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INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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# **CASTE BASED HONOUR KILLINGS IN TAMILNADU. A LEGAL ANALYSIS UNDER THE BNSS AND THE SC/ST (PREVENTION OF ATROCITIES) ACT**

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## **ABSTRACT**

Caste-based honour killings represent one of the most deeply entrenched violations of constitutional rights in contemporary India. In Tamil Nadu, inter-caste relationships particularly between Dalits and members of dominant OBC communities such as Gounders, Thevars, and Vanniyars continue to trigger organised lethal violence, orchestrated by families and legitimised by caste panchayats operating entirely outside any legal framework. Despite constitutional guarantees under Articles 14, 15, 19 and 21, and despite the existence of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, the gap between the law on paper and justice in practice remains wide and well-documented.

This dissertation examines that gap. It analyses the adequacy of the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), the Bharatiya Nyaya Sanhita 2023 (BNS), and the SC/ST Act in preventing and prosecuting caste-based honour killings in Tamil Nadu. Drawing on NCRB data, NGO documentation, landmark Supreme Court and Madras High Court decisions, and a comparative legal study of Pakistan, the United Kingdom, Turkey, and Jordan, the study argues that the existing legal framework is structurally inadequate not because the law is entirely silent, but because it lacks a dedicated legislative architecture for honour killing as a distinct criminal category.

The principal findings are that police in Tamil Nadu routinely fail to invoke the SC/ST Act, stripping Dalit victims of enhanced legal protections; that conviction rates in SC/ST Act cases hover between twenty-two and thirty-five percent due to witness intimidation, hostile witnesses, and inadequate prosecution; that the BNSS and BNS, despite meaningful procedural improvements, contain no provision specifically addressing honour killing; and that the Law Commission's 2012 recommendation for a dedicated statute has remained unimplemented for over a decade.

The dissertation concludes with a set of comprehensive recommendations: enactment of a dedicated Prevention of Honour Killings Act; amendments to the SC/ST Act explicitly listing honour killing as an enumerated atrocity offence; establishment of Honour Crime Investigation Cells in high-incidence districts; statutory witness protection; and sustained investment in community norm change. The comparative analysis demonstrates that jurisdictions with dedicated legal frameworks particularly the United Kingdom achieve measurably better accountability outcomes. India has the constitutional foundations, the judicial precedents, and the civil society capacity to do the same. What it lacks is the legislative will.

## CHAPTER I INTRODUCTION

### **1.1 : Caste-Based Honour Killings in Tamil Nadu**

It was a Tuesday afternoon in March 2016. Shankar and Kausalya were walking near a bus stand in Udumalpet, a small town in Tirupur district, when four men came at them with knives. Shankar, twenty-two years old and a Dalit, fell and did not get up. Kausalya a young woman from the Gounder community, Shankar's wife of a few months was left bleeding on the pavement. The whole thing was over in under two minutes. A CCTV camera above the bus stand caught every second of it. The footage spread across the country within hours.

What stunned people was not only the brutality. It was the brazenness. This was not a killing carried out in darkness, in a field, in the silence that usually surrounds these deaths. This one happened in daylight, in public, in front of strangers who scattered rather than intervened. The men who did it were hired. The man who hired them, investigators would later establish, was Kausalya's own father. He had decided that his daughter's marriage to a Dalit man was an insult that could only be answered in blood.

Tamil Nadu does not come to mind first when people think of honour killings. That geography tends to fall on Haryana, on the khap belt of western Uttar Pradesh, on the desert districts of Rajasthan. But the numbers tell a different story. The NGO Evidence, which has kept a case-by-case record of honour killings in Tamil Nadu since 2003, documented seventy-eight such deaths in the state over just twelve years. Eighty-five percent of those victims had a Dalit partner. The same district names appear again and again: Tirupur, Dharmapuri, Salem, Namakkal, Villupuram, Madurai.

These are not outliers scattered across a map. They are a pattern.

What makes Tamil Nadu distinctive is the specific shape of the violence. In North India, honour killings are most often triggered by same-gotra marriages within a caste a violation of ritual purity rules internal to the community. In Tamil Nadu, the trigger is almost always inter-caste: a Dalit man who has fallen in love with a Gounder woman, a Dalit family that has welcomed a Thevar daughter-in-law. The concern is not purity within the group but the boundary between groups. When that boundary is crossed, the response is not only from the immediate family. It is a community event. Caste panchayats assemblies of elders with no legal authority whatsoever convene, deliberate, and issue diktats. Sometimes those diktats end in murder.

The law, on paper, has answers to all of this. Murder is punishable with death. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted specifically to protect Dalits from caste-motivated violence. The Supreme Court has issued some of the most forceful judgments in its history affirming the right of every adult to choose a partner freely, and condemning anyone who uses violence to override that choice. And still, by the account of every researcher, every activist, and every survivor who has tried to navigate the system, justice in Tamil Nadu honour killing cases remains partial at best and absent at worst.

Understanding that gap between what the law says and what the system actually delivers is the purpose of this dissertation. It starts from a straightforward observation: the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the Code of Criminal Procedure on 1 July 2024, and the Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the Indian Penal Code on the same date, contain no mention of honour killing. Not a single provision. No definition, no aggravated offence category, no mandatory investigation protocol, no specific state obligation when an inter-caste couple reports credible threats of violence. In that silence lives the research problem this work tries to address.

Evidence (NGO), *Honour Killings in Tamil Nadu: A Twenty-Year Documentation 2003–2022* (Chennai 2022). Shankar (Kausalya) v State of Tamil Nadu, Crl A No 386/2017 (Madras High Court).

National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, Government of India).

## 1.2 Literature Review

The scholarly conversation about honour killings in India has been shaped, more than by any other single text, by a speech that B.R. Ambedkar delivered in Lahore in 1936. *Annihilation of Caste* was written to be read at a conference of caste reformers; it was too radical and the conference was cancelled. Ambedkar had it published himself. His argument at its core was that caste is not merely a system of social inequality it is a system of graded inequality whose entire architecture depends on endogamy. Communities reproduce themselves across generations only if their members marry within the group. Inter-caste marriage does not merely threaten individual families; it threatens the survival of caste as a system. Death, in Ambedkar's analysis, is not an aberrational response to inter-caste love. It is the system's immune response.

Reading *Annihilation of Caste* against the CCTV footage from Udumalpet, nearly a century apart, the continuity is uncomfortable. The structural argument holds. Uma Chakravarti's essay "Conceptualising Brahmanical Patriarchy in Early India" (1993) sharpens it by adding a gender dimension Ambedkar left somewhat underdeveloped. Chakravarti shows how the caste-gender nexus assigns women a specific role as custodians of caste purity their bodies are the terrain on which caste hierarchy is reproduced. A woman who chooses a Dalit partner is not merely making a personal decision; she is violating a structural function. The violence that follows is, in this sense, both patriarchal and casteist at once aimed at restoring two orders simultaneously.

Gail Omvedt's work on Dalit social movements adds a political dimension: dominant communities experience inter-caste marriage not as an individual act but as an act of Dalit assertion a claim to social equality that threatens the entire edifice. This is why the response to inter-caste couples in Tamil Nadu so often involves not just their immediate families but political actors: party workers affiliated with the Pattali Makkal Katchi in Dharmapuri, community organisations in Tirupur, caste networks mobilised across districts. The private act is read as a political statement. The retaliation is organised accordingly.

From a legal perspective, K.I. Vibhute's *Criminal Justice, Social Order and Social Control in India* (2004) makes a point that cuts through a great deal of subsequent analysis: Indian criminal law was

built on a fiction of social neutrality. It assumes individual perpetrators making individual choices for individual reasons. It has no real framework for addressing crimes whose very nature is collective crimes that are planned by community assemblies, carried out by hired agents, and shielded by community solidarity. Honour killings in Tamil Nadu are precisely this kind of crime. The general criminal law is not designed to reach them.

The Law Commission's 242nd Report (2012) is the most thorough official acknowledgement of this mismatch. The Commission reviewed the existing IPC and CrPC provisions, examined cases from across India including several from Tamil Nadu, and concluded that the framework was inadequate. It recommended a dedicated statute. That was twelve years ago. The statute has not been enacted. Its absence defines the current legal landscape as clearly as any provision that exists.

International scholarship Phyllis Chesler's comparative survey (2010) and Tahira Shaid Khan's historical materialist analysis (2006) provides useful frames but focuses mainly on Muslim-majority contexts where religious rather than caste factors drive the violence. The comparative chapter of this dissertation draws from that literature while remaining attentive to what is specifically Tamil Nadu's own: the caste-endogamy logic that is Ambedkar's legacy to understand, not a religious honour code.

What this literature does not contain — the gap this dissertation tries to fill — is any systematic analysis of what the BNSS and BNS actually offer, or fail to offer, in the honour killing context. Both statutes came into force in 2024. The scholarship on them, in this specific context, is essentially non-existent.

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BR Ambedkar, *Annihilation of Caste* (Navayana Publishing 1936, reprint 2014).

Law Commission of India, *242nd Report on Prevention of Honour Killings* (August 2012).

KI Vibhute, *Criminal Justice, Social Order and Social Control in India* (Eastern Book Company 2004).

### **1.3 Socio-Legal Context**

Tamil Nadu's caste geography is plural and contested. There is no single dominant community. The Gounders hold sway across the Kongu belt in the west. The Thevars are the dominant force in the southern districts. Vanniyars are numerically powerful in the north. Nadars have their own strongholds in the far south. Dalits — around nineteen percent of the population — cut across all these regions, tied to dominant communities through agricultural labour, land tenancy, and generations of economic dependence.

That dependence creates the conditions for honour killing in a way that is specific to Tamil Nadu. A Dalit man who marries a Gounder woman does not only offend the woman's family. He offends the community's sense of order — the social hierarchy that keeps Dalit labour available and subservient. His marriage is a claim to equality. The violence that follows is the assertion that equality is not available. The legal system is supposed to be the counterweight to that assertion. In too many districts, it is not.

Police stations in rural Tamil Nadu are staffed predominantly by officers drawn from OBC communities. The Special Courts established under the SC/ST Act are supposed to be a corrective, but their judges and prosecutors are embedded in the same social world as the communities they are meant to hold accountable. The promise of equal protection, which the Constitution makes in unambiguous language, is filtered through institutional actors who do not always deliver it.

#### **1.4 Significance of the Study**

This dissertation matters for several reasons. Legally, it provides the first analysis of the BNSS and BNS in the honour killing context — statutes that have been in force for over a year without any sustained scholarly examination of their adequacy for this specific category of crime. Constitutionally, it contributes to the ongoing argument about what positive state obligations under Articles 14, 15, 19 and 21 actually require in practice. Empirically, it synthesises data from NCRB reports, NGO records, and court decisions into a picture of the problem that is more complete than any single prior source. Comparatively, it draws specific lessons from four international jurisdictions that have grappled with similar issues.

#### **1.5 Aim and Objectives**

The aim is to examine the adequacy of India's legal framework in responding to caste-based honour

killings in Tamil Nadu, and to propose reforms that are grounded in evidence and comparative experience. The specific objectives are:

1. To trace the historical, sociological, and theoretical foundations of honour killings in Tamil Nadu within the frameworks of patriarchy, caste hierarchy, and constitutional morality;
2. To analyse the BNSS procedural provisions on FIR registration, investigation, bail, and trial, and assess how well they address the specific challenges of honour killing cases;
3. To examine the BNS provisions on murder, conspiracy, and abetment as applied to community-sanctioned caste killings;
4. To evaluate the SC/ST Act's scope and enforcement record in Tamil Nadu, including the impact of the 2015 Amendment;
5. To analyse landmark Supreme Court and Madras High Court decisions and assess the extent to which judicial activism has compensated for legislative inaction;
6. To conduct a comparative study of honour crime frameworks in Pakistan, the United Kingdom, Turkey, and Jordan; and
7. To propose legislative, institutional, and policy reforms for the effective prevention and prosecution of caste-based honour killings.

## **1.6 Research Problem**

Put plainly: despite a constitutional guarantee of the right to life, broadly applicable murder provisions, and a dedicated atrocity statute, caste-based honour killings in Tamil Nadu continue to claim lives, conviction rates hover around twenty-two to thirty-five percent in SC/ST Act cases, witnesses routinely turn hostile, and police frequently refuse to register FIRs in the first place. The newest criminal codes enacted as sweeping reforms do not mention honour killing at all. The Law Commission's recommendation of a dedicated statute has sat on a shelf for twelve years. The research problem, simply stated, is whether the existing legal framework is capable of effectively addressing these killings — and the evidence strongly suggests it is not.

## **1.7 Research Questions**

1. Do the BNSS provisions on FIR registration, investigation, bail, and trial provide adequate mechanisms for prosecuting caste-based honour killings in Tamil Nadu?
2. Are the BNS provisions on murder, conspiracy, and abetment sufficient to reach

killings organised through collective caste panchayat deliberation?

