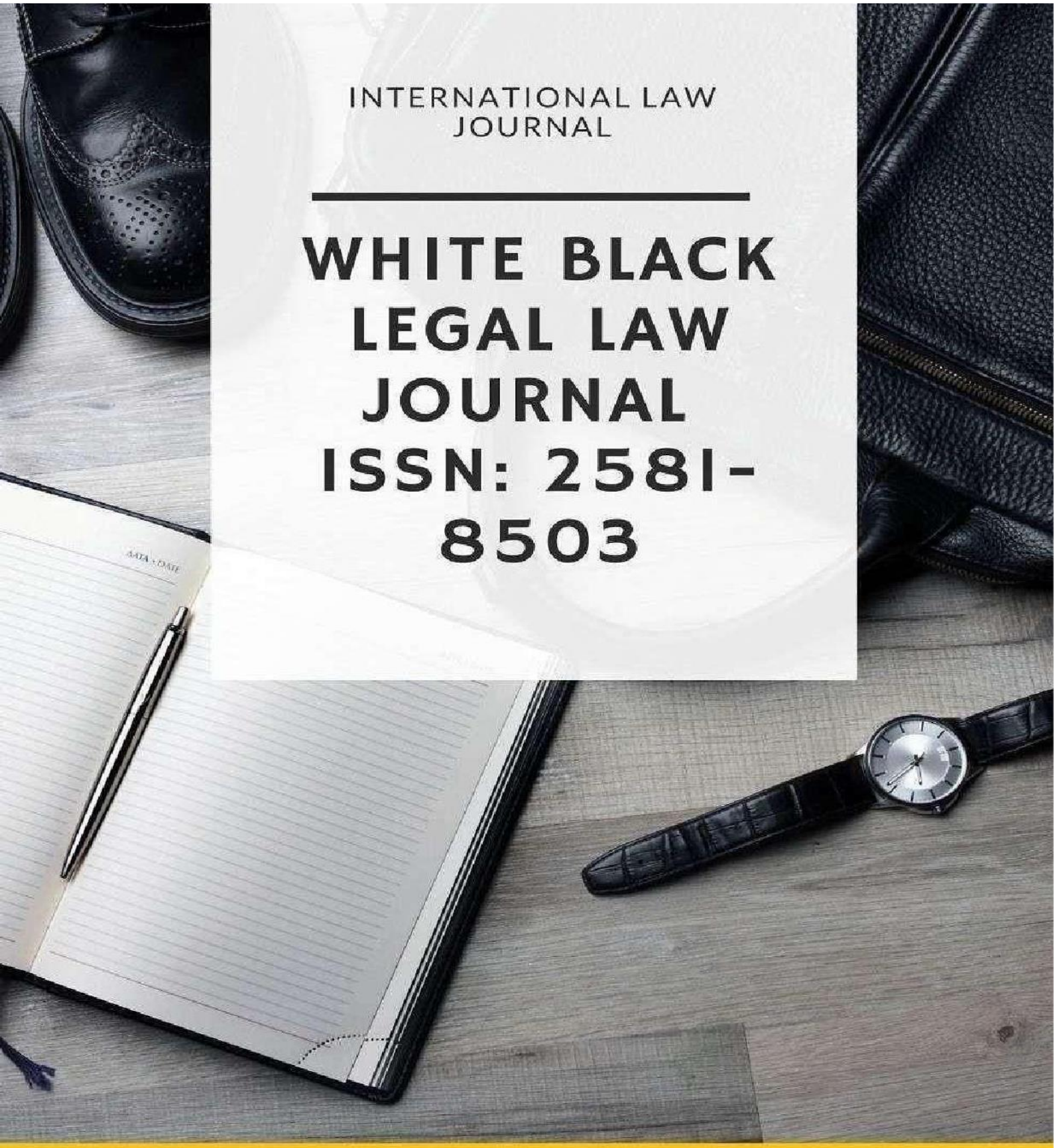


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BETWEEN CUSTOM AND CONSTITUTIONALISM

Khap Panchayats, Family Law and the Protection of Individual Autonomy in India

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Abstract

This paper examines the tension between community-based customs and constitutional rights through the example of khap panchayats in northern India. These informal caste and clan councils do not have authority under Indian law, but some have continued to influence decisions about marriage and relationships. Their opposition to marriages that cross caste, gotra or village boundaries has, in some cases, contributed to threats, social exclusion and violence. The paper considers the historical background of khaps, the legal meaning of custom, and the protection given to an adult's choice of partner under the Constitution.

It focuses particularly on the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, and decisions such as Lata Singh v. State of Uttar Pradesh, Shafin Jahan v. Asokan K.M. and Shakti Vahini v. Union of India. The central argument is that an adult's choice of a life partner is protected by constitutional guarantees of liberty, dignity and privacy. Community disapproval cannot lawfully replace that choice. The continuing problem is the gap between legal principles and their implementation.

Police inaction, weak protection systems, the public-notice procedure under the Special Marriage Act and deep-rooted social inequalities can leave couples exposed to pressure. The paper concludes with suggestions for stronger legislation, better policing, safer marriage procedures and wider social awareness.

