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OF VIOLENCE**

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## GENDER AND CASTE CONNOTATIONS OF 'HONOUR' KILLINGS IN INDIA: MEN AND WOMEN AS VICTIMS AND PERPETRATORS OF VIOLENCE

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### Abstract

The killing of couples defying caste norms of marriage such as caste endogamy and gotra exogamy in India is given the nomenclature of 'honour' killings in English media. The dearth of similar connotations in indigenous languages seems to emphasise that the killings are routine in rural areas, seemingly part of the collective conscience, and carefully hidden from the urban community.

A closer look at those involved in 'honour' killings reveals facts that defy gender and caste stereotypes of associating the killings with caste purity and participation by men. Patriarchy takes the form of not only control over women's reproductive role but also has implications of women as perpetrators. The connotation of 'honour' represents the hegemony of only those perpetrators who belong to 'higher' or dominant castes, and not to those of 'lower' castes. Questions of economic and political interests of hegemonic groups arise with involvement of dominant castes instead of ritual purity in caste hierarchy. Where gotra linkages are not clear, gotra as a basis of refusing marriages becomes contestable.

This paper looks at how the inequalities of caste and gender denote varied implications for individuals involved in honour killings. It examines how roles - as victims asserting choice and as perpetrators avenging a particular understanding of community honour - are different for men and for women. The paper points out that the issue of honour killings remains a nagging concern because efforts at the political level of constitutional and customary laws have been varied, spanning from ignoring and facilitating killings to enabling curbs on the violence in matters of marriage related to caste.

**Keywords:** Dominant caste, Honour killing, Khap panchayat, Patriarchy, Gender, Gotra

### I. Introduction

Killing of couples by close family and community for breaking away from caste norms of marriage have been given the connotation of 'honour' killing in the media. Honour killings in rural India are ordered in situations of hypogamy and *gotra* endogamy by members of local

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self-governance units in villages based on common clan membership, popular as *khap panchayats* in North India and *katta panchayats* in South India, primarily Tamil Nadu. They claim power over maintaining caste norms in marriage, in addition to resolving local disputes, thus professing to contribute to maintenance of order.

...*khaps* are viewed as an assembly of elders that may come together or be called to give a ruling or judgement in a local dispute. Awasthi (2016) believes that a *khap* is a political unit that comprises 84 villages (quoted in Kaur, 2022).

*Khap panchayats* lack equitable representation of all castes and gender. They comprise primarily of dominant caste men. They rule by resorting to violence to ensure fear of their power and unquestioned conformity to their orders. Through their hegemony over wealth and political contacts, they succeed in asserting their word as law, and in giving killings the impression of representing collective will in upholding tradition and community honour. They use their power to assert their definitions of honour and dishonour through majority membership in *panchayats*. Women and lower castes are the most vulnerable sections of society who bear the brunt of hegemony of the *panchayats*, and are marked by their absence from active participation in *khap panchayats*.

The 'honour' in the killings is defined in a patriarchal sense, since men as key perpetrators avenge their honour lost through the unacceptable conduct of women. While this is true, it is a one-sided recognition of victims and perpetrators. This paper explores how men are victims and women are perpetrators of honour killings based on caste. Societal norms are stringent in controlling not only choices of women in marriage but also of men. It is not only women's interaction and marriage with men of 'other' castes but that of men with women of 'other' castes that draws contention. The only difference is their caste membership. Honour killings mostly target hypogamous marriages with women from upper and men from lower castes. This holds concerns of not only caste purity but also economic and political power equations finely balanced on marital alliances.

Caste endogamy seeks to ensure maintenance of group hegemony over progeny and resources. *Gotra* exogamy is meant to avoid incest and encourage alliances with groups beyond the immediate vicinity, but within the same caste. This is based on the view that gotra

membership signifies shared ancestry, making men and women of the same *gotra* siblings, though far removed.

The paper discusses how customary laws are not always the basis of justifying honour killings. The fact that dominant castes are perpetrators in honour killings shows that it is not ritual purity that is considered to be at stake. Contentions about exact *gotra* membership also point to the futility of tradition and customs as explanation for killing.

This paper examines women's varied roles in the context of honour killings--- their vulnerability as victims, their overt participation as killers and their covert compliance as silent by-standers to honour killings in Section II. It looks at the differential role of men as victims and perpetrators of killings informed by their caste membership as higher or lower castes in Section III. It covers the extent of the role of State laws in curtailing 'honour' killings in Section IV. It concludes with the view that men and women cannot be categorised in a homogenised manner in the context of their involvement in 'honour' killings as those facing and asserting violence in Section V.

## **II. Influence of Patriarchy on Women in the Context of Honour Killings: Vulnerability as Victims and Compulsions as Perpetrators**

The rule of caste endogamy alludes to shared purity of blood and lineage through physiological blood linkages. This is ensured through restriction of marriage within the same caste. This is achieved through control over women's sexuality and reproductive role.