3. Does the SC/ST Act provide effective protection, and what are the main obstacles to its enforcement in Tamil Nadu?
4. What constitutional obligations does the state carry in relation to honour killings, and how has the Supreme Court given them content?
5. What lessons can India draw from the legal responses of Pakistan, the United Kingdom, Turkey, and Jordan?
6. What legislative, institutional, and policy reforms would create an effective legal response to caste-based honour killings?
7. Does the Tamil Nadu evidence support the hypothesis that the absence of a dedicated statute is the primary cause of the legal framework's failure?

## **1.8 Hypothesis**

The dissertation proceeds from the proposition that India's existing legal framework is structurally inadequate not merely imperfectly implemented because it lacks a dedicated legislative framework for honour killings. The general murder provisions, atrocity statute, and judicial directions provide the raw materials of a response but not the architecture to make that response reliable and consistent. Jurisdictions with dedicated honour crime legislation show measurably better prosecutorial outcomes, suggesting that the legislative gap is the most important single variable to address.

## **1.9 Research Methodology**

The methodology is primarily doctrinal examining and interpreting statutes, constitutional provisions, and judicial decisions using established principles of legal analysis. This doctrinal work is supplemented by an analytical layer that brings empirical data to bear on the question of whether the law is working: NCRB statistics, NGO records, conviction rate data, and the documented patterns of police behaviour in Tamil Nadu. A comparative dimension examines four foreign jurisdictions to identify reform lessons. The combination of these three approaches doctrinal, analytical, and comparative is the most appropriate methodology for a question that is simultaneously about what the law says, whether it works, and what it could learn from elsewhere.

## **1.10 Sources of Data**

Primary sources include the BNSS 2023, BNS 2023, Bharatiya Sakshya Adhiniyam 2023, the SC/ST Act 1989 and its 2015 Amendment, the Constitution of India, Supreme Court and Madras High Court judgments, UN Human Rights Council reports, and relevant foreign statutes. Secondary sources include NCRB Crime in India reports from 2017 to 2022, Law Commission of India reports, academic monographs and journal articles, NGO documentation from Evidence and People's Watch, and parliamentary debates.

### **1.11 Research Gap**

No published scholarship has yet analysed the BNSS and BNS both in force only since July 2024 in the specific context of caste-based honour killings. The existing legal scholarship on honour killings focuses either on the older IPC/CrPC framework or on North Indian contexts that differ structurally from Tamil Nadu's. The particular combination of Tamil Nadu-specific empirical grounding with a four-jurisdiction comparative analysis also represents a contribution the existing literature does not contain.

### **1.12 Limitations**

NCRB data does not separately categorise honour killings, so all incidence figures involve some estimation. Access to interim Madras High Court orders at the protective petition stage was limited. The comparative analysis relies on translated legislative materials, which may not capture every

nuance. And the research does not incorporate primary fieldwork or victim testimony, relying instead on documented secondary sources. None of these limitations, in the author's assessment, undermines the core conclusions.

### **1.13 Scheme of Study**

Chapter II sets out the historical and theoretical foundations how the caste system evolved, what "honour" means in this specific context, and which sociological and constitutional frameworks best illuminate the problem. Chapter III analyses the legislative framework in detail, examining the BNSS, BNS, SC/ST Act, and the absence of a dedicated statute. Chapter IV maps the practical challenges: why the existing law so frequently fails in application. Chapter V examines the judicial contribution — what the Supreme Court and Madras High Court have built without any dedicated legislation to work with. Chapter VI draws comparative lessons from Pakistan, the United Kingdom, Turkey, and Jordan. Chapter VII synthesises findings into recommendations. Bibliography and annexures follow.

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Evidence (NGO), Honour Killings in Tamil Nadu: A Twenty-Year Documentation 2003–2022 (Chennai 2022). National Crime Records Bureau, Crime in India 2022 (Ministry of Home Affairs, Government of India).

Law Commission of India, 242nd Report on Prevention of Honour Killings (August 2012).

## **CHAPTER II**

### **HISTORICAL AND THEORETICAL FRAMEWORK**

#### **2.1 How the Caste System Got Here**

The Rigveda describes the origin of the world's social order through the dismemberment of a primordial being: the Brahmin from the mouth, the Kshatriya from the arms, the Vaishya from the thighs, the Shudra from the feet. Those who fell entirely outside this fourfold scheme the casteless, the untouchable are not mentioned at all. Their invisibility in the founding text would prove, over the following three thousand years, to be a template for their treatment within the social order it prescribed.

What followed from that origin story was not merely social stratification. It was a detailed, elaborated system of rules governing who could eat with whom, who could touch whom, and most fundamentally who could marry whom. The Dharmashastra literature, particularly the Manusmriti, codified the consequences of transgressing these rules. The penalties for inter-varna sexual relations were severe. Some were lethal. This was not incidental to the system; it was foundational to it. Without the enforcement of endogamy, caste as a system of graded, hereditary inequality could not reproduce itself across generations.

The colonial period added its own complications. British administrators, through the census operations of 1871 and every decade after, did something that the more fluid pre-colonial jati system had not always required: they counted castes, named them officially, and fixed them in administrative categories. The act of counting hardened what had been more porous. Communities that might have shifted their identity over generations now had a permanent enumerated record. Their caste was official. Its boundaries needed policing.

Independence brought the most radical formal break in Indian history. Article 17 of the Constitution abolished untouchability. Article 15 prohibited discrimination on the grounds of caste. The Hindu Marriage Act 1955 made inter-caste marriage legally valid without any special ceremony. The Special Marriage Act 1954 provided a framework for all citizens regardless of religion or caste. In legal terms, the architecture of caste hierarchy was dismantled in the span of a few years.

The social architecture proved considerably more durable. M.N. Srinivas had already observed, by the mid-twentieth century, that certain communities exercise authority far beyond what their formal legal status would suggest through land ownership, numerical weight, and the organised social regulation of behaviour. These "dominant castes" — the Gounders, Thevars, and Vanniyars in Tamil Nadu did not cease to dominate after 1950. If anything, the Green Revolution strengthened their economic position while reducing Dalit bargaining power as agricultural labourers, creating a sharper gradient between dominant and subordinate communities at exactly the moment when constitutional law was nominally equalising them.



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MN Srinivas, *Social Change in Modern India* (University of California Press 1966). Constitution of India 1950, Arts 14, 15, 17; Hindu Marriage Act 1955 (Act 25 of 1955).

Gail Omvedt, *Reinventing Revolution: New Social Movements and the Socialist Tradition in India* (ME Sharpe 1993).



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## 2.2 What "Honour" Actually Means in This Context

The phrase "honour killing" comes from a comparative literature that focuses mainly on Middle Eastern and South Asian Muslim communities, where the concept of *namus* — honour located in female sexual purity — provides the ideological framework. A woman who has pre-marital sex, commits adultery, or marries without family consent is understood in this framework to have contaminated the family's honour. The killing that restores it is directed primarily at her.

Tamil Nadu does not fit this template well, and that misfit is itself revealing. The violence here is not primarily triggered by female sexual conduct. It is triggered by inter-caste contact. And the primary target is as often the Dalit man as the woman — the agent of transgression in community eyes, the one who had the audacity to reach across the caste line. When a Dalit man is killed by his partner's dominant-caste family, the act is simultaneously patriarchal and casteist: it disciplines the woman for choosing a Dalit, and it punishes the Dalit for daring to aspire.

This distinction has direct legal implications. Tamil Nadu's honour killings are not simply private family matters inflected by patriarchy. They are acts of caste supremacy — attempts to enforce the social hierarchy that the Constitution has formally abolished. This brings them squarely within the SC/ST Act's framework of caste-motivated atrocities. The mismatch between that theoretical applicability and the actual enforcement record is one of the central puzzles this dissertation investigates.

On terminology: some scholars, including Purna Sen, argue that calling these "honour killings" endorses the perpetrators' moral logic — that using their word legitimises their claim that honour is genuinely at stake. Alternative terms have been proposed. This dissertation uses "honour killing" as a legal shorthand, not as a moral endorsement. When a father hires killers to murder his daughter's husband, the word "honour" belongs entirely in quotation marks.

## **2.3 Three Theoretical Lenses**

### **2.3.1 *Patriarchy: Who Controls Women's Bodies***

Sylvia Walby's model of patriarchy identifies six interconnected structures through which male dominance is reproduced: paid work, household production, culture, sexuality, violence, and the state. Honour killing sits at the intersection of culture (the norms that assign women the role of bearing family and community reputation), violence (the mechanism by which those norms are enforced), and the state (which either intervenes to prevent the violence or stands aside to let it happen). In Tamil Nadu, the state structure has too often operated through its absence.

V. Geetha and S.V. Rajadurai's work on non-Brahmin patriarchies in Tamil Nadu adds specificity. The dominant OBC communities Thevars, Gounders, Vanniyars maintain particularly rigid codes around women's marital choices, understood not merely as personal matters but as markers of community identity and status. A Gounder woman who marries a Dalit man is, in this framework, not merely making an individual choice. She is dissolving the boundary that defines the Gounder community as a community. The ferocity of the response is proportionate to the perceived existential stakes.

### **2.3.2 *Caste: Ambedkar's Endogamy Thesis***

Ambedkar's argument in *Annihilation of Caste* is worth pausing on, because it is more radical than it is usually given credit for. He did not merely say that the caste system was unjust. He said that its apparent injustices untouchability, occupational restriction, ritual hierarchy were all downstream consequences of one foundational mechanism: endogamy. Caste groups can only remain distinct groups across generations if they prevent their members from marrying outside. Remove that prohibition and the groups dissolve. "Caste is endogamy, and endogamy is caste."

This means that honour killing, in Ambedkar's logic, is not an aberration of the caste system. It is

its enforcement mechanism. The community elder who organises the killing of a Dalit man who has



married "their" woman is not acting irrationally. He is acting, from the community's perspective, in rational self-preservation protecting the boundary on which the community's continued existence as a distinct group depends.

Anupama Rao extends this analysis into contemporary Tamil Nadu in *The Caste Question* (2009), showing how Dalit assertion of marital rights is experienced by dominant communities not as an individual matter but as a political challenge—a claim to equality that threatens the entire social order. This is why the response to inter-caste couples in high-incidence Tamil Nadu districts involves not just families but caste networks, political party workers, and community assemblies. The killing is a community act because the perceived threat is a community threat.



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BR Ambedkar, *Annihilation of Caste* (Navayana Publishing 1936, reprint 2014).

Anupama Rao, *The Caste Question: Dalits and the Politics of Modern India* (University of California Press 2009). *Shakti Vahini v Union of India* (2018) 7 SCC 192.



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### **2.3.3 Social Control Theory: Why Punishment Alone Is Not Enough**

Travis Hirschi's social bond theory was designed to explain why people refrain from crime through their attachments to family, commitment to conventional goals, involvement in legitimate activities, and belief in the rule of law. Applied to honour killing, the theory produces an uncomfortable inversion. For perpetrators of honour killings, the bonds that Hirschi identifies as crime-preventing become crime-promoting. Attachment to the caste community demands the killing. Commitment to community standing rewards it. Belief in the community's normative code endorses it.

Standard deterrence theory assumes a calculating individual who weighs the cost of punishment against the benefit of crime. But when the "benefit" includes community approval, restored social standing, and avoidance of the ostracism that would follow from not acting, the calculus is very different from what penal theory typically assumes. The expected cost of prosecution given documented conviction rates of twenty-two to thirty-five percent is simply too low to outweigh those social benefits in the communities where honour killing remains normatively sanctioned.

This is not an argument for pessimism. It is an argument for realism about what legal reform alone can achieve. Criminal law can raise the cost side of the equation. Community education and norm change must work on the benefit side. The recommendations in Chapter VII try to address both.

### **2.4 Families and Panchayats: The Institutional Architecture of Honour Killing**

Two institutions sit at the centre of caste-based honour killings in Tamil Nadu, and their respective roles are worth distinguishing carefully.

The family — specifically the woman's natal family — is usually where the decision originates.

Research by Kavita Krishnan and by the Tamil Nadu NGO Evidence consistently shows that in the majority of Tamil Nadu cases, the woman's father and brothers are the instigating party. The killing is ordered or arranged within the family, often before any caste panchayat is formally involved. This



differs from the North Indian model, where the khap panchayat tends to precede and sanction the killing. In Tamil Nadu, the sequence is often reversed: the family decides, the panchayat blesses and provides cover, and the community protects perpetrators from prosecution after the fact.

The caste panchayat nattu goundar sabha, thevar peravai, jati kuzhu: the names differ by district and community is an assembly of elders with no legal standing whatsoever. It has no defined procedure, no right of appeal, no accountability to any law. It meets in a village temple or under a tree, and its proceedings are oral and undocumented. People's Watch documented forty-seven such assemblies in Tamil Nadu between 2015 and 2019, convened specifically to address inter-caste relationships. Eight were followed within six months by acts of violence, including three killings. The Supreme Court in *Shakti Vahini* condemned these bodies unreservedly and directed states to register FIRs against members who pass diktats sanctioning violence. Tamil Nadu has not systemically done so.