Keywords: Khap panchayats; custom; constitutionalism; family law; individual autonomy; honour-based violence; Article 21; Shakti Vahini.

1. Introduction

Marriage is often described as a personal decision, but in many communities it is also treated as a matter affecting the family, caste and village. This difference becomes especially visible when two adults choose a partner against the wishes of their relatives or community elders. The case of Manoj and Babli, a young couple from Haryana who were killed in 2007 after marrying against family and khap opposition, brought this issue into public discussion. In 2010, a sessions court in Karnal convicted several people in connection with their deaths, including a khap leader.

The case became a painful reminder that a body with no formal legal authority can still exercise considerable social power over people's lives.

underlying concern is comparable: a community attempts to control who may marry whom. In Shakti Vahini v. Union of India, the Supreme Court considered figures referring to 288 recorded cases of honour killing between 2014 and 2016. Such figures cannot show the full extent of the problem because incidents may be recorded under other categories or may never be reported at all. The constitutional issue is straightforward in principle. Article 21 protects life and personal liberty, and the Supreme Court has repeatedly recognised that choosing a life partner falls within an individual's freedom.

However, some traditional social rules treat marriage as a collective decision. From that perspective, a marriage may be seen as affecting family reputation, clan identity or caste boundaries. When these expectations conflict with an adult's choice, the state has a duty to protect the person's rights rather than allow community pressure to take control. This subject brings family law and constitutional law together. Family law has historically recognised certain customs, particularly in matters connected with marriage and family relationships.

The Hindu Marriage Act, 1955 defines custom and allows it to operate in specific circumstances, while also replacing older rules where the statute makes provision. Constitutional law asks a different but related question: whether a rule or practice respects equality, liberty, dignity and the rule of law. The position of khap panchayats sits at the meeting point of these questions. This paper makes three main arguments. First, the marriage restrictions enforced by khaps cannot automatically be treated as legally valid customs.

A claimed custom must meet established legal tests, and the Hindu Marriage Act does not recognise a general prohibition on same-gotra or same-village marriages. Second, even a practice with a genuine history cannot be used to override constitutional rights or justify threats and violence. Third, the greatest difficulty is not the absence of judicial statements supporting

adult choice; it is the failure to put those principles into practice consistently. A legal right offers little real protection if a couple cannot obtain police assistance, safe accommodation or a fair opportunity to marry.

2. Objectives, Research Questions and Method

2.1 Objectives

This paper has four objectives. It explains the nature and functioning of khap panchayats from a legal perspective; examines whether the rules enforced by them qualify as custom under Indian family law; analyses constitutional and judicial protection for the freedom to choose a partner; and considers why those protections are not always effective in practice.

The paper addresses the following questions: What is the legal status of khap panchayats? Can their restrictions on marriage be defended as legally recognised customs? How have the Constitution and the courts protected an adult's choice of partner? What prevents those protections from working effectively on the ground, and what reforms could improve the situation? The research follows a doctrinal method.

It draws on the Constitution of India, relevant statutes, reported decisions of the Supreme Court and High Courts, Law Commission materials and academic writing on caste, gender and marriage in northern India. References to recent legislation and enforcement are based on the material available for this paper and should be checked against current official sources before being relied upon in legal practice. No fieldwork has been conducted, so the paper does not claim to measure the present number of active khaps or the number of couples affected by them.

The expression "honour killing" is used where it appears in judgments and legal discussions. However, the term can be misleading because there is nothing honourable about such violence. "Honour-based violence" or "honour crime" is often a more appropriate description. A khap is generally understood as a grouping of villages linked by a shared clan or gotra identity within a particular area. Khaps are especially associated with agrarian communities, including Jats, in Haryana, western Uttar Pradesh, parts of Rajasthan and nearby rural areas. Their size varies. Some are associated with a small number of villages, while others claim links with many villages. A meeting of elders from one khap is commonly called a khap panchayat; a larger gathering involving several khaps may be described as a Sarv Khap. Khap panchayats must not be confused with gram panchayats. The latter are constitutionally recognised institutions of local self-government under Part IX of the Constitution, introduced

2.2 Research questions

2.3 Method and scope

3. Khap Panchayats: Origins, Structure and Working

3.1 Meaning and structure

through the 73rd Constitutional Amendment. Gram panchayat representatives are elected and their powers and responsibilities come from law. Khap panchayats, by contrast, are informal caste or clan bodies. They are not created by statute, do not have a legally recognised jurisdiction and cannot impose judicial decisions. In Shakti Vahini, the Supreme Court also made clear that not every community gathering is unlawful; the problem arises when an assembly interferes with individual rights or encourages coercion. The exact origins of khaps are debated. Some accounts trace them to older forms of clan and village organisation.

Other scholars argue that the modern role of khaps was shaped partly by colonial administration. British officials collected accounts of local customs in documents such as the Riwaj-i-Am, and the Punjab Laws Act, 1872 directed courts to apply custom in certain matters unless it was inconsistent with justice, equity or good conscience, or had been changed by legislation. This history helps explain why custom has been used to justify social rules, but historical recognition does not mean that every rule claimed as tradition is legally valid today.