The burden of endogamy is borne mostly by women, since the strictures against them for marrying outside or contracting sexual relationships outside the caste order are far more violently exercised than those on men. This is true for women of all castes (V.Geetha, 2007: 95)

Caste exogamy in the form of hypogamous marriage draws even more anger in society because it denotes children tracing descent through the male line of their the so-called 'lower' caste father and marriage gifts given to the woman flowing into the 'lower' caste group. Chakravarti (2009:54) examined two options for mixed unions namely hypergamy or *anuloma* and hypogamy or *pratiloma* marriage. Acceptability of *anuloma* and *pratiloma*

marriages is explained with regard to direction of hair growth according to the Laws of Manu. *Anuloma* implies going in the direction of hair growth, which is, following the natural order and is therefore acceptable. *Pratiloma* means going against the direction of the hair, that is unnatural and thus, unacceptable.

Hypergamy is approved while hypogamy is not. For, superior seed can fall on the inferior field but inferior seed cannot be allowed to fall on the superior field (Dube, 1986: 25).

Avoidance of transgressions of norms leading to inter-caste relations through commensality and marriage between castes is emphasised in the *Manusmriti*. Ideally, both partners should belong to the same caste because Manu regards the child's status as being bilaterally constituted. He also condemns taking of a Shudra woman as the first wife by a Brahmana man as this violates and pollutes the status order more sharply (Chakravarti, 2009: 53). The most reprehensible offence of a Brahmin woman is of a hypogamous or *pratiloma* connection.

The rule of *gotra* exogamy is based not on inter caste hierarchy but on avoiding incest. It discourages marriage alliances between relatives of close lineages sharing descent from the same ancestor. Such lineage proximity designates men and women within the same village and among adjoining villages as brothers and sisters. The four-clan rule in *gotra* exogamy prohibits marriage between two persons who share any two of their eight *gotra* links (Karve, 1953: 118). Thus, a man must not marry a woman from his father's *gotra*, his mother's *gotra*, and his paternal grandmother's *gotra* and his maternal grandmother's *gotra*. According to Paul Hershman:

Ideally a man is the guardian of the honour of any woman who is related to him as 'sister' whether real or classificatory and therefore both sex and marriage are taboo between them. All men and women of the same clan, same localized clan and same village are talked of as being bound by the morality of brother-sister and therefore both sex and marriage are prohibited between members of any of these units (Hershman quoted in Chowdhry, 2007: 94).

The rule of *gotra* exogamy is a customary law, not sanctioned by the State. *Gotra* exogamy encourages alliances further than the territorial boundaries of the village, bringing more power to men while depriving women of choice in marriage.

Cases of honour killing due to caste exogamy have emerged from different parts of the country. For instance, Shankar a Dalit boy and his wife Kausalya, a girl of the OBC Thevar community were attacked in broad day light eight months after marriage in Udumalpet, Tamil Nadu 2016 by Kausalya's father who felt dishonoured by their hypogamous marriage (Santhanam, 2016). Manoj and Babli of Kaithal district of Haryana were killed by Babli's relatives because they belonged to the same *gotra*.\*

Tying in women's natural disposition with implications of their inclination towards promiscuity has been a way of justifying women's lack of mobility outside the domestic sphere. Manu allotted women the habits of deceit, wastefulness, greed for ornaments, anger, meanness and treachery (Chakravarti, 2009: 70). Women were considered adulterous by nature along with possessing an insatiable sexual desire. This is brought out in a story in a *Jataka*:

As greedy cows seek pastures anew, women (insatiated) yearn for mate after mate (*ibid*: 70).

Women are made to carry the onus of caste honour. Killing of truant girls reflects the level at which women are considered easily tainted in purity and caste terms and thus, summarily dispensable. A woman's death leads to no economic loss to the family --- it in fact, restores honour and the constant lurking threat of financial modalities in marriage preparations and dowry demands. These anxieties are reflected much before resorting to honour killings in the practices of female foeticide or infanticide. Chakravarti (2009) refers to women as 'gateways', that is, points of entry into the caste system. This is echoed by Dube, who says that caste imparts a special character to the process of 'growing up female' (Dube, 1986: 234). Women are socialised and controlled through idealization of familial roles that

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\* 'Nitish Katara, Manoj-Babli: 5 Honour Killing Cases that Shocked India' published in Midday dated 4<sup>th</sup> October 2016 available at <https://www.mid-day.com/news/india-news/article/nitish-katara-murder-case-honour-killing-cases-vikas-yadav-vishal-yadav-conviction-17443183> (accessed on 7th September 2023).

emphasize female modesty. This includes lack of space for younger family members for negotiation against decisions taken by elders in matters that involve procreation and sexual relations.