## **2.5 Constitutional Morality and the Persistence of Social Morality**

Ambedkar borrowed the concept of constitutional morality from the classical historian George Grote, who used it to describe the spirit of adherence to constitutional norms that sustains a democratic order. Ambedkar's concern, in the Constituent Assembly debates, was that India was constitutionalising a set of values equality, dignity, the rule of law that were deeply at odds with the prevailing social morality rooted in caste, patriarchy, and ritual hierarchy. The Constitution could declare those values; making them real required internalising them. He was not confident that India was ready.

The Supreme Court has given this tension renewed life in recent jurisprudence. In *Navtej Singh Johar v Union of India* (2018), the Court held explicitly that constitutional morality must prevail over social morality when the two conflict — not merely because the Constitution is supreme law, but because social morality can itself be the product of oppression and thus an unreliable guide

to



justice. In *Indian Young Lawyers Association v State of Kerala* (2019), the Court reiterated that tradition cannot be deployed to override fundamental rights.

These rulings carry direct implications for honour killings. The "morality" that demands death for inter-caste marriage is precisely the social morality the Constitution was designed to supersede. But the gap between a Supreme Court ruling and the conduct of a police officer in Dharmapuri is not closed by the ruling alone. It requires the institutional will to enforce and that will is where the system, as Chapter IV documents, most consistently fails.

## **2.6 Fundamental Rights: The Constitutional Framework**

Four articles of the Constitution are directly implicated by caste-based honour killings, and they work together as a framework rather than in isolation.

Article 14 guarantees equality before the law and equal protection of the laws. Honour killings violate it in two distinct ways. First, they impose a lethal sanction on Dalit individuals for conduct entering an inter-caste relationship that non-Dalit individuals can engage in without comparable risk. Second, the state's systematic failure to investigate and prosecute these killings with the same energy it brings to other murders denies Dalit victims the equal protection the law nominally guarantees.

Article 15 prohibits caste-based discrimination. The state's positive obligation under Article 15, read with Article 21, to protect individuals from caste-motivated private violence was explicitly affirmed in *Patan Jamal Vali v State of Andhra Pradesh* (2021), which directed courts to bring heightened sensitivity to the caste-gender intersection in cases involving violence against Dalit women.

Article 19 protects freedom of movement and residence. The Supreme Court read into it, in *Lata Singh v State of UP* (2006), the right to choose a life partner and to reside with that partner without



family or community interference. This reading gives constitutional status to the precise interest that honour killings attack.

Article 21 is the most fundamental: the right to life and personal liberty. The Supreme Court has interpreted it to encompass the right to live with dignity, the right to privacy and personal autonomy, and the right to choose a life partner. Honour killings violate it absolutely. But they also violate it in subtler ways through the chronic threat of violence that forces couples into hiding, through economic ostracism, through the psychological terror of knowing that the community's patience has a limit and that the limit is your existence.



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Lata Singh v State of Uttar Pradesh (2006) 5 SCC 475. Patan Jamal Vali v State of Andhra Pradesh (2021) 7 SCC 1. KS Puttaswamy v Union of India (2017) 10 SCC 1.



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## 2.7 When Traditional Authority Defeats Legal Authority

H.L.A. Hart's distinction between the "internal" and "external" aspects of a legal rule is useful here. A rule has an internal aspect when those subject to it accept it as binding not merely comply with it out of fear of consequences, but genuinely regard it as an authoritative standard of conduct. A rule has only an external aspect when compliance is purely coerced, without any genuine acceptance. The constitutional prohibition on caste discrimination is, for significant sections of the population in high-incidence Tamil Nadu districts, an external constraint to be evaded, not an internal norm to be honoured.

Max Weber's typology of legitimate authority provides another frame. The Constitution's authority is rational-legal: it derives from being enacted through established procedures and expressing universally applicable principles. Caste panchayat authority is traditional: it derives from age, custom, and the accumulated weight of community practice. When these two forms of authority collide in a village in Dharmapuri, traditional authority often wins — because it is present and immediate, because it controls livelihoods, and because its rewards and punishments are certain rather than distant.

None of this is permanent. Traditional authority has been challenged and defeated before. But it requires more than a statute to defeat it. It requires institutions that carry the rational-legal authority of the Constitution into the communities where traditional authority holds sway — police officers who cannot be caste-captured, prosecutors who are not community insiders, courts that are not dependent on dominant-caste goodwill. Building those institutions is the reform challenge that this dissertation tries to specify.

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BR Ambedkar, *Annihilation of Caste* (Navayana Publishing 1936, reprint 2014). Sylvia Walby,

Theorizing Patriarchy (Blackwell 1990).

Navtej Singh Johar v Union of India (2018) 10 SCC 1.



## **CHAPTER III**

### **LEGISLATIVE FRAMEWORK**

#### **3.1 The BNSS, 2023: A Better Procedure That Still Misses the Point**

The Bharatiya Nagarik Suraksha Sanhita, which replaced the Code of Criminal Procedure on 1 July 2024, is a substantial piece of legislation 531 sections, genuinely modernising in some respects, with meaningful improvements over what it replaced. For the purposes of honour killing cases in Tamil Nadu, four clusters of provisions matter most: how FIRs are registered, how investigations are conducted, how remand decisions are made, and how bail is handled.

##### ***3.1.1 FIR Registration: Section 173 BNSS***

Section 173 BNSS preserves the mandatory registration principle established in *Lalita Kumari v Government of Uttar Pradesh* (2014): a police officer must register an FIR for any cognisable offence without conducting a preliminary enquiry first. The BNSS adds two things. Under Section 173(1), the informant must receive a free electronic copy of the FIR on the same day it is registered. Under Section 173(1)(b), complainants can register FIRs online, without needing to present themselves at a police station.

Both additions are genuinely useful in the Tamil Nadu context. The electronic copy creates a paper trail that prevents the informal suppression of complaints — a well-documented pattern in inter-caste conflict cases, where SHOs have historically told Dalit complainants that nothing has been registered and the complainant has no way to prove otherwise. The online portal theoretically allows a threatened couple to register a complaint from safety, without walking into a police station staffed by officers who know the accused family.

The problem is what the portal cannot do: it cannot investigate the complaint. That still falls to the local police station the same institution, staffed by the same officers, that refused to register the FIR in the first place. The BNSS has improved the entry point without changing the pathway. It is a useful improvement, not a solution.





Bharatiya Nagarik Suraksha Sanhita 2023, s 173(1).

Lalita Kumari v Government of Uttar Pradesh (2014) 2 SCC 1.

Tamil Nadu Backward Classes Commission, Caste-Wise Representation in Tamil Nadu Police Force (2018).

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### **3.1.2 Investigation: Sections 176–197 BNSS**

The BNSS introduces investigation timelines that, if followed, would materially improve case quality in honour killing prosecutions. Charge sheets must be filed within sixty days where the accused is in custody, or ninety days otherwise. Section 185 requires forensic examination of crime scenes in offences punishable with seven or more years which includes murder. Section 186(3) requires video-recording of witness statements.

The forensic examination requirement is particularly significant. In rural Tamil Nadu, crime scenes are routinely disturbed or cleaned before police arrive. Physical evidence — clothing, blood trails, weapons disappears. A mandatory forensic examination requirement, consistently applied, would constrain that process. The video-recording requirement similarly reduces the scope for subsequent witness manipulation.

But both provisions are only as good as the good faith with which they are applied. The forensic science laboratories that serve rural Tamil Nadu districts are understaffed and chronically under-resourced. An SHO who wants to manage an investigation can arrange for the forensic examiner to find nothing. A video-recorded statement taken from a terrified witness who knows the accused's family is watching is not necessarily more reliable than an unrecorded one. The BNSS has added tools. Whether those tools are used honestly depends on factors the BNSS cannot control.

### **3.1.3 Remand: Section 187(2A) BNSS**

Section 187 governs the procedure when investigation cannot be completed within twenty-four hours. The notable addition to the BNSS is Section 187(2A), which provides that where the investigation involves an SC or ST victim, the magistrate must review the remand order on application, specifically considering witness vulnerability and the risk of evidence tampering.

This provision has genuine potential. In honour killing cases where the accused is a community elder with financial resources and social networks, the risk of witness intimidation from the moment of arrest is real and documented. A magistrate who takes Section 187(2A) seriously who asks, proactively, whether witnesses in this case face particular risks — could significantly improve the investigation environment.

Whether magistrates will take it seriously is, once again, a function of institutional will that cannot be legislated into existence. A magistrate in a district where the accused is a prominent figure, where the magistrate's own social life intersects with the community of which the accused is a leader, faces pressure that is not addressed by the text of Section 187(2A). The provision is available. Its deployment is uncertain.

### **3.1.4 Bail: Sections 478–498 BNSS**

The BNSS revises bail law in several ways, the most notable being Section 479's provision that an undertrial who has served one-half the maximum sentence is entitled to bail as of right. This does not apply to offences carrying death or life imprisonment which includes murder under Section 101 BNS. For honour killing accused charged with murder, the traditional discretionary bail framework continues.

Section 480 BNSS, governing bail in non-bailable offences, gives courts wide discretion in imposing conditions. The Supreme Court in *Shakti Vahini* directed courts to take account of victim and witness safety in honour crime bail applications, and Section 480's conditions framework enables no-contact orders, geographic restrictions, and surety requirements from neutral parties. These tools, used consistently, would reduce the intimidation that so often collapses honour killing prosecutions between FIR and trial.

The critical vulnerability remains the anticipatory bail loophole. Section 18A of the SC/ST Act bars

anticipatory bail in atrocity cases. But that bar only applies where the SC/ST Act has actually been



invoked. When police register a killing as plain murder which, as Chapter IV documents, they frequently do even in cases with obvious caste motivation the anticipatory bail bar does not apply. Dominant caste accused with resources obtain bail before their position is fully established, and use that time to manage witnesses and evidence. The BNSS does not close this loophole because the loophole operates through the failure to invoke the SC/ST Act in the first place.

## **3.2 The BNS, 2023: Substantive Provisions**

### **3.2.1 Murder: Section 101 BNS**

Section 101 BNS carries the same definitional structure as its predecessor, Section 300 IPC, preserving five exceptions including Exception 1 (grave and sudden provocation) and maintaining death or life imprisonment as the available punishments. In honour killing cases, defence counsel consistently invoke Exception 1: the accused discovered the inter-caste relationship, was overcome by sudden passion, and the killing was therefore provoked homicide rather than premeditated murder.

The Supreme Court shut this argument down in *Vikas Yadav v State of Uttar Pradesh* (2016): parental or community disapproval of a person's choice of partner cannot constitute grave and sudden provocation in any legally cognisable sense. The right to choose a partner is a fundamental right. No violation of that right not even in the perception of the perpetrator can reduce the culpability of killing the person who exercises it. Tamil Nadu courts have applied this consistently, and should continue to do so under the BNS, which preserves the same structure.

What the BNS fails to do is create an aggravated murder category for honour killings. Jurisdictions that take this problem seriously tend to treat the honour motive as an aggravating factor that warrants enhanced sentencing not as mitigation (as provocation doctrine suggests) but as evidence of the specific severity and social harm of the crime. The absence of such a category in the BNS is a deliberate legislative choice, and it is a wrong one.

### **3.2.2 Criminal Conspiracy: Section 61 BNS**

Section 61 BNS defines conspiracy as an agreement between two or more persons to do or cause to be done an illegal act, or a legal act by illegal means. A caste panchayat that votes to authorise or direct the killing of an inter-caste couple is, on its face, a criminal conspiracy. The provision extends criminal liability beyond the person who holds the knife to the people who issued the order, organised the funding, and arranged the logistics community leaders who are typically far removed from the physical act.

The practical obstacles to using Section 61 in this context are substantial. Panchayat deliberations are oral, private, and witnessed only by people with strong social incentives not to testify against their own elders. Building a conspiracy case without documentary evidence, in conditions of witness intimidation and police indifference, is extraordinarily difficult. The Shankar-Kausalya case succeeded in prosecuting conspiracy, but that success depended on CCTV footage and Kausalya's own testimony — evidence that does not exist in most cases. Without a specific legislative presumption shifting the burden of proof in caste panchayat contexts, the conspiracy charge, while formally available, remains practically inaccessible for most prosecutions.

### **3.2.3 Abetment: Sections 45–60 BNS**

The abetment provisions cover instigation, conspiracy, and intentional aid. Section 47 adds that if an act is abetted and the consequence differs from what was intended, the abettor is liable for the actual consequence if it was probable in the circumstances. This is directly relevant where a panchayat orders a "social boycott" or "punishment" and the execution results in death if death was a probable consequence of the order issued, panchayat members face liability as abettors of murder even if they never explicitly called for killing.

Parents who commission hired killers with instructions to "teach a lesson" face similar analysis

under Section 49 BNS, which extends abettor liability to the foreseeable escalation of the instigated



conduct. These provisions are there. Using them requires prosecutors who are willing to pursue caste panchayat members and family instigators up the chain of causation — which, again, is an institutional question as much as a legal one.

### **3.3 The SC/ST (Prevention of Atrocities) Act, 1989**

#### **3.3.1 *Why the Act Was Needed and What It Promised***

The Protection of Civil Rights Act 1955, which was supposed to penalise the enforcement of untouchability, was a near-total failure. Its penalties were too light, its enforcement dependent on the same police forces it was supposed to hold accountable, and its practical impact close to nil. By the 1980s, the escalating documentation of anti-Dalit violence across India made it undeniable that something stronger was needed. The SC/ST (Prevention of Atrocities) Act 1989 was the result.