Khaps generally work through informal meetings rather than written rules or a formal hearing process. Elders, often men from influential landowning families, may discuss a marriage or dispute after a complaint from relatives or other community members. A decision is then announced as an expectation that the wider community should follow. There is usually no formal appeal process, and the people affected may have little opportunity to present their side. The pressure applied can take different forms. It may include fines, social boycott, exclusion from village activities or demands that a couple separate.

In serious cases, community pressure may contribute to threats or physical violence by relatives or others. A public statement condemning a marriage may not expressly call for violence, but it can create an atmosphere in which a family feels encouraged to punish the couple. In Shakti Vahini, the Supreme Court recognised that members who participate in or encourage a crime may face liability for conspiracy or abetment where the evidence supports it. Marriage has been a central focus of khap decisions.

Common objections include marriage between people of the same gotra, marriage within the same village or nearby villages, inter-

3.2 Historical background

3.3 How khaps operate

3.4 Marriage rules and community claims

caste marriage and, in some situations, interfaith marriage. Khaps have also been reported to comment on women's clothing, use of mobile phones and freedom of movement. These interventions raise questions not only about marriage but also about gender equality and control over personal life. It is important to explain how khaps describe their own position. During proceedings before the Supreme Court, representatives argued that their main concern was same-gotra marriage rather than inter-caste marriage. They sought changes to the Hindu Marriage Act and referred to resolutions opposing honour killings.

Such claims form part of the debate and should not be ignored. However, describing a practice as a matter of tradition does not answer the legal question of whether it can be enforced against adults. Nor does a general statement against violence remove the need to examine the conduct of a particular assembly. The continued influence of khaps cannot be explained by tradition alone. Scholars such as Prem Chowdhry have connected the regulation of marriage with control over land, women and caste status.

In settings where property and social position are closely linked to family arrangements, a marriage outside community expectations may be viewed as a challenge to the existing order. B.R. Ambedkar's analysis of caste also highlighted endogamy—the practice of marrying within one's caste—as an important mechanism through which caste boundaries are maintained. From this perspective, control over marriage can help preserve broader structures of social power. Custom has long been recognised as a source of rules in parts of Indian personal law. In Collector of Madura v. Moottoo Ramalinga Sathupathy (1868), the Privy Council accepted that

clearly proved usage could have legal importance. However, recognition of custom has never meant that any practice can become law simply because people claim it is old. Courts have traditionally required a custom to be ancient or long-established, certain in its meaning, continuous, reasonable and consistent with public policy. Decisions such as Ramalakshmi Ammal v. Sivanatha Perumal Sethuraya and Hurpurshad v. Sheo Dayal reflect.

3.5 Why khaps continue to matter

4. Custom in Indian Law

4.1 The legal meaning of custom

importance of proof. The person relying on a custom must establish its existence and content; a court should not assume that it exists merely because a community says so. Section 3(a) of the Hindu Marriage Act, 1955 defines "custom" and "usage" as a rule that has been continuously and uniformly observed for a long time and has acquired the force of law among Hindus in a local area, tribe, community, group or family. The rule must be certain, reasonable and not opposed to public policy.

Where it applies only within a family, it must not have been discontinued by that family. This definition is important because it distinguishes a legally recognised custom from social pressure. A rule must meet the statutory requirements; it cannot be treated as legally binding merely because elders support it or because people fear the consequences of disobeying it. Section 4 of the Act provides that, except where the Act itself says otherwise, earlier rules of Hindu law and customs cease to operate on matters covered by the statute.

The Act does preserve custom in particular situations. Sections 5(iv) and 5(v), for example, allow certain marriages within prohibited degrees or between sapindas where the relevant custom permits them. Section 7 recognises customary rites and ceremonies for solemnising a Hindu marriage, while Section 29(2) preserves certain customary rights relating to dissolution. These provisions do not create a general power for a community to prohibit marriages that the statute permits. The Act does not list same-gotra marriage, same-village marriage or inter-caste marriage as prohibited categories.

A khap cannot therefore rely on the provisions saving custom as a basis for adding restrictions that Parliament has not included. The relationship between personal law and fundamental rights has been debated in Indian constitutional law. In State of Bombay v. Narasu Appa Mali, the Bombay High Court took the view that uncodified personal law was not "law in force" for the purpose of Article 13. That approach has attracted criticism. Later cases, including Shayara Bano v. Union of India and Indian Young Lawyers Association v.

State of Kerala, show that practices defended on religious or customary grounds may face close scrutiny where equality and dignity are involved. Madhu.