Exchange of women in marriage serves as a vehicle for economic alliances between men. Discussing the origin of the system of exchange of women, anthropologist Gayle Rubin argued that the logic of exchange was constituted in a 'sex-gender system'. This system defined different roles for women and men based on biological sex. Certain taboos were instituted which forbade certain kinds of sexual relationships, such as between brother and sister. As a result, women lost free sexual access to men of their choice and came to be seen as important objects of exchange. Men began to forge relationships with each other through exchange of women as brides. This process of exchange became the basis of the subordination of women into objects. They lost access to their bodies and sexuality. They were reduced to their reproductive worth (V.Geetha, 2007:49). As exchange of women became the norm, for women, marriage entailed moving into the husband's home, being displaced from their familiar natal context and their children being considered the property of men.

Women are deprived of equal representation, active participation and assertive decision making as compared to men in village *panchayats*. This shows loopholes in the claim of collective aspect involving the community as a whole in killings for honour. Women as members of society, lack representation in panchayat bodies which preside over and pass judgments in cases of honour killings, are proxy members or do not even attend the *panchayat* as audience (Sinha. 2018:36).

Men take decisions regarding the killings as male heads of households and men as members of village councils operating under customary laws. Women are *panchayat* members because of reservation of one-third seats for women in panchayati raj institutions in the 73<sup>rd</sup> Amendment. However, they are either absent from the *panchayat*, or belong to only the 'higher' caste, or are treated as 'proxy' members, that is, attending the *panchayat* meetings in person only to garner a political seat, but acting solely on the commands of their husbands (Singh, 2002). Only women panchayat members who are educated are allowed a more

participatory role in the functioning of the panchayat, which is low in numbers in rural India (Baviskar, 2002: 172).

Even as perpetrators, women concede to decisions taken by men, either as heads of families or as heads of *panchayats*. Women who act as perpetrators in ‘honour’ killings overtly or as silent spectators adopting a stoic stance instead of defending their daughters, are bound by the strong hold of patriarchy. Women as perpetrators of honour related violence emerge as a willing party in their own marginalization and exploitation. Women’s roles as accomplices to men in honour killings often remains underplayed because of women’s close association with childbirth, nurturing and childcare.

‘...cultural, ideological and psychological gender conditioning has led to the internalization of the idea of their own inferiority and subordination’ (Chowdhry, 1994:17).

Women’s best chance of survival lies in their observing the cultural and social bonds rather than in breaking them. Women are controlled through idealization of familial roles and emphasis on female modesty. Strict adherence to these norms is pivotal to maintenance of purity and consequently upholding one’s honour.

Women are socialized with male models of how to perceive the world. Women’s conceptions in a male dominated society are mere extensions or derivations of reality as defined by the male-centered culture (Dube, 1986: xv).

Although women go against their stereotypical gender role of nurturing and care to kill their own daughters, their participation in honour killings points to a deeply instilled patriarchy rather than to their equality with men represented in their avenging overridden societal norms. For women, it is not only socialization into caste ideology, but economic dependence on men of the family that makes them wary of opposing killings.

Women of varied age groups, including grandmothers, mothers, aunts, cousins and sisters become either participants or silent by-standers to the brutal killing of their own children. Older women participate due to their early socialisation into kinship, caste and community norms over a long period of time and due to their lack of economic independence. Younger women in the family such as sisters or cousins may relate to the plight of the victimised woman but their socialization into fear of *khap panchayats* keeps them from supporting or



protecting the victims. In 2010, Nirupama Pathak's mother was suspected of honour killing and was convicted for murdering her daughter, a Brahmin for wanting to marry a boy of the Kayastha community<sup>†</sup>. Another case of apparent involvement of women was from Sonapat, Haryana, where two minor girls were killed and their bodies thrown into a canal by their grandmother and two uncles for *allegedly* having an affair with their cousin<sup>‡</sup>.

### III. Hierarchy of Caste among Men: Men as Perpetrators and Victims of 'Honour' Killings

The aspect of 'honour' attached to the killings is an English connotation of the indigenous idea of reinstating honour, but only attributed to 'higher' and dominant castes, a result of their hegemonic power. As perpetrators, it is men, and not women of powerful castes who occupy majority numbers in caste *panchayats* which order the killings. It is only *their* singular notion of honour which they imposed on the collective through threat of violence. They attempt to embed their version of honour in the collective conscience. Collective conscience is defined by Durkheim as,

'the totality of beliefs and sentiments common to average citizens of the same society forms a determinate system which has its own life; one may call it collective or common conscience' (Durkheim, 1964: 79).