What made the Act distinctive was its attempt to address the systemic character of caste violence rather than just its individual instances. Special courts, special prosecutors, a shifted burden of proof, mandatory compensation mechanisms these were not just enhanced penalties on top of general criminal law. They were recognition that the general criminal law, administered by institutions embedded in caste hierarchies, could not be relied upon to deliver justice to Dalit victims on its own. Thirty-five years later, that recognition remains accurate. The implementation, however, has not matched the intent.

#### **3.3.2 *The Key Provisions***

Section 3 of the SC/ST Act lists specific atrocity offences. For honour killing contexts, the most relevant are Section 3(1)(r) (intentional insult or intimidation in public view), Section 3(1)(s) (promotion of hatred against SC/ST persons), and Section 3(2)(v) (any BNS offence committed against an SC/ST person on grounds of caste identity, with enhanced punishment). The 2015 Amendment added Section 3(1)(za), penalising the imposition of social or economic boycott on any person or community directly targeting the caste panchayat diktats that frequently precede

or



accompany honour killings. Section 3A, also from the 2015 Amendment, provides enhanced punishment of up to life imprisonment for repeat offenders.

Section 8 is the evidentiary cornerstone. Once the prosecution establishes that the victim is SC or ST, that the accused is not, and that the elements of the atrocity offence are made out, the burden shifts to the accused to prove that the act was not committed on grounds of caste identity. The Supreme Court in *State of Maharashtra v Vikram Pawar* (2019) confirmed this reading. In honour killing cases, the burden-shifting provision is potentially powerful: instead of the prosecution proving caste motivation affirmatively, the defence must disprove it. The problem is that Tamil Nadu courts have not applied it consistently many Sessions Court judges still require the prosecution to establish caste motivation directly, which defeats the purpose of Section 8.



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SC/ST (Prevention of Atrocities) Act 1989, s 3, as amended by Prevention of Atrocities (Amendment) Act 2015. State of Maharashtra v Vikram Pawar (2019) 12 SCC 385.  
Tamil Nadu State Commission for SC/ST, Report on Pendency of SC/ST Act Cases in Special Courts (2019).



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### **3.3.3 *Special Courts and Their Failures***

All thirty-eight Tamil Nadu districts now have exclusive Special Courts for SC/ST Act cases. These courts are supposed to complete trials within one year. The reality is an average pendency of over four years four times the statutory limit according to a 2019 assessment by the Tamil Nadu State Commission for SC/ST. The causes are familiar: understaffed courts, adjournments on defence applications, poor witness preparation, inadequate SPP performance. The institutional machinery to give the Act practical effect is chronically under-resourced, which means the Act's formal protections remain largely inaccessible to the victims who need them most.

### **3.3.4 *Section 18A and the Anticipatory Bail Question***

Section 18A of the SC/ST Act, inserted in 2018 to reverse the Supreme Court's controversial rollback in Subhash Kashinath Mahajan, explicitly bars anticipatory bail in atrocity cases. This is one of the Act's most practically important provisions: anticipatory bail, once obtained by a community-connected accused, has historically enabled witness intimidation, evidence management, and informal settlement before the case can be properly investigated. Section 18A prevents this. But — and this is the crucial caveat — only where the Act is actually invoked. The mechanism by which perpetrators escape the bar is simple: police register the case as plain murder, the Act is not invoked, and the bar does not apply.

### **3.4 *The Bharatiya Sakshya Adhiniyam, 2023***

The BSA replaced the Indian Evidence Act 1872 on the same date as the BNSS and BNS. Several provisions are relevant. Section 106 BSA places the burden of proving facts especially within the accused's knowledge on the accused useful in conspiracy cases where only family members or panchayat leaders know the planning details. Section 57 allows judicial notice of facts of common knowledge; courts could, in principle, take judicial notice of the documented pattern of honour killing in specific communities and districts, reducing the burden on the prosecution to establish the

social context in each individual case. No Tamil Nadu court has yet taken this step explicitly.



Section 26 BSA continues the rule that confessions to police officers are inadmissible unless made before a magistrate. In honour killing cases where accused persons may initially be more forthcoming with officers they know socially, this rule excludes potentially valuable evidence. The BSA does not resolve this tension.

### **3.5 The Missing Statute**

The single most significant fact about India's legal framework for honour killings is structural: there is no dedicated statute. Not a definition, not an aggravated offence category, not a mandatory investigation protocol, not a specific civil protection mechanism, not a requirement to document the caste motivation of killings. Every other jurisdiction examined in this dissertation that has made meaningful progress on this issue has, at some point, enacted a dedicated law. India has not.

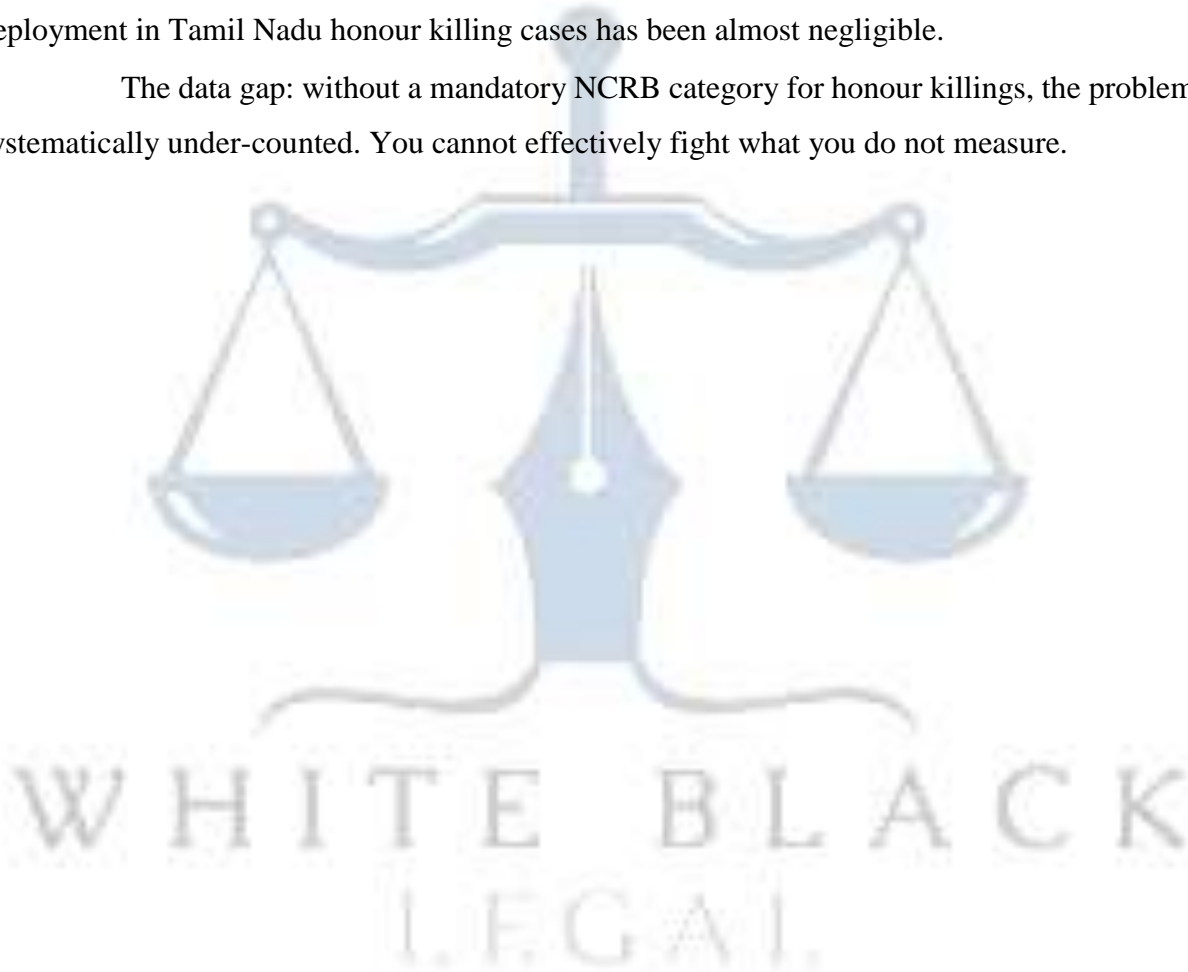
This is not because the problem went unrecognised. The Law Commission's 242nd Report, published in August 2012, diagnosed the gap clearly, proposed legislative solutions in considerable detail, and recommended a dedicated Prevention of Interference with Freedom of Matrimonial Alliances Act. Parliament has taken no action in twelve years. The inaction is not passive ignorance; it is active choice, reflecting the political economy of caste-based electoral democracy that Chapter IV examines.

### **3.6 Five Structural Loopholes**

- Drawing together the legislative analysis, five structural gaps stand out.
- The categorisation loophole: honour killings registered as plain murder lose their caste dimension and become ineligible for the SC/ST Act's enhanced protections. This single failure cascades through every subsequent stage of the case.
- The anticipatory bail loophole: where the SC/ST Act is not invoked which police accomplish by categorising the crime incorrectly the Section 18A bar does not apply, and

well-resourced dominant caste accused can obtain pre-arrest bail and use it to manage witnesses.

- The caste panchayat gap: neither the BNSS nor the BNS contains any provision specifically addressing the criminal liability of caste panchayat members who direct or sanction honour violence. The conspiracy and abetment provisions are formally applicable but practically very difficult to deploy.
- The witness protection gap: the Witness Protection Scheme 2018 is not a statute. It has no mandatory funding, no operational standards, and no consequences for non-compliance. Its deployment in Tamil Nadu honour killing cases has been almost negligible.
- The data gap: without a mandatory NCRB category for honour killings, the problem is systematically under-counted. You cannot effectively fight what you do not measure.



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Bharatiya Nagarik Suraksha Sanhita 2023, s 173(1); Lalita Kumari v Government of Uttar Pradesh (2014) 2 SCC 1. Bharatiya Nyaya Sanhita 2023, s 101; Vikas Yadav v State of Uttar Pradesh (2016) 9 SCC 541.

Law Commission of India, 242nd Report on Prevention of Honour Killings (August 2012)



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## **CHAPTER IV**

### **ISSUES AND CHALLENGES**

#### **4.1 The Killings Continue**

If the existing law were working, there would be nothing left to write. The murder provisions exist. The atrocity statute exists. The Supreme Court has spoken. And yet: the NGO Evidence documented thirty-two honour-related deaths in Tamil Nadu between 2016 and 2021 this in the five years after the Shankar-Kausalya case, which was supposed to send a signal. The signal reached the editorials. It reached fewer of the caste panchayats.

NCRB data complicates the picture further. Tamil Nadu recorded 2,209 SC/ST Act cases in 2022, ranking fifth nationally. But the NCRB has no category for honour killing. The cases in that figure include everything from land dispossession to physical assault to economic boycott. How many of the 1,847 violence-related cases involved inter-caste relationship disputes? No one can say from the published data. That statistical invisibility is not accidental; it is the downstream consequence of police categorisation decisions that strip caste motivation from the recorded crime.

A 2021 study in the National Law School of India Review Krishnaswamy and Ayyappan, working from a careful cross-referencing of news reports with police records estimated that only fifteen to twenty percent of Tamil Nadu honour killings result in FIR registration. Of those registered, approximately thirty-five percent invoked the SC/ST Act. Of cases that went to trial, the SC/ST Act conviction rate was approximately twenty-two percent, compared to forty-eight percent for the murder charge in the same cases. This last figure is the most telling: the charge that captures the caste dimension of the crime is being lost at more than twice the rate of the general charge. The SC/ST Act is failing at the thing it was designed to do.

## **4.2 The Caste Panchayat: Authority Without Any Law**

The caste panchayat has no legal basis. It has no statutory recognition, no defined procedure, no mechanism of appeal, no connection to any instrument of the Indian state. It meets wherever it meets a village temple, a private home, under a tree and its proceedings are entirely oral. It convenes when someone calls it and disperses when business is concluded. By every measure of formal law, it does not exist.

And yet it works. People bring disputes to it because community consensus matters in concrete, daily ways: your standing at weddings and funerals, your access to common resources, your neighbours' willingness to employ you or extend credit, your children's position in the village social order. A caste panchayat that decides against you and announces a boycott can destroy a family's economic life within weeks without anyone laying a hand on them. That kind of authority does not require legal recognition. It requires only that people believe in it, and in Tamil Nadu's high-incidence districts, they do.

People's Watch documented forty-seven panchayat assemblies convened specifically to address inter-caste relationships in Tamil Nadu between 2015 and 2019. Thirty-one produced formal diktats requiring separation. Twelve imposed economic or social boycott orders. Eight were followed within six months by acts of violence, three of which resulted in death. The causal chain from panchayat diktat to violence is documented. The prosecution of panchayat members for conspiracy or abetment is, in the same period, almost non-existent. The gap is not legal but institutional.