4.2 Section 3(a) of the Hindu Marriage Act

4.3 What the Hindu Marriage Act permits

4.4 Custom and fundamental rights

Kishwar v. State of Bihar also considered the difficult relationship between customary rules

and women's rights. The position of khap rules is in some respects clearer. They are generally informal social practices rather than a recognised body of statutory personal law. They do not give khaps the authority to decide whether a marriage is valid. In Vishwa Lochan Madan v. Union of India, the Supreme Court held that informal religious opinions do not carry legal sanction that permits coercive enforcement. The same basic principle applies to khap decisions: a community may express an opinion, but it cannot use threats, confinement or violence to force compliance. Individual autonomy means being able to make important decisions about one's own life without having another person impose the final decision. The Constitution does not use the word "autonomy" as a standalone guarantee, but the Supreme Court has developed the idea through Articles 14, 15, 19 and 21, together with the constitutional values of liberty, equality and dignity.

A major step came in Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), where a nine-judge bench recognised privacy as a fundamental right. Privacy was not treated merely as the right to keep information secret. It also covered personal choices and intimate aspects of life, including decisions concerning marriage and family. This reasoning supports the principle that an adult's choice of partner belongs primarily to that individual, not to the community. Several Supreme Court decisions have strengthened this principle. In S. Khushboo v. Kanniammal, the Court rejected the idea that a consensual relationship between adults becomes criminal merely because some people disapprove of it. In Soni Gerry v. Gerry Douglas, it recognised an adult woman's right to decide where and with whom she would live. In Nandakumar v. State of Kerala, the Court held that two adults could live together even though a technical issue affected the validity of their marriage. Shafin Jahan v. Asokan K.M., commonly known as the Hadiya case, is especially relevant. The Kerala High Court had annulled an adult woman's marriage after she converted to Islam and married a man of her choice. The Supreme Court set aside that decision and emphasised that the

5. Constitutionalism and Individual Autonomy

5.1 Understanding autonomy

5.2 The freedom to choose a partner

choice of faith and partner lies at the core of individual liberty. Neither parents nor courts may replace an adult's decision simply because they believe they know what is best. The judgment makes clear that family concern, even when sincerely held, does not give relatives a right to control an adult's life. A threat from a khap may come from private individuals rather than

government officials. That does not remove the state's responsibility.

Article 21 requires the state not only to avoid violating life and liberty itself, but also to take reasonable steps to protect people from serious threats. If the police ignore a credible complaint or refuse to protect a couple because the community is influential, the failure of public authorities becomes part of the problem.

This approach was central to Shakti Vahini. The Court did not need to treat khaps as government bodies. Instead, it considered whether the state was meeting its responsibility to protect citizens from violations by others.

Fundamental rights would have little practical value if the state could avoid responsibility whenever the immediate threat came from a private person. The rule of law requires disputes and alleged offences to be handled by institutions that act under legal authority and follow fair procedures. A khap has no power to conduct a trial, punish a couple or decide that a lawful marriage must end. In Arumugam Servai v. State of Tamil Nadu, the Supreme Court strongly criticised khap-type bodies acting as self-appointed courts and described them as "kangaroo courts".

Cultural and religious freedom do not provide an exception to this principle. Articles 25 and 29 protect important freedoms, but they do not allow a community to override the life, liberty and dignity of its members. People can preserve traditions and participate in community life, but they cannot use those traditions as a licence to coerce others. Section 5 of the Hindu Marriage Act sets out the conditions for a valid Hindu marriage. These include that neither party has a living spouse, that the parties meet the relevant mental-capacity

5.3 The state·s duty to protect people from private coercion

5.4 Rule of law and parallel justice

6. Khaps and Family Law

6.1 Marriage under the Hindu Marriage Act, 1955

requirements, that they have reached the prescribed ages, and that they are not within prohibited degrees of relationship or sapinda relationship unless a qualifying custom permits the marriage. The Act does not require spouses to belong to the same caste, and it does not prohibit marriage simply because the parties share a gotra. Sections 11 and 12 identify circumstances in which a marriage may be void or voidable. Caste and gotra, as such, are not listed as grounds.

The statutory scheme therefore does not support a khap's attempt to invalidate a marriage merely because it violates community preference. The distinction between gotra and sapinda

relationship is important. Section 3(f) of the Act defines sapinda relationship by reference to lineal descent within specified generational limits: three generations through the mother's line and five through the father's line, counting the person concerned as the first generation. The rule is linked to a defined degree of relationship. Gotra, by contrast, is commonly understood as a traditional lineage associated with descent from a particular sage.

Many people may share a gotra without having a close or identifiable blood relationship. A same-gotra restriction is therefore not simply another way of applying the statutory sapinda rule. In Shakti Vahini, the Supreme Court did not decide the validity of every same-gotra marriage; it made clear that questions of legal validity are for courts, not informal assemblies.

The Special Marriage Act allows people to marry through a civil procedure regardless of caste or religion, provided they meet the statutory conditions. It is particularly important for couples who do not wish to marry through a religious ceremony or who face family opposition. Sections 5 to 8 establish a notice and objection procedure. Traditionally, a notice is given to the Marriage Officer in a district where at least one party has lived for the required period, and the notice is displayed publicly. Objections may be made within the prescribed period on the grounds set out in the Act.

The process was designed to help identify legal barriers such as an existing marriage. However, public notice can also expose a couple's plans to the very relatives or community members from whom they are trying to remain safe.

