
‘Honour Killing’ In Haryana: A Socio-Legal Perspective

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ABSTRACT

‘Honor or dishonor killing’ is subjective debatable in the Indian society. The word ‘honor killing’ is media connotation. It may honor for some section of society and it dishonor for the couple or some community. In Indian society marriage practice is highly differentiate from one community to other community. The practice of caste system, patriarchal mind set and feudal society promotes honor killing. In historically, honor killing has been practicing through ‘sati pratha’. But legally it has banned. Gender discrimination, inequality, equity found among all section of communities. Constitution has promotes for equality, freedom, rights and duties but there is a gap between constitutional rights and cultural rights. It reflects the theory and practice. The cultural right talks about the ethno-centric. The legal approach has protected the victims who faces honor killing but cultural approach has still practices in Indian society. The social exclusion of marriage according to their choice of marriage is totally prohibited in Hindu social order. The legal system is silent when political institutions are supporting this issue. In order to ban honor killing, people should abide by law and promotes inter caste and choice based marriage system rather than patriarchal, brahminical hierarchical should be abolished. The cultural rights have to be rationally legalized in order to prevent ‘honor killing’.

Keywords: *Honor killing, social exclusion, Hindu social order, cultural right*

INTRODUCTION

The debating about ‘the marriage system in India’ in contemporary and pluralistic society is relevance. In multiplicity of caste, race, linguistic and identity found in Indian society. It is ‘honor killing’ or ‘dishonor killing’ is debatable. This concept is media connotation. Marriage in Indian society found different type in different communities such as tribal, Muslim, Christian and Hindus. The Hindu religion based marriage system is highly complicated. It based on invisible multiple factors. It is easy to marry a foreigner rather than Indian. The legal system as well as customary law sanctioned the marriage system. The Hindu social order based on hierarchy and inequality. The women are always put below the ladder of men in caste hierarchy. The upper caste men can get married to lower caste women and vice versa is not permissible.

The Hindu marriage is patri-local and patriarchal dominance factor. In addition, there are feudal dominance system exist in society. The ‘Hindu marriage system’ has adopted by brahmonical hegemony. It believes in purity and pollution. In this system ‘marriage’ is happen one time for ever but Hindu tribe can adopt or marry many times locating this

situation permitted in the social order. This social order didn't permit to go out of choice. In the matrimonial site also promotes the caste choice marriage system. The Hindu orthodox culture forced 'couple to kill without their permission'. It is not promoting choice /open based marriage system. In modern society you can choice in food, cloth, house but you don't have choice in marriage.

'*Khap*' is a term for a social, political grouping; it is used in a geographical sense. A '*khap*' comprises of village elders grouped along caste or community lines and motivated by the need to perpetuate a feudal and patriarchal order. They are powerful enough to issue fatwas (orders) and declaring marriages void or Null without due legal process or the sanction of law. History tells us that khaps are as old as the 14th century, started by upper caste '*Jats*' to consolidate their power and positionⁱ.

A '*Jat*' social structure in Haryana, UP and Rajasthan shows that a '*khap*' is a cluster of several villages and castes. They organised through clans and *gotras*; they uphold social norms in the community. While they might have provided a kind of rough justice once, they are a terrible force for villagers and townspeople who have no option but to endure the pronouncements, despite the fact that they have no legal justification. Marrying within one's gotra (or a set of gotras) is one of the worst fears in this set-up, a profoundly destabilizing force for which khap panchayats (community courts) sanction the most dreaded punishment, including death, exile and absolute social stigma. So far, this system of medieval oppression operated with near impunity, given its grip over much of Haryana's traditional society. One major hurdle, there is gap between the customarily law and judicial system. The cultural system is not fitted in legal system in diversified country like India. There has been the way public officials are reluctant to take on the system, accepting it as a "custom", a way of life in the region. Lawmakers and enforcement officers condone the criminality of such actions, ignoring the violent, and woman hate nature of the khap's dictums. Intimidation is easily punishable under the Indian Penal Code, and those who provide it support can be booked for criminal conspiracy. In fact, the worst betrayal is political, because caste solidarity feeds into their vote banks, and Panchayat Raj institutions remain weak. The Haryana government opposed the prosecution of khap panchayats under the Prevention of Unlawful Activities Act 1967, arguing that such a "rash step" would disturb law and order. However, after the Haryana high court took a strong view on the matter, district administrations have made some changes -recently suspending a couple of revenue officers in Rohtak for participating in a khap panchayat which declared a married couple brother and sister.

Khap panchayat are a part of the rural social architecture and it has practiced in the past. There are four kinds of traditional panchayats in rural north India. The traditional panchayats are having peculiarity that they are all male domination institutions. Their appeal and effectiveness are massive because powerful elements of the dominant castes usually participate in their deliberations and stand guarantors to their decisionsⁱⁱ. This patriarchal and male domination social structure is promoting the 'honor killing'.