## **4.3 Police Failure: Not Individual but Structural**

The most consequential failure in the legal response to Tamil Nadu honour killings is not legislative; it is institutional. It happens at the police station, in the first twenty-four hours after a complaint is

made or a body is found. A case that begins with a misclassified FIR, a refused registration, or a



decision to frame the killing as a family matter almost never fully recovers downstream. The initial framing shapes everything.

Tamil Nadu's police force is not caste-neutral. A 2018 report by the Backward Classes Commission found that OBC communities which include the dominant agricultural castes most frequently implicated in honour killings constitute approximately sixty-eight percent of the constabulary. Dalits are represented at around eighteen percent, below their population share. This demographic reality creates a structural environment in which officers from communities that enforce caste endogamy may bring those community values to their policing consciously or not. Individual officers may be perfectly honest; the aggregate effect of the institutional composition is not.

The patterns of police failure are consistent enough to constitute a documented practice. Officers characterise inter-caste conflict cases as "family disputes" and direct complainants to caste panchayat mediation. They register killings as suicides or accidents. The Nakkheeran case in Dharmapuri (2020) is representative: a Dalit youth was found dead, and the local police registered his death as accidental. Only after sustained pressure from human rights organisations and a petition to the Madras High Court was the case re-registered as murder. A subsequent judicial inquiry found that the SHO had met with caste community leaders before filing the initial, inaccurate report. The judicial inquiry said so explicitly. No criminal action followed against the SHO.

In Udumalpet itself, in the immediate aftermath of Shankar's killing in 2016, the first police response included an attempt to detain Kausalya's brother a move that, if it had succeeded, would have reframed the incident as a mutual conflict rather than a targeted killing. It took Kausalya's own insistence, her lawyer's intervention, and the existence of CCTV footage to prevent that reframing. Most couples attacked in rural Tamil Nadu do not have CCTV footage to appeal to.

Tamil Nadu Backward Classes Commission, Caste-Wise Representation in Tamil Nadu Police Force (2018).

S Krishnaswamy and R Ayyappan, "Honour Killings in Tamil Nadu" (2021) 14(2) National Law School of India Review 112. Arumugam Servai v State of Tamil Nadu (2011) 6 SCC 405.



#### **4.4 Underreporting: The Numbers That Don't Exist**

The NCRB figure for Tamil Nadu SC/ST Act cases is not a measurement of caste-based honour killing incidence. It is a measurement of what police chose to register, in the categories they chose to use, filtered through the institutional biases documented above. When a killing motivated by caste endogamy is registered as plain murder, it becomes invisible to the statistics. When it is not registered at all, it becomes invisible to everything.

Krishnaswamy and Ayyappan's estimate fifteen to twenty percent FIR registration of honour killings is the most careful attempt to quantify this gap. It should be treated as an estimate with wide uncertainty bands; media reporting of rural honour killings is itself incomplete and geographically concentrated around districts with active civil society monitoring. The true scale of the problem may be substantially larger than any available number suggests.

The NHRC observed in its 2020 Annual Report that the absence of a standardised reporting format for honour killings makes national data collection impossible. This is not a technical problem that better data collection can fix while leaving the underlying system unchanged. It is a structural problem: police have discretion to categorise crimes, and they exercise that discretion in ways shaped by their institutional culture. Mandatory honour killing reporting categories can be created by administrative direction; they will only be filled accurately if the institutional culture changes.

#### **4.5 Witness Intimidation: The Collapsing Case**

The Witness Protection Scheme 2018 provides three categories of protection, from Category C (moderate threat) to Category A (life threat). The Tamil Nadu State Legal Services Authority evaluated the Scheme's implementation in 2023 and found that, across all honour killing and SC/ST Act cases, fourteen applications had been processed in three years. Fourteen. In a state that records

over two thousand SC/ST Act cases annually.



What this number tells us is not that witnesses in Tamil Nadu honour killing cases face no serious threats. It tells us that the Scheme, which is not a statute and has no mandatory funding or compliance requirements, has been all but invisible in the districts where it is needed most. Witnesses know this. A Dalit agricultural labourer who saw a killing and gave a police statement knows that by the time the trial comes — two, three, four years later — the accused's family will still be his landlord, still control his employment, and will have had years to make clear what happens to people who testify against community leaders.

The Kausalya case succeeded in part because it was exceptional. Kausalya herself testified, despite surviving an attack and despite her natal family being the perpetrators' side. Multiple other witnesses turned hostile — they had given statements and then, at trial, said they remembered nothing. The prosecution survived because the CCTV footage said otherwise. In cases without footage and without a surviving willing witness, the hostile witness rate runs close to a hundred percent. That is not bad luck. It is the predictable outcome of no witness protection.



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Tamil Nadu State Legal Services Authority, Evaluation of Witness Protection Scheme Implementation (2023). Mahender Chawla v Union of India (2019) 14 SCC 615.  
Shankar (Kausalya) v State of Tamil Nadu, Crl A No 386/2017 (Madras High Court).



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#### **4.6 Why Conviction Rates Are So Low**

The SC/ST Act conviction rate in Tamil Nadu twenty-two to thirty-five percent over 2017–2022 is low enough to ask why anyone is surprised when perpetrators of caste-based honour killings consider it an acceptable risk. A more than fifty percent chance of acquittal, combined with community protection and reputational reward for having acted, means the rational choice in communities where the honour norm holds — may remain to kill.

The Special Public Prosecutors who represent the state in SC/ST Act cases before Special Courts are supposed to be specialists. In practice, their selection is often based on connections rather than expertise, their performance is not systematically evaluated, and their preparation of witnesses particularly Dalit witnesses from rural communities who have never testified in a formal court is frequently inadequate. Civil society reports document SPPs who fail to object to hostile witness declarations, who do not invoke the leading question provision under Section 154 BSA when witnesses turn, and who are personally acquainted with defence counsel. An SPP who allows key witnesses to recant without challenge is not merely making a professional error. He is handing the defence an acquittal.

#### **4.7 The Gender Dimension**

It would be a mistake to read Tamil Nadu honour killings as straightforwardly gendered in the way that the Middle Eastern literature on honour crimes tends to present them. The Dalit man is as often the primary target as the woman. But the gender dimensions are nonetheless real and multiple.

Non-Dalit women in relationships with Dalit men face a specific configuration of pressure that sits between coercion and complicity: sustained family and community pressure to abandon the relationship, the threat of forced marriage to an approved partner, social ostracism, and

psychological abuse. Where women have the courage to resist and testify as Kausalya did they face



the destruction of every family relationship they had. Where they do not, they become part of the suppression of evidence.

Dalit women in relationships with men from dominant communities face a different set of vulnerabilities: potential violence from their own community (perceived as having reached beyond their station) and from the partner's family (perceived as a contamination). Their situation involves the intersection of caste subordination and gender subordination in ways that neither the SC/ST Act alone nor the PWDVA alone is fully equipped to address.

The CEDAW Committee's General Recommendation No. 35 (2017) characterises honour-based violence as a form of gender-based violence requiring "due diligence" positive obligations to prevent, investigate, and punish. India's current enforcement record falls far short of that standard. The Protection of Women from Domestic Violence Act 2005, which covers psychological and coercive abuse within domestic relationships, could be more actively used in cases where family members subject women in inter-caste relationships to the sustained pressure that frequently precedes or accompanies killing. Its use in this context in Tamil Nadu remains minimal.

#### **4.8 The Political Arithmetic of Impunity**

It is tempting to explain the failures documented in this chapter as the result of inadequate training, insufficient resources, or bureaucratic dysfunction. These factors are real. But they do not fully explain why, when political will is present as it was in the Shankar-Kausalya prosecution the system can and does deliver. The more important explanation is political economy.

Tamil Nadu's electoral landscape is defined by caste arithmetic. The DMK, AIADMK, PMK, and BJP all manage complex coalitions of caste communities. When a prominent Gounder leader is arrested for conspiracy in an honour killing, the calculation is not only moral but electoral: how

many Gounder votes does vigorous prosecution risk? How many Dalit votes does inaction cost?  
In



districts where the dominant OBC community is numerically dominant in both the electorate and the police force, the calculation frequently tips against prosecution.

This is not an impenetrable structural trap. The Shankar-Kausalya case shows that political will, combined with exceptionally strong evidence, can overcome it. But making that outcome routine — rather than exceptional — requires changing the incentive structure, not merely improving the tools available when political will happens to be present. Legislative reform that makes the costs of inaction explicit and visible, civil society monitoring that raises the political cost of impunity, and institutional reform that reduces police discretion to suppress caste motivation from crime records are all part of that structural change.



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Evidence (NGO), Honour Killings in Tamil Nadu: A Twenty-Year Documentation 2003–2022 (Chennai 2022). People's Watch, Dalit Lives at Risk: Documentation of Caste Violence in Tamil Nadu 2015–2019 (Madurai 2020). National Human Rights Commission, Annual Report 2020–21.



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## **CHAPTER V**

### **ROLE OF THE JUDICIARY**

#### **5.1 What the Courts Have Built**

In the absence of a dedicated statute, and against a background of systematic institutional failure in policing and prosecution, the courts have done more than any other branch of government to respond to caste-based honour killings. The Supreme Court has articulated constitutional rights, condemned caste panchayats without qualification, imposed positive state obligations, and issued operational directions. The Madras High Court has translated those principles into the specific conditions of Tamil Nadu through a developing body of protective and punitive jurisprudence. None of this has been enough. But it is the firmest foundation that exists for the reforms this dissertation recommends.

The judicial record needs to be assessed at two levels. At the normative level what the courts have said it is impressive. At the operational level what has actually changed in the districts where honour killings happen it is considerably less so. Courts can declare; they cannot administer. The gap between Shakti Vahini's detailed directions and the absence of functioning safe houses in most rural Tamil Nadu districts is the most accurate measure of that limitation.

#### **5.2 The Supreme Court: Four Landmark Decisions**

##### **5.2.1 *Lata Singh v State of Uttar Pradesh (2006) 5 SCC 475***

Lata Singh is where the modern judicial framework begins. A woman had married a man from a different religion. Her family responded with violence and threats. Justices Arijit Pasayat and S.H. Kapadia held, in terms that were deliberately and refreshingly plain: adults have the right to choose their partners. That right exists under Article 19(1)(e). Family members who use violence or

intimidation to interfere with it incur criminal liability. The state has an obligation to protect couples



who ask for help. The Court directed all District Magistrates and Senior Superintendents of Police in states with histories of honour killing to provide police protection on request.

The clarity of the judgment is striking in retrospect. The Court did not hedge. It did not acknowledge community sensitivities or suggest that respect for tradition required some qualification. It said plainly that the Constitution does not permit community disapproval to justify violence, and that the police obligation to protect people from that violence is not discretionary. Two decades later, that clarity is still being cited by advocates in the Madras High Court, in identical proceedings, which tells you both how important the judgment was and how little the underlying problem has changed.

### **5.2.2 *Arumugam Servai v State of Tamil Nadu (2011) 6 SCC 405***

Arumugam Servai originated in Tamil Nadu a caste panchayat had ordered a Dalit family to vacate their home as punishment for an inter-caste relationship and its opinion by Justice Markandey Katju used that local origin to deliver one of the most forceful judicial statements on honour killing in Indian legal history. The Court called these killings barbaric. It said those who commit them deserve the severest punishment. It directed state governments to take punitive action against caste panchayat members who pass diktats, to ensure that SHOs who fail to register FIRs face departmental consequences, and to establish monitoring mechanisms. What makes Arumugam Servai particularly significant for this dissertation is that it explicitly named Tamil Nadu in its operative directions. The Court was not addressing a generalised North Indian problem. It was addressing Tamil Nadu specifically, placing the state government on notice in terms that admitted no geographic escape. The enforcement of those directions has been, as Chapter IV establishes, minimal. But the legal obligation is clearly established, and it provides the basis for judicial enforcement whenever a case returns to the Supreme Court for monitoring.

### **5.2.3 *Shakti Vahini v Union of India (2018) 7 SCC 192***

Shakti Vahini is the most comprehensive judicial response to honour killings that Indian constitutional law has produced. The three-judge bench then Chief Justice Dipak Misra, Justice

A.M. Khanwilkar, and Justice D.Y. Chandrachud responded to a public interest petition with a judgment that was simultaneously a doctrinal statement, an operational manual, and a constitutional declaration.

The doctrinal core is a positive obligation framework. Drawing on Articles 19 and 21, the Court held that the state's duty to protect individual rights extends to protecting people from private violence when the state knows or has reason to know that violence is imminent. A couple who reports threats to police activates a constitutional duty not a discretionary power but a duty to provide protection. Failure to provide it is a constitutional violation. This is not a modest holding. It transforms the question of whether to deploy a police car to protect an inter-caste couple from an administrative judgment call into a judicially enforceable constitutional obligation.

On operations, the Court directed the establishment of safe houses in each district, district-level committees to monitor caste panchayat activity, mandatory police training, and state-specific action plans. High Courts were directed to maintain mechanisms for receiving and expeditiously hearing protection applications from at-risk couples. On criminal liability, the Court confirmed that participation in a caste panchayat assembly that directs or sanctions violence constitutes criminal conspiracy or abetment under the IPC (now BNS), and directed registration of FIRs against participants who issue such diktats. The Madras High Court has been relatively active in implementing the protection application mechanism. The state government's implementation of the safe house direction has been considerably less so. The gap between those two responses is a useful illustration of the general principle: courts can create mechanisms that other courts implement; they cannot create institutions that governments have decided not to fund.