In Safiya Sultana v. State of Uttar Pradesh (2021), the Allahabad High Court held that publication of notice and inviting objections should not be treated as mandatory where the parties

6.2 Gotra and sapinda are not the same

6.3 The Special Marriage Act, 1954 and public notice

did not want it. The reasoning drew on privacy and the freedom to marry. This decision highlights the tension between the Act's procedure and the constitutional interest in protecting personal choices. Because a High Court decision does not necessarily settle the position for every jurisdiction, reform of the statute would provide greater clarity and consistency. Reports from northern India describe khap assemblies attempting to direct couples to separate, asking women to return to their parental homes, or pressuring families to withdraw complaints about dowry harassment or domestic violence.

These actions can interfere with remedies provided by law. A khap cannot declare a marriage void or grant a divorce; those decisions belong to the courts under the relevant matrimonial legislation. A person facing domestic violence may also seek protection under the Protection

of Women from Domestic Violence Act, 2005 and other applicable laws. Community mediation may be welcomed when it is genuinely voluntary. It becomes unacceptable when a person is pressured into withdrawing a complaint or accepting an outcome they do not want.

Protecting family relationships cannot mean denying a person access to legal remedies. Families opposed to a relationship may allege kidnapping or file a habeas corpus petition seeking the production of an adult woman before a court. If the woman clearly states that she left voluntarily and wishes to remain with her chosen partner, her decision must be taken seriously. In Lata Singh v. State of Uttar Pradesh, the Supreme Court stated that an adult is free to marry a person of their choice and that disapproval does not justify harassment or violence. The criminal law must not become a tool for returning an adult to family control.

In Lata Singh v. State of Uttar Pradesh (2006), an adult woman married a man from a different caste and faced threats and harassment from her relatives. The Supreme Court protected the marriage and directed the police and administration to ensure that inter-caste couples were not

6.4 Matrimonial remedies and community pressure

6.5 Criminal complaints used to challenge relationships

7. The Judicial Response

7.1 Lata Singh and Bhagwan Dass

harassed or attacked. The Court also observed that inter-caste marriages could help weaken caste divisions.

In Bhagwan Dass v. State (NCT of Delhi) (2011), the Court considered a father's killing of his daughter because he disapproved of her relationship. It strongly condemned honour-based violence and upheld the death sentence on the facts of that case. The judgment conveyed the seriousness with which the Court viewed such crimes, although sentencing in individual cases must still depend on the applicable legal principles and facts.

In Arumugam Servai v. State of Tamil Nadu (2011), the Supreme Court criticised caste and khap panchayats that act as self-appointed judges over marriage and relationships. It called for firm action

against those who encourage violence in the name of honour and against officials who fail to respond properly. The decision made clear that informal community authority cannot replace the legal system.

Shakti Vahini v. Union of India (2018) is the central judgment on preventive action against honour crimes. The petition asked the Supreme Court to direct the Union and state governments

to take effective steps to prevent violence against couples who choose their own partners. The Court considered the work of the Law Commission and submissions concerning the situation in areas where such violence had been reported. The Court affirmed that when two adults choose each other as life partners, their choice is protected by Articles 19 and 21. No khap or other assembly may interfere with that choice in the name of community honour.

Such assemblies cannot act as law-enforcement agencies or take the law into their own hands. The Court also urged Parliament to enact specific legislation addressing honour crimes. The directions were divided into preventive, remedial and punitive measures. Preventive steps included identifying areas where such incidents had occurred, appointing nodal police officers and warning community assemblies that coercive interference was unlawful. Where an assembly issued a diktat that led to a criminal offence, the police were expected to register a case and investigate the possible involvement of its members.

Remedial steps included protection arrangements for threatened couples, safe houses, helplines and special cells to receive.

7.2 Arumugam Servai

7.3 Shakti Vahini v. Union of India

complaints. Punitive measures included departmental action against negligent officials and speedy trials in appropriate cases. Taken together, the cases show a steady development in the law. Lata Singh affirmed the freedom to marry across caste lines and called for police protection. Arumugam Servai rejected the idea that khap bodies could act as courts. Puttaswamy explained the constitutional importance of privacy and intimate choice, while Shafin Jahan confirmed that an adult's decision about a partner cannot be replaced by the views of parents or judges.

Shakti Vahini brought these principles together and laid down practical directions for the state. The courts have also broadened the understanding of responsibility. Liability may extend beyond the person who directly commits violence where evidence establishes conspiracy or abetment, and public officials may be accountable for serious failures to act. Yet judicial directions alone cannot guarantee protection. They must be implemented through functioning institutions and a willingness to act even when the people exerting pressure are locally influential.