'Honour' killings do not represent collective conscience as defined by Durkheim. The *panchayats* lack equitable representation from women, lower castes and at times even upper castes due to the fact that each caste has its own *khap panchayat* in a region. Due to their economic and political power, it is men and not women among the dominant caste, who dominate definitions of what constitutes a crime and the punishment for it. Their hegemony

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<sup>†</sup> <https://www.deccanherald.com/content/67416/mother-held-honour-killing-delhi.html> (accessed on 7th August 2023) Nirupama Pathak case.

<sup>‡</sup> 'Sonepat: Grandmother, Uncles Kill Cousins' published by press Trust of India NDTV on 28<sup>th</sup> June 2010 available at <https://www.ndtv.com/cities/sonepat-grandmother-uncles-kill-cousins-422046> (accessed on 7<sup>th</sup> September 2023).

of caste and masculine gender extends to their own women folk too, who are forced to comply with their men folk as part of the collective group. As young girls, they learn to submit to familial decisions in their marriages and as women across all ages, even become perpetrators in 'honour' killings. This is because women imbibe not only socialization into their caste group but also into patriarchy, that enforces their adherence of *panchayat* decisions. Whether in caste endogamy or *gotra* exogamy, women remain the subject of exchange for and by men.

The exchange of women is a shorthand for expressing that the social relations of kinship system specifies that men have certain rights in the female kin and that women do not have the same rights in their male kin...[It is] a system in which women do not have full rights to themselves (Chakravarti, 2003:29).

Traditionally, caste endogamy serves to forge kinship alliances with like groups so that scarce resources may be equitably exchanged, thereby benefiting all members of the group. Compliance adds to the strength of the group. This compliance is taught through childhood socialisation, asserted through fear of punishment and deviation is avenged through extreme steps such as killings. This is because marriage exchange is a means of taking forward economic alliances between groups similar in caste status, and economic and political clout.

The kinship linkages provided by marriage give a caste group its strength, recognition and leverage in society (Chowdhry, 2007: 1).

The lack of resources among 'lower' castes due to continuity of overlapping of 'lower' caste with 'lower' class in rural areas, the economic liability of dowry associated with daughters and none reliance for continuity of family lineage on daughters means that girls are viewed as easily dispensable if they transgresses caste and marital norms. This is because their death does not cost the family economic loss or disturb the patrilineal line of descent. In fact, killing of truant daughters removes the economic responsibility and moral liability from the shoulders of the family in the sense that question of dowry does not arise.

Within the category of men, caste demarcates hierarchy, symbolised through traditional imposition of subservience of 'lower' castes to 'higher' castes. This is reflected in avoidance of interaction, prohibition on marriage and commensality and acceptance of lack of access to

equal opportunities of social, economic and political equality for the latter. Shift in class status of 'lower' caste men through education and economic opportunities pose a threat to conventional basis of hegemonic power of 'twice born' and dominant castes. Thus men are not a homogenous category under patriarchal entitlements. They have different choices in marriage according to their caste.

Opposition by *panchayats* to certain marriages finds basis in attempts of the dominant castes to follow social closure by preventing interaction among castes to maintain caste exclusivity through imposed caste endogamy in marriage. Although dominant castes themselves quantify honour in economic terms, they render the same unachievable for other castes through practice of social closure from memberships, say in *panchayats*, etc. Social closure according to Weber refers to:

...the processes by which groups devise and enforce rules of membership, the purpose of such rules typically is to "improve the position [of the group] by monopolistic tactics (Grusky, 1994:15).

This tendency is apparent in the ordering of killings by *khap panchayats* to annul class mobility of 'lower' castes. This may be driven by dominant castes' resentment towards attempts by 'lower' castes to achieve economic betterment. Education and employment through affirmative action puts 'lower' castes in a position to challenge the privileges which dominant castes have appropriated for themselves.

As far as men are concerned, upper caste men can and do violate the bodily being of women from other castes, but are not automatically penalized therefore. They might suffer temporary embarrassment or dishonour, but more usually their philandering is considered a mark of their virility, even a right bestowed on them due to their caste status. Lower castes, especially dalit men, however, are denied this 'right' with respect to upper caste women since their philandering would upset the logic of the caste order. (V.Geetha, 2007: 95).

Dominant castes oppose hypogamous marriages as they consider such marriages attempts by 'lower' caste men to garner an economic foothold by marrying into a dominant caste. Emulating the ritually pure castes, the dominant castes seek high caste status by projecting overzealousness in salvaging their honour lost at the hands of their daughters marrying

outside the caste group. They seek to punish 'lower' caste men for harbouring relations with their womenfolk. Stringency in fixing marriage alliances within caste endogamy is a means of seeking gainful economic ties with well-off groups.