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Shakti Vahini v Union of India (2018) 7 SCC 192. Lata Singh v State of Uttar Pradesh (2006) 5 SCC 475.

Arumugam Servai v State of Tamil Nadu (2011) 6 SCC 405.

#### **5.2.4 *Vikas Yadav v State of Uttar Pradesh (2016) 9 SCC 541***

Vikas Yadav arose in Uttar Pradesh but its doctrinal contribution reaches every Indian court. The Supreme Court upheld a life sentence for an honour killing and in doing so delivered what amounts to a comprehensive rejection of the honour motive as any form of mitigation. The Court described honour killings as an "affront to constitutional democracy and the rule of law." It held that the discovery of an inter-caste relationship cannot constitute grave and sudden provocation in any legally cognisable sense. It characterised such killings as falling within the "rarest of rare" category that justifies the death penalty in the most extreme cases.

The tension in that last holding between characterising honour killings as the worst category of murder and the judiciary's general movement toward commuting death sentences reflects a genuine difficulty in sentencing jurisprudence that a dedicated statute should address. What Vikas Yadav establishes clearly, for the purposes of BNS application, is that no court should accept the provocation defence in an honour killing case. The precedent is settled.

### **5.3 The Madras High Court's Own Jurisprudence**

#### **5.3.1 *Shankar-Kausalya: The Case That Changed the Conversation***

The Shankar-Kausalya appeal (Crl.A. No. 386/2017) is the most significant Tamil Nadu honour killing judgment in the record. Kausalya's father Chinnasamy had been sentenced to death by the Sessions Court. A division bench of the Madras High Court Justices S. Nagamuthu and N. Authinathan upheld all the convictions but commuted the death sentence to life imprisonment on grounds of the accused's age and the residual possibility of reform.

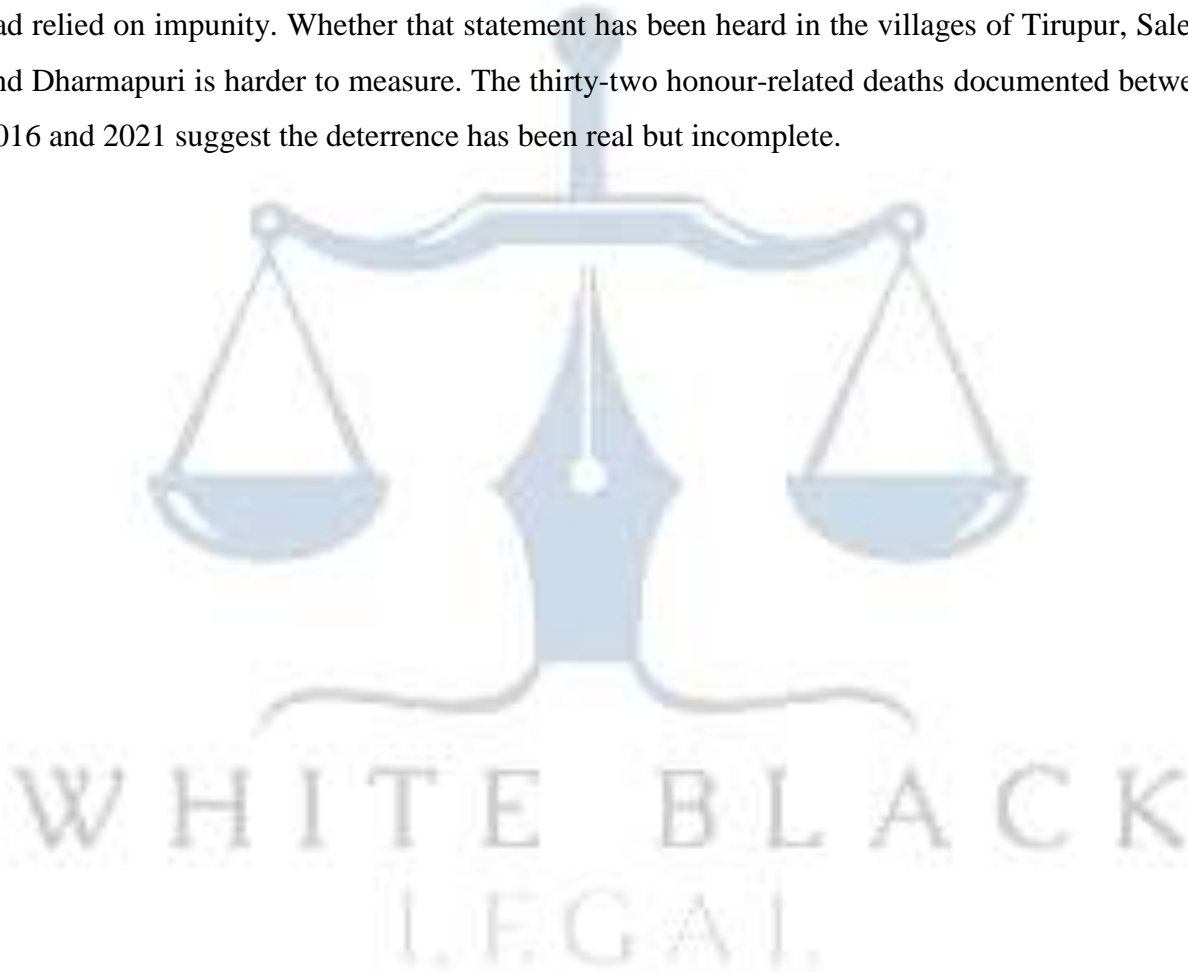
What makes the judgment worth reading beyond its outcome is its reasoning. The bench engaged in detail with the caste dynamics of the case, with the role of the Gounder community's honour

code in motivating the killing, and with the Shakti Vahini framework of positive state obligations. It specifically noted that no safe house facility existed in Tirupur district, characterising this as a



systemic failure contributing to the couple's vulnerability, and directed the state government to establish one. The direction has been partially complied with which is not nothing, but is not enough.

The case's broader significance lies in the deterrence it represents. The conviction of Kausalya's father was a statement that the legal system would reach community-connected perpetrators who had relied on impunity. Whether that statement has been heard in the villages of Tirupur, Salem, and Dharmapuri is harder to measure. The thirty-two honour-related deaths documented between 2016 and 2021 suggest the deterrence has been real but incomplete.



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Shankar (Kausalya) v State of Tamil Nadu, CrI A No 386/2017 (Madras High Court).  
Evidence (NGO), Honour Killings in Tamil Nadu: A Twenty-Year Documentation 2003–2022  
(Chennai 2022). Vikas Yadav v State of Uttar Pradesh (2016) 9 SCC 541.

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### **5.3.2 *Ilavarasan-Divya: When Justice Could Not Be Found***

The Ilavarasan case is the counter-narrative. Ilavarasan, a Dalit man who had married Divya, a Vanniyar woman, was found dead near railway tracks in Dharmapuri in July 2013, three weeks after sustained community violence including the burning of Dalit homes had followed their marriage. The official inquest returned a verdict of suicide. Ilavarasan's father challenged this in a habeas corpus petition before the Madras High Court. The Court ordered a fresh inquiry and eventually directed a CBI investigation. The CBI concluded that the death was consistent with suicide. The case closed without a murder conviction.

This was not necessarily a judicial failure. Courts decide on evidence, and the evidence for murder was not established beyond reasonable doubt. But the case is an important reminder that the judicial achievements documented in this chapter depend on evidentiary conditions that do not always exist. When police have had the opportunity to manage a crime scene, when the only witnesses are people with strong incentives not to testify, and when the cause of death is genuinely ambiguous, even a genuinely well-intentioned court may not be able to provide justice. The Ilavarasan case is what most Tamil Nadu honour killing cases look like before and after a verdict — the gap in the record where a life used to be.

### **5.3.3 *Protective Jurisdiction: The Routine Cases***

Away from the landmark decisions, the Madras High Court handles dozens of protection applications every year from inter-caste couples seeking safety from family and community threats. These cases do not appear in reported judgments. They appear in the Court's cause list CrI.M.P. numbers, short orders, directions to the SP of a district to ensure a couple's safety and report compliance.

In *Saravanan v State* (CrI.M.P. No. 8912/2021), the Court went further than a standard protective

order. It directed structured SP-led counselling for the woman's family, explicitly prohibiting the



process from being used to pressure separation, and imposed personal liability on the local SHO for any subsequent panchayat approach. The direction is creative and specifically targeted at the police-panchayat nexus the informal channel through which police officers facilitate community enforcement of honour norms. It represents the Madras High Court at its most inventive, and it deserves to be adapted into statute.

#### **5.4 Bail in Honour Killing Cases**

Bail applications in honour killing cases put two genuine values in tension: the constitutional presumption of innocence and the practical need to protect witnesses from the accused who, if released, will have years and resources to intimidate them. The BNSS's half-sentence entitlement does not apply to murder. The discretionary framework of Section 480 applies instead.

In *K. Shanmugam v State of Tamil Nadu* (CrI.A. No. 421/2019), the Madras High Court upheld a refusal of bail to a caste panchayat leader charged with conspiracy in an honour killing. The Court's reasoning was explicitly contextual: the accused's community authority, his financial resources, the geography of his social connections, and the vulnerability of the prosecution witnesses who lived within his sphere of influence all weighed against release. The Court treated the power asymmetry between the accused and the Dalit witness community as a relevant consideration under Section 480 BNSS. That is the right approach, and its application to other bail decisions in similar cases would materially improve witness protection outcomes.

#### **5.5 What Courts Can and Cannot Do**

The judicial achievement across the cases examined in this chapter is genuine and substantial. Without any dedicated legislation, without a government committed to implementation, working only with the tools of constitutional interpretation and general criminal law, courts have articulated rights, condemned community violence, imposed state obligations, and occasionally when the

evidence exists delivered convictions.



But courts cannot administer safe houses. They cannot train police officers. They cannot change the political calculations that make dominant caste leaders feel safe. They can direct all of these things, and they have. Shakti Vahini's directions were comprehensive and clear. What they cannot do is supply the institutional will and resources that turn directions into reality. That is the job of legislation and government, and it remains undone.

The judicial record, ultimately, makes the case for legislative and institutional reform rather than against it. Every gap between the Court's directions and the government's implementation is an argument for a statute that creates mandatory obligations rather than discretionary ones, enforceable through specific sanctions rather than contempt proceedings that the government must itself initiate.



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Lata Singh v State of Uttar Pradesh (2006) 5 SCC 475. Shakti Vahini v Union of India (2018) 7 SCC 192.

Shankar (Kausalya) v State of Tamil Nadu, Crl A No 386/2017 (Madras HC).



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## **CHAPTER VI**

### **COMPARATIVE ANALYSIS**

#### **6.1 Pakistan: The Journey India Has Not Started**

Pakistan offers the most immediately useful comparison because it has, within the past decade, undertaken the legislative journey that India has been unable to begin. The specific character of honour killings in Pakistan differs from Tamil Nadu Pakistan's cases are more frequently framed in terms of religious honour and tribal codes than in terms of caste endogamy but the structural pattern of family-organised killings, community protection of perpetrators, and state complicity through inaction is recognisably similar. And Pakistan has, imperfectly, started to address it legislatively. India has not.

Until 2004, Pakistan's murder law incorporated the Islamic concepts of qisas (equivalent retaliation) and diyat (blood money) in a way that created a specific mechanism for families to both commit and excuse honour killings. The perpetrators of honour killings are typically family members. Under qisas, the right to pursue criminal punishment belongs to the victim's heirs. When the perpetrators are the heirs, they can pardon themselves and accept blood money from themselves, settling the matter privately. The state had no independent prosecutorial standing. This was not a loophole; it was a feature of the legal architecture.

The 2004 amendment partially addressed this, providing that compounding was not permissible where murder was committed in the name of honour. But it was the 2016 Act enacted in the heat of national outrage over the honour killing of Qandeel Baloch by her brother that produced the more significant change. The Act defined honour killing explicitly in the Penal Code, provided that where an heir pardons an honour killer the court must still impose a minimum twenty-five-year

sentence, and vested the state with independent power to prosecute regardless of family settlement.



The results are instructive for what they reveal about the limits of legislative action alone. The Human Rights Commission of Pakistan documented 478 honour killings in 2021, suggesting the deterrent effect of the 2016 Act has been modest at best. The twenty-five-year minimum has been applied in fewer than twenty percent of prosecuted cases courts have found procedural grounds to avoid it in the majority. Police investigation remains deeply inadequate. Community norm enforcement continues to outpace legal enforcement in rural areas. The lesson for India is double-edged. Legislative reform is necessary Pakistan's post-2016 record, inadequate as it is, shows better accountability than the pre-2016 framework produced. But legislative reform alone is not sufficient. Pakistan enacted a statute and then largely failed to build the institutional infrastructure required to implement it. India must not make the same mistake.