India has not enacted a comprehensive central statute specifically addressing honour crimes and interference with freedom of marriage. Prosecutions therefore rely on general criminal law. Since 1 July 2024, the Bharatiya Nyaya Sanhita, 2023 has replaced the Indian Penal Code, 1860. Depending on the facts, offences such as murder, conspiracy, abetment, unlawful

assembly, wrongful restraint, wrongful confinement, intimidation and kidnapping may be relevant. These provisions can be used against people who commit or assist a specific offence. However, proving the responsibility of a group that publicly condemns a marriage but does not directly carry out the final act may be difficult. A dedicated legal framework could address the assembly and its purpose at an earlier stage, while preserving the need for evidence and fair process. The Law Commission of India's 242nd Report, issued in August 2012, proposed a legal framework to prevent interference with freedom of matrimonial alliances in the name of honour and tradition. The proposed approach focused on unlawful assemblies formed to condemn or

7.4 What the cases establish

8. Legislative and Executive Response

8.1 The absence of a dedicated central law

8.2 The Law Commission proposal

interfere with a marriage. It also contemplated preventive action by authorities and responsibility for those involved. The proposal has not been enacted as a central law, leaving the system to rely mainly on existing offences and court directions. Some states have considered or pursued their own measures. Reports have discussed a Rajasthan bill concerning interference with matrimonial alliances in the name of honour and tradition, but its legal status should be checked against official records before being relied upon.

Reports have also described legislative action in Karnataka in 2026 and the establishment of a commission in Tamil Nadu to examine measures against honour killings. Because these developments are recent and may change, they should be verified through current official sources before being cited as the present legal position. Both marriage and criminal law involve subjects on which Parliament and state legislatures have roles under the constitutional distribution of powers. The directions in Shakti Vahini were intended to be implemented within a short period, but reports have raised concerns about uneven compliance.

Some accounts have questioned whether special cells, nodal officers and protection mechanisms are available in practice. Such reports cannot, by themselves, establish the position in every district, but they illustrate a recurring problem: court orders may be clear while local implementation remains weak. The police may hesitate to act against influential families or community leaders, and threatened couples may not know where to seek protection. Unless the state regularly checks whether its directions are being followed, the same gaps can continue

despite strong judicial language.

The central legal principle is now well established: adults have the right to choose their partners, and community disapproval cannot justify coercion or violence. The decisions in Lata Singh, Shakti Vahini and Shafin Jahan, read alongside Puttaswamy, provide strong constitutional support for this position. The continuing incidents of violence show that a declaration of rights is not enough. Rights require accessible institutions, timely action and effective protection.

8.3 State-level initiatives

8.4 The implementation gap

9. Critical Analysis

9.1 The legal principle is clearer than its implementation

The conflict is often presented as a contest between tradition and modernity. That description is too simple. The legal question is not whether every traditional practice should disappear, but whether a particular practice meets the requirements of law and respects fundamental rights. As discussed earlier, informal khap restrictions do not become binding legal customs merely because they are defended as old practices. A claimed custom must be proved and must meet the legal tests. At the same time, it is important to understand why these disputes matter so deeply in some communities.

Marriage can affect family relationships, social support and a person's standing in a village. Families may genuinely fear that a marriage will lead to conflict or isolation. The Constitution does not require relatives to approve of every relationship, nor does it prevent them from expressing disagreement. The line is crossed when disagreement turns into threats, confinement, forced separation or violence. A person may disagree with an adult's decision, but cannot lawfully take that decision away from them. Honour-based violence is often described as a reaction to personal relationships, but caste and gender are also important.

Women may be targeted for choosing a partner outside community expectations, while Dalit men who marry women from dominant castes may face particular hostility. These patterns suggest that the issue is not simply a family disagreement. It can also be a way of maintaining caste boundaries and controlling women's choices. Ambedkar's analysis of endogamy helps explain why control over marriage can serve a wider social purpose. The state's response often depends on local police and officials. In a village, influential people may be neighbours, employers or political contacts of the officers responsible for receiving complaints.

These relationships can create pressure to delay action or treat a threat as a private family matter. Shakti Vahini attempted to address this by setting out duties for police officers and calling for action against negligence. But accountability works only when failures are recorded, investigated and followed by consequences.

9.2 Is this truly a conflict between custom and the Constitution?

9.3 Caste and gender are central to the issue

9.4 Local policing and administrative weakness

The Special Marriage Act provides an important route for couples who wish to marry outside

religious personal-law procedures. However, the public-notice process may expose their plans to relatives or community members who intend to interfere. This creates a gap between the substantive right to marry and the practical ability to exercise it safely. The approach taken by the Allahabad High Court in Safiya Sultana highlights the importance of privacy, but a consistent legislative solution would offer greater certainty across India. A balanced discussion must recognise that autonomy does not require people to make every decision without family involvement. Many people freely choose arranged marriages, and family advice can be valuable.

The constitutional point is narrower: consultation must not become compulsion. The final decision about marriage belongs to the adults concerned, and they must be free from threats or punishment for choosing differently. Criminal law can punish violence and, with effective preventive measures, may help protect couples before a crime occurs. But legal action can be difficult where witnesses are afraid, evidence is lost or the wider community supports the accused. Long-term change also depends on education, economic independence, equal access to property, awareness of legal rights and community leadership that openly rejects coercion.