It is wrong to assume that honour killings always signify necessarily a tussle between generations. In the hub of changes introduced by modernization and globalization, the older generation finds its authority threatened. It tends to cling on to the community norms that it is familiar with in an attempt to feel that its power holds good to this day. However, differences exist between men of the same generation. Although the panchayat elders may sanction the violence, perpetrators include youth of the same generation as the victims. That is, it is the youth that victimize the youth. Younger men of upper and dominant castes participate in the violence because they are made to believe that the alliances of their sisters with men of 'lower' castes forebodes the rise of lower caste assertion. This would be a challenge to the power of their caste group and to the opportunities the 'higher' and dominant castes have usurped for themselves. In case of hypogamous marriages, they may resort to killing as revenge against 'lower' castes under the influence of community stereotypes or as jealousy against 'lower' castes which have attained education and employment thus making a choice of marriage partner from among 'their' ('higher' caste) girls. They might also resent the girls' share of property from the natal home going to another caste group as dowry upon marriage. Dowry is considered the girl's share in movable property --- a form of pre-mortem inheritance given to women at the time of their marriage (Sharma, 1993:351).

Contrary to the dominant ideology and the terminology of traditional Hindu law, dowry property is not women's wealth, but wealth that goes with women. Women are vehicles by which it is transmitted to its owners (*ibid*, 1993).

Laws for prescribing affirmative action to lower castes in education and jobs has empowered them and made them aware of their right to equality of opportunity, choice and social status irrespective of caste. They are economically better off due to jobs beyond the bindings of traditional ritually-tainted caste-based occupations within the village. They have overcome their economic reliance on the exploitative money lenders. Lower caste men are not ready to accept being targeted as inferior as marriage partners for women of other castes. Awareness

of law enables protests against honour killings as barbaric and as being the privilege of powerful castes alone to define tradition and honour.

#### **IV. The Extent of the Rule of Law on the Issue of ‘Honour’ Killings**

The use of the term ‘honour’ in the context of honour killing initiates varied reactions, both in reflecting continuity as well as changes across caste, class and the rural-urban spectrum. This indicates differences in caste and gender norms in India. For perpetrators, under customary laws, the killings are justified as collectively designated punishment for breaking caste norms. For others, Constitutional Laws designates the killings as murder. Families of victims at times give in to the decisions of the *khap* panchayats out of fear. They do not necessarily accept that marriages outside of conventional caste norms qualify as crime and the killings as apt punishment.

Caste endogamy asserted by dominant castes defies any explanation of allegiance to customary laws. It is a ruse for well-off castes to use marriage alliances to further material exchange and retention of resources within the caste group. The killings do not necessarily avenge the ritual status of the ‘pure’ or twice-born castes or a result of participation of only ‘upper’ castes in *khap* panchayats. D’Souza objects to caste hierarchy as ideologically enforced by priestly Brahmins. He asserts that economic concerns drive caste hierarchy.

As in the class system, so in the caste system too, it is the prestige of occupations followed by the members that determines the status of their caste group and not vice versa as assumed in the ideological theory (D’ Souza, 2006: 292).

For the dominant caste, the rule of caste endogamy enables inclusiveness through kinship alliances with like-groups for access to economic resources. Lacking in ritual purity themselves, the dominant castes do not prioritise ritual purity. For instance, in Haryana, land ownership by the dominant caste, the Jats, designated their power in the community as the agriculturally powerful *zamindar* or landowning class. This power is contrary to the view that Brahmins enjoy privilege of highest power in the caste hierarchy based on their ritual purity. The shift of power from Brahmins to the Jats in Haryana began from the early 1920s with decline in the influence of the Arya Samaj. Brahmins came to be regarded as dependents on the Jats for food grain. Having nothing to offer in return except occasional ceremonial

services, the power of the Brahmins in the region gradually ebbed away, making way for the rise of the power of the Jats (Chowdhry (1994).

The concept of dominant caste in a given region, as described by M.N. Srinivas, was well illustrated by the Jats of Haryana. Numerically and economically stronger than any other caste, they satisfied yet another criterion of dominance, i.e. in the ritual hierarchy they did not occupy a low ritual status....Most other castes stood in a relation of servitude to the landowning Jats who were the single largest receivers of services from other castes (*ibid*, 1994: 41).

Fear of the dominant castes, idea of marriage as a personal family matter and threat of loss of honour has resulted in the issue of honour killings not entering public discourse frequently. Perspectives of perpetrators, victims and witnesses of honour killings are difficult to access rendering measures to address and end honour killings a challenge. The fact that the killings are recorded as murders and kidnappings and not as honour killings specifically dilutes the seriousness that their incidence within families holds and requires urgent attention due to their specific context as sanctioned under customary law. It becomes difficult to get clear statistics about their extent and frequency<sup>§</sup>.

Nevertheless, men and women in different capacities are impacting changes to curb honour killings. Challenges to the hegemonic definition of honour killings emerge from among men and women from varied quarters—as law makers, as social activists, as family members and as keepers of constitutional laws in their capacity as police officers. Laws were established, amended and revised to uphold the rights of individuals to marry out of choice.