## **6.2 The United Kingdom: A Framework That Actually Works**

The United Kingdom has developed the most comprehensive honour crime legal framework in any common law jurisdiction, and it has done so incrementally over two decades, each legislative step responding to identified gaps in the previous one. The result is a layered system that combines civil prevention mechanisms, criminal sanctions, specialist institutional capacity, and mandatory prosecution guidelines the kind of multi-dimensional architecture that India currently lacks entirely.

The starting point was the Forced Marriage (Civil Protection) Act 2007, which created Forced Marriage Protection Orders (FMPOs). These are civil injunctions available on short notice to anyone at risk of forced marriage, obtainable from a family court without criminal proceedings, with a relatively low evidentiary threshold. They can be issued within hours. They impose conditions no-contact, restrictions on travel, surrender of passports with breach constituting a criminal contempt. This is a rapid preventive mechanism that operates at the moment of greatest risk, before violence has occurred, without requiring the full machinery of criminal prosecution.

The Anti-social Behaviour, Crime and Policing Act 2014 added the criminal dimension, making

forced marriage without full consent a specific offence punishable by up to seven years



imprisonment. The Domestic Abuse Act 2021 went further, inserting a statutory definition of "domestic abuse" that explicitly includes honour-based abuse, and creating the Domestic Abuse Protection Order a civil mechanism available on even shorter timescales than the FMPO, providing immediate protection.

The institutional infrastructure is as important as the legislation. The Home Office's Forced Marriage Unit provides a helpline, coordinates casework, and tracks compliance. Multiple police forces maintain dedicated Honour-Based Violence Units specialist teams with community knowledge, language capabilities, and investigative expertise focused exclusively on these cases. The Crown Prosecution Service has published specific prosecution guidelines requiring prosecutors to treat the honour motivation as an aggravating sentencing factor and mandating consultation with a specialist before charging decisions in honour crime cases. In *R v Shabir Hussain* [2017] EWCA Crim 345, the Court of Appeal upheld a life sentence for an honour killing and engaged with the gender and community dimensions of the crime in terms that confirmed the aggravating rather than mitigating character of the honour motive. The UK courts have not merely applied the law on the books; they have interpreted it in ways that reflect an understanding of the social dynamics that generate honour violence.

Three things from the UK framework deserve specific adoption in India. First, a civil protection mechanism an Indian equivalent of the FMPO, available from the District Magistrate as well as courts, providing rapid intervention before violence occurs. Second, dedicated specialist investigation cells in high-incidence districts, staffed by officers recruited from outside the local dominant caste communities and trained specifically in honour crime investigation. Third, mandatory prosecution guidelines treating the caste-based honour motive as an aggravating factor and requiring specialist consultation before charging decisions.

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Anti-social Behaviour, Crime and Policing Act 2014 (UK); Domestic Abuse Act 2021 (UK).

Crown Prosecution Service (UK), Honour-Based Violence and Forced Marriage: Guidelines for Prosecutors (CPS 2020). R v Shabir Hussain [2017] EWCA Crim 345 (Court of Appeal, England and Wales).



### **6.3 Turkey and Jordan: The Political Lesson**

#### **6.3.1 Turkey: *You Can Change the Law Without Changing the Culture***

Turkey's experience is perhaps the most instructive in the comparative record not as a success story but as a warning. Until 2005, Turkey's Penal Code contained Article 462, which explicitly mitigated punishment for killings motivated by "honour," reducing the sentence from life imprisonment to between three and seven years. This was not a loophole exploited by clever lawyers; it was a deliberate legislative endorsement of the honour logic, encoding into statute the view that a man who kills to protect his family's reputation is less culpable than one who kills for other reasons.

The 2005 Penal Code abolished Article 462 and replaced it with Article 82, treating honour killings as aggravated murder punishable by Turkey's most severe penalty aggravated life imprisonment, with no possibility of parole. The normative reversal was total. Where the old law saw honour as mitigation, the new law sees it as aggravation. The reform was driven by feminist activism, by Turkey's EU accession negotiations, and by sustained international human rights pressure. It was, as legislative reforms go, about as comprehensive as one can imagine.

Mor Cati, a Turkish feminist NGO, reported that 321 women were killed in Turkey in 2020 approximately thirty percent attributed to honour motives. The honour killings continued. The legislation changed dramatically; the killing rate did not. Turkey's post-2005 record is the starkest evidence in the comparative sample that changing the law without changing the social conditions that produce the violence is not enough. India must not assume that enacting a dedicated statute ends the problem. It begins it.

#### **6.3.2 Jordan: *When Parliament Protects Killers***

Jordan's experience illuminates the political obstacles to legislative reform when powerful community groups have an ideological stake in maintaining legal protection for honour violence.

Article 340 of the Jordanian Penal Code 1960 provided an explicit exemption from punishment for



a man who killed a female relative found in a state of adultery. Article 98 provided for mitigation where the killing occurred in a "fit of fury" a provision courts applied broadly to honour killings.

The CEDAW Committee called on Jordan to repeal Articles 340 and 98 beginning in the 1990s. The Jordanian parliament rejected reform in 1999, 2003, and 2009. The tribal and conservative constituencies that supported honour killing mitigation were politically powerful enough to block reform for nearly two decades. Article 340's explicit exemption was finally removed in 2017 replaced with a residual judicial discretion on mitigating circumstances that critics argued was insufficiently protective. Jordan's parliament had to be convinced, over twenty years, that the political cost of maintaining the exemption exceeded the political cost of removing it.

The parallel for India is uncomfortable. The Law Commission recommended a dedicated honour killing statute in 2012. It is 2024. Parliament has not acted. The political economy of caste-based electoral democracy the calculation that dominant OBC community votes are worth more than legislative action against their community members has produced exactly the Jordanian pattern: a well-documented problem, a clear recommendation, and twelve years of inaction.

#### **6.4 Four Lessons for India**

The comparative analysis of all four jurisdictions produces four conclusions that translate directly to India's reform agenda.

First: dedicated legislation matters. All four jurisdictions show that general criminal law, unaided by specific honour crime provisions, delivers inadequate accountability. The common factor in better-performing jurisdictions is legislative specificity a law that names the crime, explains its particular seriousness, and specifies the consequences. That signal changes both investigator behaviour (there is now a specific charge to bring) and the social message the law sends (the state

explicitly regards this as a distinct and serious category of violence).



Second: civil prevention mechanisms save lives. The UK's FMPO model demonstrates that the most effective moment of intervention is before violence occurs when a threat is known and documented but no act has yet been committed. India has no equivalent. A couple who reports threats to police can hope for protective deployment; they cannot obtain a civil injunction with conditions and breach consequences. Building that mechanism available from the District Magistrate within forty-eight hours — addresses a preventive gap that no amount of improved prosecution can fill.

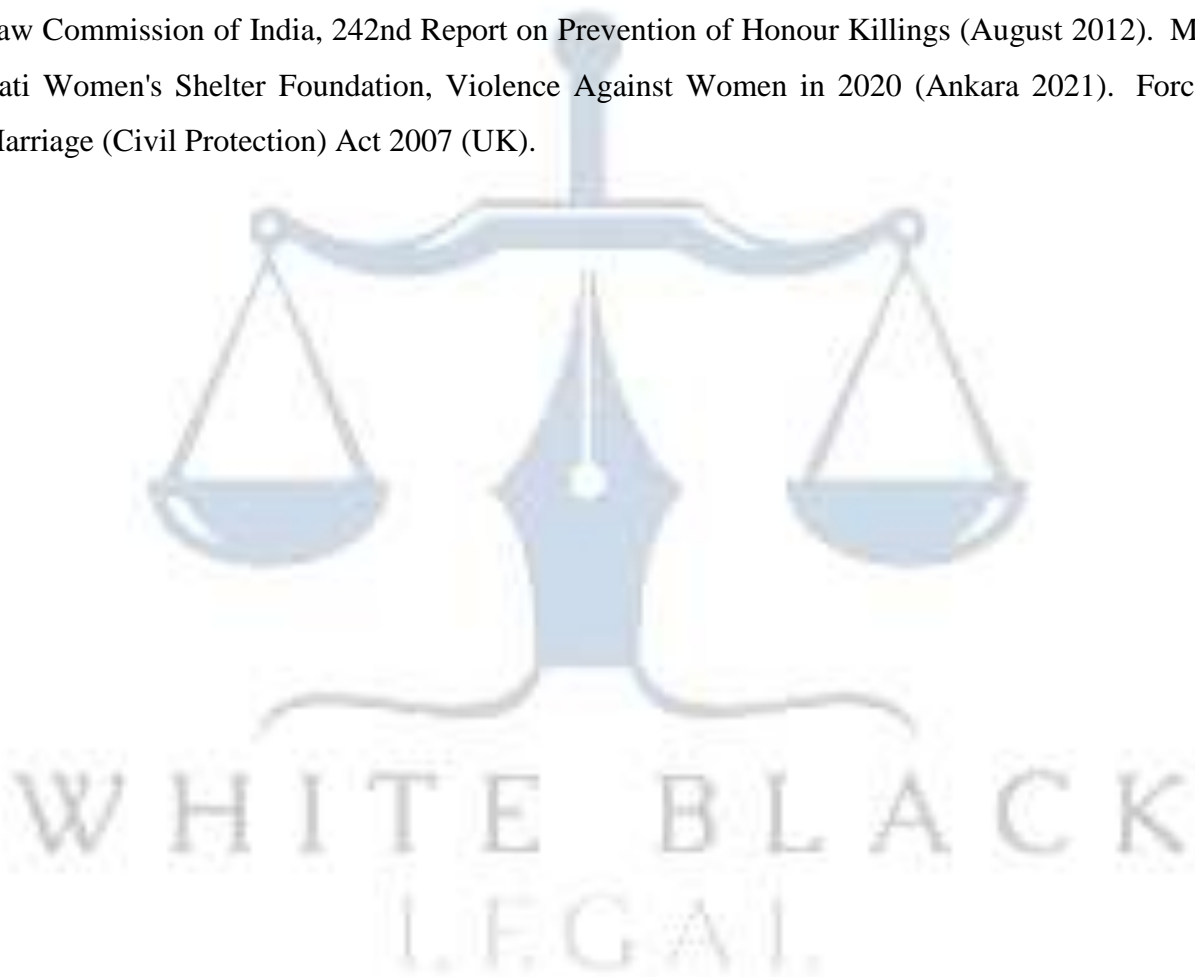
Third: specialist institutional capacity is irreplaceable. The difference between the UK's dedicated HBVUs and Pakistan's general police force handling honour crimes tells the story. Specialist knowledge, community relationships, investigative focus, and institutional commitment to this specific category of violence produce better outcomes than distributing responsibility across a general-purpose force that treats honour crimes as one category among many.

Fourth: legislation and social change must move together. Turkey is the proof. The most dramatic legislative reversal in the comparative record did not stop the killing. India must invest as heavily in community education, inter-caste marriage promotion, and norm change as in legislative design. A statue without social change is a direction board at an intersection where no one obeys the signs.

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Law Commission of India, 242nd Report on Prevention of Honour Killings (August 2012). Mor Cati Women's Shelter Foundation, Violence Against Women in 2020 (Ankara 2021). Forced Marriage (Civil Protection) Act 2007 (UK).



## 6.5 What India Can Actually Adopt

Three features of the Indian context shape how comparative models can be adapted.

The federal structure means that criminal law reform requires Parliamentary action under List III, but police and public order fall to states. A central honour killing statute would be implemented through state-level machinery that varies enormously in quality, composition, and political orientation. Tamil Nadu's specific conditions — the strength of caste panchayats in OBC-majority rural areas, the particular Dalit vulnerability in inter-caste contexts, the caste-electoral dynamics documented in Chapter IV — require state-specific implementation rules. That is manageable with coordination; it is not an argument against central legislation.

Constitutional constraints are real but not prohibitive. Mandatory minimum sentences of the Pakistani variety face proportionality challenges under Indian constitutional doctrine. But the SC/ST Act's enhanced penalty provisions have survived constitutional challenge, suggesting that carefully designed aggravated sentencing provisions are constitutionally permissible. The design is a question of calibration, not principle.

India's civil society ecosystem is, if anything, stronger than in any of the four comparison jurisdictions. Evidence, People's Watch, the National Campaign on Dalit Human Rights, the All India Progressive Women's Association these organisations have extensive, sustained experience documenting, litigating, and advocating on honour killing issues. A dedicated statute that formally incorporates civil society monitoring into the implementation structure would turn that existing capacity into a structural accountability mechanism.

Criminal Law (Amendment) (Offences in the Name of or on Pretext of Honour) Act 2016 (Pakistan). Anti-social Behaviour, Crime and Policing Act 2014 (UK); Domestic Abuse Act 2021 (UK).

Mor Cati Women's Shelter Foundation, Violence Against Women in 2020 (Ankara 2021).



## **CHAPTER VII**

### **CONCLUSION AND RECOMMENDATIONS**

#### **7.1 What the Evidence Shows**

This dissertation has examined whether India's legal framework the BNSS 2023, the BNS 2023, the SC/ST Act 1989, and the body of judicial decisions built from Lata Singh to Shakti Vahini is capable of effectively preventing and prosecuting caste-based honour killings in Tamil Nadu. The answer is no. But the nature of that inadequacy matters, and this conclusion tries to state it precisely.