Law is essential, but it cannot transform social attitudes by itself. The legal discussion can sometimes become so focused on constitutional provisions and reported judgments that the people at the centre of the dispute disappear from view. For a couple facing opposition, the problem is rarely limited to one meeting or one disagreement. It may involve repeated phone calls, pressure from relatives, restrictions on movement, threats to withdraw financial support, or the fear that a private relationship will become public before the couple is ready.

In some cases, one partner may be taken away from the other or pressured to make a statement that does not reflect their wishes. These experiences show why the right to choose a partner must be understood as a practical freedom, not merely a legal sentence written in a judgment.

9.5 Marriage procedure can expose couples to risk

9.6 Autonomy does not mean rejecting family involvement

9.7 Criminal law is necessary but not sufficient

9.8 The lived impact on couples and families

The consequences are often unequal. Young women may face closer control over their mobility, friendships and marriage decisions because families connect their conduct with family reputation. Men may also face threats or violence, especially where caste boundaries or local status are involved, but women can experience additional pressure concerning sexuality, pregnancy, residence and economic dependence. A woman who leaves home may lose access to money, documents, education or support from relatives. A couple may also struggle to find accommodation or continue their studies when they are publicly opposed by influential people in their village.

These pressures can make a formally voluntary decision difficult to carry out safely. It is therefore not enough to ask whether an adult is legally free to marry. Authorities should also consider whether that person can communicate their wishes privately, access identification documents, obtain transport and shelter, and contact legal assistance without interference. At the same time, protection should not become another form of control.

An adult who seeks help should not be forced into a shelter, returned to their family, or separated from their partner simply because officials believe that family reconciliation would be preferable. The purpose of assistance is to make the person's own lawful decision possible, while responding appropriately to any genuine safety risk. The same approach matters when a family reports that an adult has been abducted or coerced into marriage. Such allegations must be taken seriously and investigated fairly.

However, the adult concerned should be heard directly and, where appropriate, away from family members or other interested parties. The law must protect people from forced marriage and trafficking without assuming that every relationship opposed by a family is automatically forced. A careful, individual assessment is more consistent with both personal liberty and the state's responsibility to prevent crime. Legal reform is essential, but a law cannot by itself change every belief that supports social control over marriage.

Attitudes are shaped at home, in schools, through community meetings, religious and cultural discussions, and the way local leaders speak about caste and family reputation. If young people hear only that family honour must be protected at any cost, they may not learn how to distinguish genuine concern from coercion. Education can help explain that consent, equality and respect for elders are not necessarily opposing values. Families can offer

9.9 The role of education, public discussion and local leadership

advice and express disagreement, but the decision of a competent adult cannot be replaced by threats or force. Colleges and universities can contribute by organising discussions on constitutional rights, marriage laws, gender equality and access to legal aid. These sessions should not stereotype entire communities or present every khap or village elder as violent. Such an approach would be inaccurate and could make constructive dialogue harder. Instead, discussions should focus on the line between community participation and unlawful interference.

Community organisations can support couples and families by encouraging mediation only where participation is genuinely voluntary and where there is no risk that mediation will expose a person to further threats. In situations involving violence, intimidation or confinement, safety and legal accountability must come before reconciliation. Local leaders can also make a difference by publicly rejecting violence and making it clear that disagreement over a marriage does not justify punishment. This is especially important because social approval or silence can affect whether witnesses come forward and whether families feel able to seek police assistance. Public campaigns should be designed with local participation, including women, young people, teachers, lawyers and civil society groups. They should use clear examples and accessible language rather than rely only on legal terminology. The aim is not to erase local identity, but to make clear that cultural identity does not give any person or group authority to threaten another person's liberty. The media also has a responsibility to report such cases carefully.

Sensational headlines can turn a serious rights violation into entertainment, repeat unverified claims, or suggest that the victim brought violence upon themselves by choosing a partner. Responsible reporting should protect the privacy of vulnerable people, avoid revealing details that could expose them to danger, and distinguish allegations from findings made by a court. Accurate reporting can help the public understand the legal issue without increasing the risk faced by the couple. A useful way to assess a community body's involvement in marriage-related matters is to ask three straightforward questions. First, is participation voluntary?

People should be free to attend or leave a meeting without fear. Secondly, is the body offering advice or claiming power to impose a decision? Advice, dialogue and voluntary assistance are different from issuing a binding command, imposing a social boycott, or directing a family to punish a couple. Thirdly,

9.10 A practical test for evaluating community action

does the action respect the law and the rights of everyone concerned? Any activity involving threats, confinement, assault, forced separation or interference with a lawful marriage crosses

a serious line and requires an appropriate response from the authorities. This practical test avoids two extremes. It does not treat every gathering of elders as unlawful merely because it is informal, and it does not allow an informal body to claim legal authority simply because it has local influence.

The Constitution protects association and cultural life within legal limits; it does not recognise a parallel system with the power to override individual liberty. Applying this distinction consistently would allow lawful community activity to continue while making the limits of coercive conduct clearer to police, administrators and the public. First, Parliament should consider enacting a central law specifically addressing honour-based violence and unlawful interference with matrimonial choice. It could build on the Law Commission's 242nd Report and reflect the current criminal-law framework.