The Constitution of India under Fundamental Rights includes Article 14 declaring Right to Equality before Law, Article 15 Prohibition of Discrimination on grounds of religion, race,

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<sup>§</sup> ‘Study Finds Rise in Reported Cases of Honour Killings, but No Legislative or Social Remedy in Hand’ available at <https://thewire.in/caste/caste-honour-killings-cases-laws> (accessed on 2nd September 2023).

caste, sex or place of birth, Article 17 Abolition of Untouchability, Article 19 Right to Freedom and Article 21 Right to Life\*\*.

However, till date there is no specific law on 'honour' killing.

The first concrete law to remove the hold of traditional caste hierarchy from marriage decisions was Hindu Marriage Act (XXXV of 1955) which allowed marriage within the same *gotra* and across castes without intervention by text, rule or interpretation of the Hindu law or any customary usage (Chowdhry, 2007: 92). It was the result of the amalgamation of the Hindu Marriages Disabilities Removal Act 1946 and the Hindu Marriage Validity Act, 1949. The former validated *sagotra* marriages between two Hindus while the latter allowed inter-caste marriages (Chowdhry, 2004:55).

In 2013, the Dr. Ambedkar Scheme for Social Integration through Inter-Caste Marriages<sup>††</sup> was launched. It was funded by the Ministry of Social Justice and Empowerment. It aimed to incentivise legal inter-caste marriages where one spouse belonged to a schedule caste. The scheme extended financial assistance of Rs 2.50 lakh per marriage to couples to help them settle down in the initial phase of their married life. The scheme unfortunately did not garner much popularity. According to newspaper reports in 2017, the scheme did not achieve even 10% of its target. The government plans to work on tackling the issue of lack of awareness and also bring in stringent norms of eligibility such as income barriers to encourage takers for the scheme (Dubbudu, 2017).

*Khap panchayats* oppose intragotra (*sagotra*) marriages, which are otherwise recognised as legal by the State. The Hindu Marriage Disabilities Removal Act 1946 permits *sagotra* marriages between two Hindus notwithstanding any text, rule or interpretation of the Hindu law or any customary usage. *Sagotra* unions face strong dissent in the traditional context as incestuous under the belief that those of the same *gotra* constitute close kin.

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\*\* <https://iddashboard.legislative.gov.in/sites/default/files/COI...pdf> The Constitution of India declares prohibition on discrimination based on caste and practice of untouchability (accessed on 2<sup>nd</sup> September 2023).

†† <https://socialjustice.gov.in/writereaddata/UploadFile/DAF71119637087324014147273.pdf> (accessed on 5th September 2023) Dr. Ambedkar Scheme for Social Integration through Inter-Caste Marriages.

However, consideration of *sagotra* marriages as incestuous is debatable because the rule of *gotra* exogamy in India lacks uniformity. This again challenges customary laws as basis of killings in the name of caste. According to Kolenda, a *gotra* is a dispersed sib or clan. Within a locality, such a group emphasizes cooperation in life-cycle and other rituals among its members, who often form a self-governing council. A number of *gotras* form an endogamous unit. There may be “brother” *gotras*, among whom marriage is prohibited.

For example, the *gotra* according to the holy text of the Aryans, the Rig Veda, was an “exogamous non-localised patrilineal sib”--- i.e. a set of male relatives who believed themselves to have descended from a common male ancestor although actual linkages could not be remembered and traced. *Gotra* members resided in various localities, so they were dispersed and non-localised. They were exogamous, required to marry women of other sibs (Kolenda, 1997: 30).

To explain *gotra* exogamy, some employ the four-clan rule that prohibits marriage between two persons who share any two of their eight *gotra* links (Karve, 1953: 118). Thus, a man must not marry a woman from his father’s *gotra*, his mother’s *gotra*, his paternal grandmother’s *gotra* and his maternal grandmother’s *gotra*.

Restricting choice in marriage based on *gotra* exogamy goes against right to life and personal liberty given under Article 21. Other statutory laws in India also overrule discrimination in marriage based on differences of caste, race, religion or ethnicity. For instance, according to the Hindu Marriage Disabilities Removal Act 1946, if a marriage is valid as per law, then no text, interpretation or custom could refute its sanctity (Jaisingh, 2013). Dr. B.R. Ambedkar, in formulating the Hindu Marriage Act, envisioned defeating the caste system by making provisions for marriage beyond the confines of caste endogamy and *gotra* exogamy. Thus, in the Hindu Marriage Act, the term ‘Hindu’ encompasses Buddhists and Sikhs to expand the possible choice of marriage partners and allows marriage between two Hindus (*ibid*, 2013: 10).

