¹⁶ This provision may become relevant in certain group-based killings, although its application will depend upon the facts and proof of the statutory elements. It does not, by itself, create a comprehensive framework addressing the entire continuum of honour-based coercion, including threats and preventive risks preceding a killing.

The debate over separate legislation therefore remains relevant. The Law Commission of India, in its 242nd Report, recommended a legislative framework specifically addressing interference with matrimonial alliances in the name of honour and tradition.¹⁷ Supporters of such legislation argue that a specific framework could recognise the collective nature of honour crimes, impose preventive duties upon authorities and provide greater accountability for persons and groups participating in threats or coercion. On the other hand, concerns may arise regarding duplication of existing criminal provisions and the effectiveness of creating a new offence without strengthening investigation and enforcement.

The deeper problem is consequently institutional rather than merely legislative. Even comprehensive criminal provisions cannot adequately protect matrimonial choice if police authorities fail to recognise threats, if administrative mechanisms remain inaccessible, or if victims lack safe accommodation. A rights-based response must therefore combine criminal accountability with preventive protection. The State must recognise that an individual facing threats because of a matrimonial decision is not simply involved in a private family dispute; the individual may be exercising a constitutionally protected freedom requiring positive state protection.

The existing framework should consequently be strengthened through effective implementation of *Shakti Vahini*, accessible protection mechanisms, safe accommodation, trained police personnel and institutional accountability. The objective should be to ensure that

¹⁵ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, §§ 103, 115–127, 351.

¹⁶ Id. § 103(2).

¹⁷ Law Commission of India, *Prevention of Interference with the Freedom of Matrimonial Alliances (in the Name of Honour and Tradition): A Suggested Legal Framework*, Report No. 242 (2012).

constitutional protection begins before honour-based violence becomes irreversible. The protection of matrimonial choice must be preventive, not merely punitive.

VIII. SUGGESTIONS AND CONCLUSION

The constitutional recognition of matrimonial choice will remain incomplete unless it is supported by effective preventive and institutional mechanisms. Honour crimes are not merely isolated acts of violence. They arise from patriarchal, caste-based and community structures that seek to regulate intimate choices and preserve established social hierarchies. Therefore, the legal response must address both immediate threats to individuals and the institutional conditions that enable such violence.

First, the preventive directions issued by the Supreme Court in *Shakti Vahini v. Union of India* must be implemented effectively. The Court directed the establishment of Special Cells, helplines, identification of vulnerable areas and protection mechanisms for couples facing threats. These mechanisms should be accessible, confidential and independent of family or community influence. A complaint by an adult couple regarding a threat to life or liberty should immediately trigger a risk assessment rather than being treated as a private family dispute. This is particularly important because honour violence often begins with intimidation, harassment and coercion before escalating into physical violence.

Secondly, safe accommodation should be provided to couples facing immediate threats. Such facilities must ensure confidentiality, police protection and access to legal assistance. Their purpose should be to enable individuals to exercise their constitutional choices without being compelled to return to circumstances where their safety and liberty are endangered.

Thirdly, police and administrative authorities require greater sensitisation regarding matrimonial autonomy. Officials must understand that an adult's decision to marry against family wishes is not evidence of wrongdoing and does not justify attempts at forced reconciliation. Where a credible threat exists, the State's primary responsibility is to protect the individual's life, liberty and constitutional rights. Authorities should also be held accountable where violence occurs despite a documented and credible threat.

Fourthly, the possibility of specific legislation addressing honour crimes deserves renewed consideration. The Law Commission of India, in its 242nd Report, proposed measures to

prevent unlawful interference with matrimonial alliances, including treating assemblies convened to condemn lawful marriages and endanger couples as unlawful. It also recommended penalties for harassment and social boycott. Such legislation could address collective interference that ordinary criminal provisions may not adequately capture.

However, a separate statute should supplement, not replace, existing criminal law. Its principal purpose should be prevention, recognition of collective responsibility and imposition of clear duties on public authorities, rather than merely creating a separate offence of “honour killing.”

Finally, constitutional morality must prevail over social notions of honour. As recognised in *Shakti Vahini*, family, caste or community honour cannot override the liberty of consenting adults. The Constitution protects individual autonomy and does not confer upon social groups a right to control matrimonial choices.

The right to marry by choice is therefore best understood as an expression of the constitutional commitment to autonomy, dignity and equality. Patriarchal control, caste endogamy and community conformity seek to convert an individual's intimate decision into a matter of collective authority. Honour crimes represent the most violent consequence of that transformation. The constitutional response must accordingly protect the individual before violence occurs, hold perpetrators and facilitating institutions accountable, and ensure that social morality does not override constitutional rights.

Ultimately, the protection of matrimonial choice is not an argument against family or community as social institutions. It is an assertion that their authority has constitutional limits. Where family honour demands the sacrifice of individual liberty, constitutional morality must prevail. The freedom to choose a life partner is meaningful only when individuals are able to exercise that choice without fear of coercion, social violence or death. Protecting that freedom is therefore essential not merely to matrimonial autonomy but to the constitutional promise of a society founded upon equality, liberty and human dignity.