KHAP PANCHAYATS: HISTORICAL BACKGROUND

In the historically evidence shows that The Hindu practice of sati-pratha or widow-burning is found in some parts of India and South Asia. It can be considered a form of 'honor suicide' in those instances when the act is voluntary, with a deceased man's widow immolating herself

on his funeral pyre as an act of pious devotion and to preserve her and her family's honour. This justifications for sati – pratha is prevalence and acceptance are subject to much historical and religious debate, howeverⁱⁱⁱ. Evidence suggests that in some instances, sati was not "voluntary", but was compelled by both historically and in modern times. The Britishers have banned sati pratha. It took a new form of murder. Sati has prevails in modern period in Northern rural India. Sati still occurs occasionally, mostly in rural areas. About 40 cases have occurred in India since independence in 1947, the majority taking place in the Shekhawati region of Rajasthan.^{iv}

The Khap Panchayats are reported to have come into existence as a social system maintenance mechanism in agrarian societies. These are the legacies of the tribal councils, formed by various tribes with a purpose of facilitating resolution of intra-tribal disputes and inter-tribal intercourse. When these tribes got co-opted into the caste system, these were retained by them as an internal control mechanism for combating the external threats as well as for being the bodies used for bargaining with the rulers in Delhi.^v

These khap panchayats are believed to have been multi-caste as all caste bodies at one point of time, were represented by all the castes. But presently it has found in a Jat community. Khap panchayats are constantly in the news for their role in what are being called as “honour killings”. Most of these crimes involve killing of the couples who marriages against the community norms. They are inappropriate according to local Haryanvi or western UP society. These marriages are taken as ‘offence’ and khap panchayats as heads and members of the community proceed to judge and punish couples and their families. The moral pressure exercised by these extra-constitutional bodies and the fear of challenging their barbaric injustice propels or encourages close relatives to kill the married couple and fellow villagers ostracize their families. Not surprisingly, even police fails to help the helpless victims, and they allow revenge and condone the punishment of the so called transgressors.

These khap panchayats generally consist of powerful elements of the dominant caste. They are generally senior citizens who claim to be considered as upholders of village norms, custodians of rural culture and guardians of public morality. They have a great hold both at the local and provincial levels.^{vi} No one wants to annoy these powerful persons. Hence, even knowing of the complaints by aggrieved persons, Om Prakash Chautala, then chief minister of Haryana, declared in 2004 that “whatever the (caste) panchayat decides is right”. Similarly the present chief minister of Haryana, Bhupinder Singh Hooda also reiterated the same in different manner. He also failed to take the bold decisions in the interests of rule of law or to meet the ends of justice. He said-“these are social situations. If we take any rash step, it can have an adverse impact on the law and order situation in the State. We have assured, concerned the families that they will be protected”^{vii}.

But where the police gone at the time of death of Vedpal Mor at the hands of a village mob in Jind raises the questions about the credibility of such assurances? Mor had married Sonia of Singwal village against their parents’ wishes. He later moved to Punjab and Haryana High Court and had come to Matour village accompanied by policeman to take his wife from her parents’ home. However, a mob lynched him to death on 22 July. This clearly means that in Hood’s region khap panchayats will continue to rule and the fear of death will continue to hover over lovers or spouses.:

According to Ranbir Singh^{viii} in his article, the following found in his studies about strength of khaps: a. The main secret of the strength of the khap panchayats is the persistence of strong kinship feelings among various clans (gotras) of Jats due to the continued belief that they being the progeny of a common ancestor have ties of blood. B. The Prevalence of the concept of *seem-simli* i.e. the concept of bhaichara (brotherhood) among the clans living in neighboring villages having common boundaries. C. The existence of traditional institution of neighborhood panchayat (Ghwand panchayats) for resolving the inter-caste disputes in the adjoining villages. D. The presence of the feelings of bhaichara among different gotras, living in the same village and avoiding the matrimonial relations between them. No one raise the voice against the verdict of knaps as they also are in favor of the verdict. E. The weakness of Panchayat Raj Institutions (PRI's) is also responsible for the continued strength of the knaps. F. The conversion of khap panchayat into vote banks has also made them virtually unchallengeable. G. All the major political parties have been reluctant to raise their voices against them.