Marriages are assumed to be the prerogative of elders to arrange, keeping in mind caste, class and family background. Love marriages are believed to be spontaneous immature decisions that are expected to end in divorce. However, according to the Hindu Marriage Act 1955, a valid marriage does not need the consent of parents or a panchayat. This has been challenged



by *khap panchayats*. For instance, as per the *Gill Gotra Khap Panchayat* of the State of Haryana, customary marriage laws in North India do not allow marriage among close relatives as seen in the case of uncle-niece marriage in South India. Thus, the Hindu Marriage Act 1955 should not be uniformly applicable across India (Jaisingh, 2013:10). It should be amended to check love marriages and divorce by making *kanyadaan* by parents, elder brother, maternal or paternal uncles of the girl a mandatory part of validating a marriage. *Khap panchayats* in Haryana have been demanding amendments in the Hindu Marriage Act (1955) to make *sagotra* marriages illegal (Rao, 2023).

The Special Marriage Act 1954 that grants legal recognition to inter-caste and inter-faith marriages, specifies the degrees of prohibited relatives up to three generations. According to Karve (1953: 118), some employ the four-clan rule that prohibits marriage between two persons who share any two of their eight *gotra* links. This leads to divergence in agreement on rules of avoidance and restrictions on choice in marriage.

The NGO Shakti Vahini won the petition it filed against honour killings in 2018<sup>‡‡</sup>. The Supreme Court declared interference by *khap panchayat* in marriages involving two consenting adults as illegal. It ordered fast track courts to deal with honour killing cases, both pending and new, within six months.

The Ministry of Home Affairs released an advisory to state governments, dated 31<sup>st</sup> May 2018, to set up special cells in all districts with a 24 hour helpline to receive and address complaints of couples threatened for inter-caste marriage<sup>§§</sup>. A PIL was put up by Shakti

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<sup>‡‡</sup> ‘Important Judgment of the Supreme Court of India published by the National Human Rights Commission India available at <https://nhrc.nic.in/press-release/important-judgment-supreme-court-india-0> (accessed on 5th September 2023) Shakti Vahini wins PIL in Supreme Court. Court declared that any interference from *khap panchayats* in marriage between consenting adults is illegal.

<sup>§§</sup> Government of India, Ministry of Home Affairs Advisory available at <https://eparlib.nic.in/bitstream/123456789/776841/1/AU2106.pdf> (accessed on 4th September 2023) In the advisory to state governments, Hansraj Gangaram Ahir, Minister of State in the Ministry of Home Affairs announced that the Government prescribed special cells to look into matters pertaining to honour related crimes. these cells would be overseen the Superintendent of Police, the District Social Welfare Officer and a District Adi-Dravidas Welfare Officer in each district in an attempt to remedy and curb the threat of honour related violence.

Vahini mandating shelter homes in all states and union territories for runaway couples involved in inter-caste and inter-faith marriages. However, despite the Supreme Court ruling in its favour, only three states namely Punjab, Haryana and Delhi have provision for such shelter homes. Only Delhi has a dedicated cell for such cases (Bose, 2022).

Women activists have also taken initiative to oppose *khap panchayat* decisions. One instance is Jagmati Sangwan, director of Women's Study Centre, Maharishi Dayanand University, who stormed *khap* meetings where women are not welcome and arranged support for families ostracized over same *gotra* marriages. As the State President of the All India Democratic Women's Association (AIDWA), Sangwan created a force of over 1,000 women activists.

A ground breaking case of the first ever conviction in a case of honour killing was made in 2010 for the killings of Manoj and Babli in 2007 for intra-gotra marriage by the latter's kin in Kaithal, Haryana. This case highlighted women fighting against the *khap panchayat* for recognition of the killings as murders. Despite education and struggling economically, Manoj's widowed mother Chanderpati faced threats to her life for taking the case to court. Additional District and Sessions Judge Vani Gopal Sharma took up the case on a priority basis, issuing death penalty to the five accused. Jagmati Sangwan provided support to the family. However, with subsequent appeals, in March 2010, the Punjab and Haryana High Court commuted the death sentences of the four prisoners to life imprisonment<sup>\*\*\*</sup>. This raises questions about how long lasting judgements are and shows how blatantly caste-based clout works to turn matters in favour of those in power, even in courts of law.

The National Crime Records Bureau does not specifically report cases of honour killings, instead clubs them with cases of homicide<sup>†††</sup>.

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<sup>\*\*\*</sup> <http://nlrd.org/wp-content/uploads/2012/01/Manoj-and-Babli.pdf> (accessed on 5th September 2023) Criminal Appeal decision in Manoj-Babli Case in 2011.