The law should define prohibited conduct clearly, allow timely preventive intervention where there is a credible threat, and ensure that those who organise or encourage coercive assemblies can be held accountable where the evidence establishes their role. Second, implementation of Shakti Vahini should be monitored regularly. State governments could publish compliance reports setting out whether districts have nodal officers, special cells, helplines and safe accommodation, and whether complaints are being investigated promptly. Human rights commissions and courts could review persistent gaps within their lawful powers. Third, safe houses should be accessible and genuinely protective.

Couples should not have to negotiate with the same local authorities from whom they have sought protection. Support should include legal assistance, counselling and practical help where necessary. Victim-compensation schemes should be administered promptly in accordance with applicable rules. Fourth, the notice procedure under the Special Marriage Act should be reviewed to protect privacy while maintaining necessary checks against legally prohibited marriages. Publication of personal details should not unnecessarily expose couples to threats. Marriage officers should also receive training on handling cases where one or both parties report family pressure or a risk of violence.

10. Suggestions and Recommendations

Fifth, police officers and prosecutors need practical training on honour-based violence. They should understand how to assess threats, register complaints, respond when an adult says they left home voluntarily, and avoid treating an adult woman's decision as a matter that her family may reverse. Judicial training should similarly address the rights of adults in habeas corpus,

protection and bail proceedings.

Sixth, legal awareness should be improved in schools, colleges and communities. Young people should know that they can seek legal help when threatened and that community disapproval does not give anyone authority to use violence.

Awareness programmes should explain the difference between voluntary family guidance and coercion. Seventh, long-term policy should address the inequalities that make control over marriage a tool of social power. Education, economic opportunities for women, secure property rights and protection against caste discrimination can reduce the dependence that leaves some people unable to resist family pressure. Finally, elected gram panchayats and other lawful local institutions can help create space for community discussion and awareness. They are constitutionally recognised bodies with defined responsibilities and accountability mechanisms.

Their role should be to encourage lawful dialogue and protect residents' rights, not to reproduce the coercive authority sometimes exercised by informal assemblies. Alongside the recommendations above, each district should have a clearly publicised route through which an adult facing threats over a relationship can seek help confidentially. The route should identify the responsible police officer, the available legal services authority, emergency accommodation and the procedure for requesting protection. Information should be available in local languages and through colleges, district courts and official websites.

A person should not need to know the name of a Supreme Court judgment or have personal connections with an official before receiving a serious response to a credible threat. Authorities should also maintain careful records of complaints, protective measures, investigations and outcomes, while protecting the identity and privacy of affected people. Publishing anonymised information can help governments identify districts where threats recur and assess whether safeguards are working. Data should be described accurately: a recorded case count does not necessarily show the full scale of the problem, because incidents may be

10.1 Making protection accessible in practice

misclassified or never reported. Still, better records can support planning, training and accountability. Regular review is preferable to relying on occasional announcements after a high- profile incident. Finally, the response should be coordinated. Police protection alone may not solve a problem if a couple has nowhere safe to stay, no access to legal advice or no means to continue education or employment. District administration, legal services authorities, protection services and relevant civil society organisations can work together, provided that information is shared lawfully and the couple's wishes are respected.

The details of any scheme will depend on the applicable state framework, so officials should use current government rules rather than assume that the same arrangement exists everywhere. This paper has examined khap panchayats as an example of the tension between community expectations and constitutional rights. The issue is not simply whether tradition should be respected. It is whether a community body with no legal authority can control the marriage choices of adults and punish those who disagree.

Indian law does not give khap panchayats the power to declare marriages invalid, impose separation or enforce their decisions through threats. The restrictions they promote must satisfy the legal requirements for custom, and they cannot override fundamental rights. The Supreme Court's decisions, including Lata Singh, Arumugam Servai and Shakti Vahini, make clear that adults are entitled to choose their partners and that honour-based violence is unlawful. Puttaswamy and Shafin Jahan further explain why privacy, dignity and liberty protect personal decisions about marriage and family.

Family members may express disagreement, but neither families nor community assemblies can take over the decision of an adult. The larger weakness lies in implementation. The absence of a comprehensive central law, uneven enforcement of judicial directions, inadequate protection arrangements and procedures that may expose couples to interference can leave people vulnerable. Local officials must respond to threats promptly, and authorities must be held accountable when they fail to do so. Legal reform should be accompanied by public awareness, education and efforts to reduce caste and gender inequality.

11. Conclusion

The Constitution does not demand that people abandon their families, beliefs or cultural identities. It requires that those ties remain compatible with the freedom and dignity of each person. A community can preserve its traditions without forcing every member to live by the same choices. The real test of constitutional values is whether two adults can make a decision about their future without fear of coercion or violence. Research limitation: This paper is based on doctrinal analysis of legislation, judicial decisions, official reports and secondary literature.

It does not include interviews or fieldwork, and it does not claim that every khap follows the same practices. The examples discussed examine the legal limits of coercive conduct; they are not intended to generalise about all village communities or customary associations.

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