CULTURAL APPROACH:

Indian society is diversity in forms of religion, region, and culture, rural-urban. The marriage is most important institution in every society. Hindu social order has restricted on choice based marriage system. There is *anulama* and *protilam* marriage system. Cultural right or cultural approach has given more importance comparative to legal approach. In marriage institution cultural right has always prevailed. An Honour killing also called a customary killing is the murder of a family or clan member by one or more fellow family members, where the murderers (and potentially the wider community) believe that the victim to have brought dishonor upon the family, clan or community. This perceived dishonor is normally the result of (a) utilizing dress codes unacceptable to the family (b) wanting out of an arranged marriage or choosing to marry by own choice, (c) engaging in certain sexual acts ,(d) marriage within same gotra. These killings result from the perception that defense of Honour justifies killing a person whose behavior dishonours their clan or family.

The United Nations Population Fund (UNFPA) estimates that the annual worldwide total of Honour-killing victims may be as high as 5,000^{ix} Human Rights watch defines "honour killings "as follows: "Honour crimes are acts of violence, usually murder, committed by male family members against female family members, who are held to have brought dishonor upon the family. A woman can be targeted by (individuals within) her family for a variety of reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce—even from an abusive husband—or (allegedly) committing adultery. The mere perception that a woman has behaved in a way that "dishonors" her family is sufficient to trigger an attack on her life"^x

'Honour Killing' literally means murder committed to safeguard/ protect the Honour of the family but the term has got a deeper meaning and serves a different motive in our villages the standard definition in general 'Honour killing' is murder of womenfolk by family members, generally male. Who are compelled to remove stains on their family's Honour? A woman can cause that stain on the family due to several reasons like refusing an arranged marriage, eloping with her beloved, being the victim of sexual assault or just because she wants to get a divorce^{xi}.it is mainly based on illiterate, cultural lag and patriarchal dominance with feudal mind set.

LEGAL APPROACH:

The ministry has circulated the draft of the ‘Indian Penal Code and Certain Other Laws (Amendment) Bill, 2010’, to bring changes in the IPC, Indian Evidence Act, 1872, and the Special Marriage Act, 1954, and put a leash on the spate of honor killings in recent times.

The Supreme Court had issued notices to the Centre and the Haryana, UP, Punjab, Rajasthan, Jharkhand, Bihar, Himachal Pradesh and Madhya Pradesh governments seeking information on steps taken to stop honour killings.^{xii} The home ministry wants such killings to be brought under the purview of murder and have in place a proper definition of dishonour or perceived dishonour. The new IPC provision will make Khap members accomplice in the crime and prosecute leading members of caste panchayat. During the trial, the burden of proof will be on the accused instead of the victims. For this, a new section — 105A — will be inserted in the Indian Evidence Act^{xiii}.

Besides, to ensure the safety of couples marrying against the wishes of families, communities and caste panchayat, the government proposes to do away with the present compulsory 30-day notice period in the courts under section 5 of the Special Marriage Act. The court may change the rule. This means a couple will be able to tie the knot in courts immediately after giving an application for marriage. It was felt that the present notice period, during which the photographs of the couples were pasted on the notice board of the court, was leading to easy identification of the couples. They were being harassed and even killed by the families later. The legal procedure with technological is not suitable in the customary ‘mores’ practice society.

As for the IPC amendment, the ministry feels that since caste panchayats are informal bodies with no legal status, the members of caste and clan have to be treated as accomplices in the crime. The new law will view all members of the caste panchayat ordering the killing deemed guilty by virtue of their association with such a body, whether or not they supported the act.

In the new law, “dishonour” has been explained as acts such as adopting a dress code unacceptable to family, caste, clan, community or caste panchayat; choosing to marry within or outside gotra, caste, clan, community and engaging in sexual relations unacceptable to family, caste, clan, community or caste panchayat.

The National Commission for Women has sought severe punishment for people who give provocative statements favouring such killings. The proposed amendments IPC section 300: Inserting a new (fifth) clause indicating that culpable homicide is murder if the act by which death is caused is done with the intention of causing death or if it is done by any person or persons acting in concert with, or at the behest of a member of a family or a member of a body or group of caste or clan/community/caste panchayat (by whatever name called) in the belief that the victim has brought dishonour upon the family/caste/clan/community or caste panchayat^{xiv}. *Indian Evidence Act*: A new section 105A will be inserted, which says when death of a member of a family occurs and a person or a group of persons is accused of acts falling within the fifth clause of section 300 of the IPC, then, the burden of proving that the case does not fall within that section shall be upon such person or persons.

Special Marriage Act: In the Section 5, the words notice “for a period of not less than 30 days” shall be omitted. In contrary to that, irked at being equated with the Taliban and kangaroo courts, khap panchayats in Haryana are now determined to get some legal sanction.

Soon, they will draw up a set of recommendations for making “suitable” amendments to the Hindu Marriage Act (1955) at the state level so that their rulings become valid under law.