<sup>†††</sup> [https://ncrb.gov.in/sites/default/files/CII-2021/CII\\_2021Volume%201.pdf](https://ncrb.gov.in/sites/default/files/CII-2021/CII_2021Volume%201.pdf) / <https://ncrb.gov.in/en/Crime-in-India-2021> Crime in India 2021 Statistics Volume National Crime Records Bureau Ministry of Home Affairs (accessed on 2<sup>nd</sup> September 2023)

As there is currently no national legislation specifically addressing honour killings, crimes related to honour fall under the general penal provisions outlined in the Indian Penal Code, 1860 (“IPC”). These provisions include Sections 107–11 (abetment of murder), Section 120A and 120B (criminal conspiracy), Sections 299–304 (murder and culpable homicide), and Sections 307-308 (attempt to murder and culpable homicide). Apart from the IPC, cases of honour killings can also be covered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which deals with atrocities committed against Dalits and tribals (Deshpande, 2022).

The Prohibition of Interference with the Freedom of Matrimonial Alliances Bill tabled in Lok Sabha in 2015 is meant to...

... provide for, in the interests of protecting individual liberty and preventing victimisation, prohibition of unlawful assemblies and other conduct interfering with the freedom of matrimonial alliances in the name of honour and tradition and for matters connected therewith or incidental thereto<sup>†††</sup>.

The Bill marked the first law on honour killings in Rajasthan called the Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill, 2019. It was passed in the Rajasthan Assembly in 2019. It gives the punishment of life imprisonment or death penalty and a fine of Rs 25,000/- to those accused of murders in the name of honour killings (Sundaravelu, 2020). However, the Bill has loopholes such as excluding the mention of sub-castes within Schedule Castes and Muslims and targeting minorities specifically for capital punishment (Sarkar, 2020).

While laws and policies are being considered and passed, reports of killings in the name of honour continue to filter in from not only rural but urban areas as well. Nitish Katara killed in 2002 for his relationship with Bharti Yadav, the daughter of politician D.P. Yadav by her brother Vikas Yadav and cousin Vishal Yadav, and that of Bhavna Yadav killed by her

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<sup>†††</sup> <http://164.100.47.4/billstexts/lbillstexts/asintroduced/89LS.pdf> The Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill, 2015 (accessed on 2<sup>nd</sup> September 2023)

parents in 2014 just 3 days after her marriage for marrying against their wishes in South West Delhi's Dwarka area are some cases that reflect the prevalence of honour killings tied to urban areas<sup>§§§</sup>.

## V. Conclusion

Both men and women are involved as victims as well as perpetrators in 'honour' killings cutting across caste, generations, educational level and regional identity. However, victims, primarily women and 'lower' castes have in recent years, acquired access to education and employment as a means of bettering their life circumstances. They are now participating in decision-making processes and refuting norms hitherto passed on as 'tradition', namely use of violence to curb their assertion of equality and thereby, choice. Their recently increasing agitations against discriminatory practices and social norms have made them targets of violence from higher castes who view their assertion as a threat to their hegemonic power. The level of brutality in avenging inter-caste and intra-gotra marriages in rural areas has escalated enough to garner mention in media reporting in urban areas.

Gender stereotypes of the conduct of women and men as submissive and aggressive respectively are challenged during the examination of victims and perpetrators of 'honour' killings. However, even as perpetrators women are driven by patriarchy. Assertion of choice in marriage by daughters is portrayed to their family and community - including men and women - as diminishing values of shame, decency and modesty, which are stereotypical feminine characteristics assigned to women within a patriarchal setting. Women's susceptibility to promiscuity is a construction of patriarchy to impose restrictions on women's participation in decisions and choices in matters of their lives. Patriarchy continues to thrive within the family and within village councils.

However, not all men of 'higher' castes find marriages across caste a threat to the honour of their community or their women. Not all inter-caste unions are met with brutal violence. This

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<sup>§§§</sup> 'Nitish Katara, Manoj-Babli: 5 Honour Killing Cases that Shocked India' published in Midday dated 4<sup>th</sup> October 2016 available at <https://www.mid-day.com/news/india-news/article/nitish-katara-murder-case-honour-killing-cases-vikas-yadav-vishal-yadav-conviction-17443183> (accessed on 7th September 2023).

shows that caste hegemonies are being challenged in India, but the pace of change is slow. Older men and women in a rural setting imbibe the traditional semblance of honour, related to customary definitions of justice and thus participate as perpetrators. However, their reasons can range from patriarchy of men to disempowerment of women. Younger men and women in rural areas or residing permanently in urban areas are exposed to modernity and find 'honour' killings reflective of a regressive society. Perpetrators among them emerge due to economic considerations of wealth passing to another caste group.

On the political front, the conflict between customary and constitutional law on 'honour' killing remains. There is resentment even among castes which are considered ritually and economically 'higher' and can exercise constitutional provisions enabling equality by standing against discrimination and introduce enabling factors and affirmative actions. However, constitutional provisions empowering 'lower' castes through class mobility with education and employment and strengthening women as participants and decision makers in their roles as social activities, law makers and judges, hold hope for curbs on 'honour' killings.

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