The inadequacy is not primarily technical. The BNS murder provisions are formally applicable to honour killings. The SC/ST Act, if invoked and enforced, provides substantially greater protection than Dalit victims currently experience. The BNSS procedural improvements mandatory FIR registration, forensic examination, enhanced remand review would, if followed, improve investigation quality materially. Even without any new legislation, the existing framework vigorously applied could do considerably more than it currently does.

The inadequacy is structural and institutional. It is embedded in the caste composition of rural police forces, which creates systematic bias against investigating dominant caste perpetrators. It is embedded in the political economy of Tamil Nadu's caste-based electoral democracy, which gives parties with dominant-OBC support bases incentives to shield community members from prosecution. It is embedded in the absence of witness protection that turns strong initial cases into acquittals years later. It is embedded in the routine failure to invoke the SC/ST Act stripping victims of enhanced protections through a categorisation decision made at the police station door. And it is embedded, most fundamentally, in the absence of a legislative framework that specifically names honour killing, mandates its documentation, requires specific state responses, and sends the

unambiguous signal that the law treats this category of crime with the seriousness it carries.



The comparative analysis reinforces this. Pakistan's experience shows that dedicated legislation, without institutional reform, provides limited protection. The UK shows that dedicated legislation combined with institutional reform produces measurably better outcomes. Turkey shows that legislative reform without social norm change has limited deterrent effect. All three jurisdictions point to the same conclusion: the reform agenda must address legislation, institutions, and community norms simultaneously, not sequentially.

## 7.2 The Research Questions Answered

On whether the BNSS procedural framework adequately addresses honour killings: it provides improved tools that are substantially under-used due to institutional bias. The mandatory FIR registration, forensic examination, and enhanced remand review provisions are meaningfully better than what they replaced. The gap between their formal availability and their actual application remains wide. On whether the BNS substantive provisions reach caste panchayat-organised killings: formally yes, practically no the conspiracy and abetment provisions exist but require evidentiary conditions that are difficult to meet without specific legislative presumptions. On whether the SC/ST Act provides effective protection: in principle, significantly; in practice, severely constrained by police failure, inadequate prosecution, and political interference, with conviction rates for the caste-specific charge running at roughly half those for the general murder charge.

On what constitutional framework applies: Articles 14, 15, 19, and 21 all impose positive state obligations that are systematically breached by the current enforcement environment. The Supreme Court has given those obligations content in a series of decisions from Lata Singh to Shakti Vahini. The gap between those constitutional obligations and actual state behaviour is the fundamental constitutional problem this dissertation addresses. On comparative lessons: Chapter VI identifies four specific models — Pakistan's dedicated statute, the UK's civil protection mechanisms, the UK's specialist police units, and the composite lesson from Turkey's limitation all of which are discussed for feasibility in the Indian federal context. On reform: the recommendations below provide a comprehensive response. On the hypothesis: the evidence from Tamil Nadu strongly supports the

proposition that the absence of a dedicated statute is a primary cause of the legal framework's failure.



### **7.3 The Core Conclusion**

Shankar was twenty-two when he was killed. He had done nothing except love someone. The men who killed him had reason to believe from long experience of how the system handles these cases that they were unlikely to face serious legal consequences. A decade of Supreme Court pronouncements, a constitutional guarantee of the right to life, and a dedicated atrocity statute had not altered that calculation.

This dissertation has tried to show why. The legal tools exist, in theory. In practice, the investigating officer who should register an FIR shares his community with the accused. The prosecutor who should invoke the SC/ST Act has no training in atrocity law and a personal acquaintance with defence counsel. The witness who should testify at trial has been living for three years under the shadow of the accused's family's influence. The magistrate who should refuse bail knows that the accused is a community elder whose supporters fill the public gallery. None of these failures is mysterious. All of them are documented. None of them is addressed by the BNSS or the BNS.

The legal system needs to be restructured, not just improved at the margins. That restructuring requires a dedicated statute one that does not merely add another provision to the murder law but creates a specific framework for this specific category of crime, with mandatory investigation protocols, civil prevention mechanisms, enhanced sentencing, and enforceable state obligations. It requires institutional reform that changes who investigates these cases and how they are held accountable. It requires witness protection with statutory teeth. And it requires investment in the community-level changes that shift the social calculation making honour killing socially costly rather than socially rewarded.

SC/ST (Prevention of Atrocities) Act 1989 (Act 33 of 1989); Amendment Act 2015 (Act 1 of 2016). Shakti Vahini v Union of India (2018) 7 SCC 192.

Law Commission of India, 242nd Report on Prevention of Honour Killings (August 2012).



## **7.4 Recommendations**

### **7.4.1 *Enact a Dedicated Prevention of Honour Killings Act***

The most important recommendation, and the one that the Law Commission made twelve years ago, is to enact a dedicated central statute. The statute should include:

1. A definition of "honour killing" explicitly covering killings motivated by caste-based objection to inter-caste marriage or cohabitation, making clear that neither family approval nor community consensus is a legal defence.
2. An aggravated murder provision in the BNS, creating a specific category for honour-motivated killings with a minimum sentence of life imprisonment without remission, and the death penalty available in cases involving multiple victims, public violence, or organised community execution.
3. A conspiracy provision specific to caste panchayat assemblies, creating a statutory presumption that any gathering of five or more persons resolving to direct action against an inter-caste couple constitutes conspiracy under Section 61 BNS reversing the evidentiary burden that currently makes panchayat prosecution practically impossible.
4. Mandatory reporting obligations on Collectors, Superintendents of Police, and Block Development Officers in notified high-incidence districts, requiring monthly data on caste panchayat activity, inter-caste couple complaints, and FIR registrations.
5. An Inter-Caste Couple Protection Order mechanism enabling application to the District Magistrate not only to courts for immediate protective measures, with a forty-eight-hour decision requirement and a mandatory safe-house referral where the threat is assessed as serious.

### **7.4.2 *Amend the SC/ST Act***

Section 3 should be amended to explicitly list honour killings motivated by inter-caste marriage as an enumerated atrocity offence, eliminating the categorisation loophole. A mandatory minimum of fourteen years should apply to honour killings under the Act. All honour killing cases involving SC or ST victims should be mandatorily investigated by a DSP-rank officer, regardless of whether the Act has been initially invoked. A victim-witness protection provision should require the

District



Magistrate to provide protection to survivors and key witnesses within forty-eight hours of FIR registration.

#### **7.4.3 *Reform Police Accountability***

Dedicated Honour Crime Investigation Cells should be established at district level in notified high-incidence areas, staffed by officers recruited from outside the dominant local caste communities and provided with specialist honour crime investigation training. SHOs who refuse to register FIRs in inter-caste couple complaint cases should face mandatory departmental proceedings with immediate suspension pending inquiry. An independent Police Complaints Authority should be established in Tamil Nadu with jurisdiction over atrocity and honour crime complaints. Mandatory sensitisation training should be required before posting in high-incidence districts.

#### **7.4.4 *Make Witness Protection Statutory***

The Witness Protection Scheme 2018 must be given statutory force. In honour killing cases specifically: automatic Category A protection for surviving victims and first-order witnesses upon FIR registration; a dedicated safe house network in each district with documented honour killing incidence, funded through the Dalit Welfare Fund; criminal sanctions for government servants who disclose protected witness identities; and an emergency financial assistance fund administered by the DLSA for witnesses facing economic retaliation.

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Bharatiya Nagarik Suraksha Sanhita 2023, ss 173, 185, 187(2A), 480. Mahender Chawla v Union of India (2019) 14 SCC 615.

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#### **7.4.5 Invest in Community Norm Change**

Turkey's example insists on this. Constitutional equality, anti-discrimination principles, and marital rights should be incorporated into secondary school curricula. District Equality and Dignity Committees comprising Dalit representatives, women's groups, teachers, and local administration should be established to monitor caste discrimination and build inter-community dialogue. Tamil-language public awareness campaigns featuring constitutional rights and the voices of inter-caste couples who have lived safely should be funded. University research programmes on caste violence should receive dedicated funding.

### **7.5 Policy Recommendations**

- Enhance the inter-caste marriage incentive scheme: The Dr. Ambedkar Foundation Scheme should be increased from Rs. 2.5 lakh to Rs. 10 lakh, with an additional housing support component. The six-month waiting period before payment should be removed — the highest-risk months are the first ones.
- Enact a Tamil Nadu Prohibition of Caste Panchayat Activities Act: Convening a caste panchayat for the purpose of directing action against inter-caste couples should be a criminal offence punishable by up to three years, with forfeiture of assets used in the proceedings.
- Reform Special Public Prosecutor appointments: Competitive, expertise-based selection; mandatory conflict-of-interest disclosure; performance evaluation focused on trial quality and witness preparation, not solely conviction rates; a formal code of conduct prohibiting informal contact with accused persons.
- Create a mandatory NCRB sub-category for honour killings: Investigating officers should be required to flag all killings where the motive involves opposition to inter-caste or inter-religious marriage. This data reform is achievable by administrative direction without legislation, and is essential for policy design.
- Establish NHRC oversight: The NHRC should establish a dedicated honour killing monitoring mechanism requiring states to provide quarterly data on FIR registrations, chargesheets, trial progress, and conviction rates. High-incidence states should appear before the Commission annually.
- Fund civil society monitoring: Organisations like Evidence and People's Watch should receive sustainable government funding for case documentation, survivor support, and implementation monitoring incorporating existing civil society capacity

into the formal accountability structure.

This dissertation ends where it began: with Shankar, killed in Udumalpet for the crime of love. His death was not unique; it was typical, except for the camera. The majority of Tamil Nadu's honour killing victims die without a camera, without a surviving witness willing to testify, without a prosecutor who knows the SC/ST Act well enough to invoke it, and without a police officer who is more afraid of the law than of his community. For them, the law has been a promise that was made and not kept.

This research has tried to show, carefully and with evidence, what keeping that promise would require. It is not an impossible task. The constitutional framework is sound. The judicial precedents are solid. The comparative models are instructive. The civil society capacity is genuine. What is missing is the political decision to build institutions worthy of the Constitution's promises, and a legislature willing to say, in statute, what courts have been saying in judgments for twenty years: that you cannot kill someone for loving the wrong person, and that the state will not look away when you try.

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### **ANNEXURES**

#### **Annexure I · Summary of Key Tamil Nadu Honour Killing Cases (2003–2022)**

Year	Case / Location	Caste Dimension	Charges	Outcome
2013	Ilavarasan-Divya,	Dalit man	+SC/ST Act;	Ruled suicide; no

	Dharmapuri	Vanniyar woman	murder (CBI)	conviction
2016	Shankar-Kausalya, Udumalpet	Dalit man + Gounder woman	+Murder, SC/ST Act, conspiracy	Conviction; life imprisonment (HC)
2017	Murugesan, Coimbatore	Dalit man + OBC woman	Murder, SC/ST Act	Conviction; 10-year sentence
2018	Gobi Case, Namakkal	Dalit youth + Thevar family	+Murder, abetment	Acquittal — hostile witnesses
2019	Geetha Case, Tirupur	Dalit man + Gounder woman	+Murder, SC/ST Act	Conviction; life imprisonment
2020	Nakkheeran Case, Dharmapuri	Dalit youth + OBC community	Murder (re-registered)	Trial ongoing
2021	Selvam, Salem	Dalit man + Vanniyar family	+Attempt to murder, SC/ST Act	Conviction; 7 years
2022	Babu, Villupuram	Dalit couple + OBC family	Murder, SC/ST Act	Trial pending

**Annexure II • Tamil Nadu SC/ST Act Case Statistics (2017–2022)**

Year	Cases Registered	Chargesheeted	Cases Tried	Conviction Rate (%)
2017	1,768	1,204	892	28.4
2018	1,930	1,389	1,024	30.1
2019	2,089	1,512	1,118	31.6
2020	1,654	1,198	876	22.3
2021	2,002	1,467	1,098	33.8
2022	2,209	1,611	1,203	34.9

Source: NCRB Crime in India Reports 2017–2022; Tamil Nadu State Commission for SC/ST. Conviction rate = convictions as proportion of cases decided.

**Annexure III • Comparative Honour Crime Legal Frameworks**

Country	Dedicated Law	Civil Remedies	Specialist Units	Key Provision
India	No	Limited	No	SC/ST Act + BNS murder —

		(PWDVA)		no dedicated category
Pakistan	Yes (2016)	No	Limited	25-yr minimum; state prosecution independent of family
United Kingdom	Yes (2014, 2021)	Yes (FMPO, DAPO)	Yes (HBVU)	Aggravated sentencing; rapid civil orders
Turkey	No (aggravated)	No	No	Art 82 PPC — aggravated life imprisonment
Jordan	Partial (2017)	No	No	Art 340 exemption removed; residual discretion remains

*This dissertation is prepared for academic purposes only. All case references, legislative analyses, and citations are based on publicly available judicial, statutory, and scholarly sources as of 2024.*