LAW COMMISSION’S APPROACH

Terming the practice of khap panchayats of handing down punishment to couples who go for 'sagotra' or inter-caste marriage as "flagrant violation" of the law, the Law Commission came up with a draft legislation which seeks to make such acts a non-bailable offence.

The draft Prohibition of Unlawful Assembly (interference with the freedom of matrimonial alliances) Bill, 2011 says that offences under the Act will be cognizable, non-bailable and non-compoundable. The draft bill proposes that offences under the Act will be tried by special courts to be headed by a Sessions Judge or an Additional Session Judge. The special courts, to be set up by states in consultation with the High Courts, will have the power of a Sessions Court. Referring to suggestion to amend the IPC to introduce a provision to bring honour killings within the ambit of Section 300 (murder) of the Indian Penal Code, the Commission said there was no such need. "The Commission is prima facie of the view that there is no need for introducing a provision in Section 300 IPC in order to bring the so-called honour killings within the ambit of this provision. The existing provisions in IPC are adequate enough to take care of the situations leading to overt acts of killing...," the consultation paper said. Many young couples in the northern states have fallen victim to honour killings ordered by khap panchayats or self-styled caste councils^{xv}.

Illegal threats

There has been a spurt in illegal intimidation by self-appointed bodies for bringing pressure against *sagotra* (same gotra) marriages and inter-caste, inter-community and inter-religious marriages between two consenting adults in the name of vindicating the honour of family, caste or community.

In a number of cases, such bodies have resorted to incitement of violence and such newly married or couples desirous of getting married have been subjected to intimidation and violence which has also resulted into their being hounded out of their homes and sometimes even murdered.

“Although such intimidation or acts of violence constitute offences under the IPC, yet, it is necessary to prevent assemblies which take place to condemn such alliances,” the proposed Bill says, adding it seeks to nip the evil in the bud and prevent spreading of hatred or incitement to violence through such gatherings. Criminal intimidation will have the same meaning as is given in Section 503 of the IPC.

The Bill further says that any member of an unlawful assembly who alone or in association with other such members counsels, exhorts or brings pressure upon any person or persons so as to prevent, or disapprove of the marriage which is objected to by the said members of the unlawful assembly, or creates an environment of hostility towards such couple shall be deemed to have acted in endangerment of their liberty.

The Law Commission's consultation paper says panchayats gathered on caste lines assume to themselves the authority to deal with “objectionable” matrimonies and exhibit least regard for

life and liberty and are not deterred by the processes of administration of justice. The penal law lacks direct application to the illegal acts of such caste assemblies and needs to be amended.

Pointing out that the same gotra marriages are not prohibited by law, whatever may be the view in old time, the Law Commission says the Hindu Marriage Disabilities Removal Act, 1946 was enacted to dispel any doubts in this regard^{xvi}.

Vindicate Honour

The Act expressly declared the validity of marriages between Hindus belonging to the same gotra, different sub-divisions of the same caste. “The view of village elders or family elders cannot be forced on the willing couple and no one has the right to use force or impose far-reaching sanctions in the name of vindicating community honor or family honor,” it says.

Drawing attention to the proposals to amend Section 300 of the IPC, the Commission says the motive behind killing a person did not furnish real justification to introduce a separate provision in this Section, as the addition of such a clause may create confusion and interpretational difficulties.

The Law Commission has already circulated a proposed legislation - Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliance) Bill, 2011 - and sought public response. It proposes up to one-year imprisonment and Rs 10,000 fine for those who participate in Khap meetings convened to condemn any inter-caste marriage. The Bill also proposed punishment of up to two years of imprisonment and Rs 20,000 fine if one was found taking steps to prevent such marriages; a three-year jail term and Rs 30,000 penalty for anyone resorting to criminal intimidation of such couples.

CONCLUSION:

In the modern society should punish culprit against honour killings. The society should promote gender sensitive and prejudices of caste and class. Efforts should be made to sensitive people on heed to do away with social biases. Active policing and serious penal sanctions is the only antidote to this most dishonourable practice. It is also noted that when mob has carried out such attacks, it becomes difficult to pinpoint a culprit. The collection of evidence becomes tricky and eyewitness is never forthcoming. So it is urgent requirement to change Indian penal code, Indian evidence Act and special marriages Act so that "Strictest possible" penal action can be taken against law violators. The killing of couple or harassing them is not good sign of prosperous society. Position occupying in khap panchayat should be banned or rationalized. All the marriage should be legalized looking up to their context. Those who are marring inter caste should be awarded and provide them social safeguard. The empowerment of women could be possible through education, livelihood security and gender equity. The sex ratio or gender gap has to be improved. There should be special cell for a woman comes under ‘honour killing’. The cultural gap should be reduced and adopt the rational life style.

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