

"Khap Adjudication in India: Respect for Culture through Crime"

Turkish Online Journal of Qualitative Inquiry (TOJQI)
Volume 12, Issue 8, July, 2021:7444 – 7451

Research Article

"Khap Adjudication in India: Respect for Culture through Crime"

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Abstract

Metropolitan liberals with a strange view of rural life can only imagine that rural India is Arcadian. Just five minutes into a racist-infested area, as no belief or tradition has ever been questioned, it is no longer explored here! The Khap Panchayats, a formerly trustworthy and democratic society, are now firmly rooted in politics. In the name of preserving Indian culture, they commit crimes and thus promote a criminal culture in the offspring. Between culture and modernity, tight control and fear of loss, there is a constant war in India and around the world. While India is shining, some of its worst settlements are in ancient times, acting like Taliban. ‘Respectful killings’ are human rights abuses, violence against women, denial of personal freedom, and violation of the law. As India tries to fly high, such degrading practices will tarnish its international reputation. Ignoring the long-term frequency of such vicious acts will cost us dearly. Though the Indian judges came out as silver, yet there is much left. Since time requires that we break the chains of sleep and respond positively, my research may focus on exploring specific (legal) ways to deal with those constitutional rebels; and it would reveal mysteries. This article will try to provide some solutions.

Keywords: Khap Panchayats; Respect the execution; Cultural crime; Injustice

Introduction

In India, the Panchayati Raj program was introduced with the aim of degrading the state and democracy. However, there are still some mysteries. Khap Panchayats, the courts that call themselves caste kings in the village, enjoy "legitimacy and full authority" among their classes as "honorary masters" (Jaonne, 2009). Members of this unconstitutional, co-ordinated ‘justice’ movement often convene an assembly of all men crouching in a certain area. *Chabutara* in the village wishes to make quick, united and unresolved decisions on many issues such as civil violations, marriage, litigation, property rights, inheritance, or about situations that threaten peace in the area. In the past these loyal bodies have now become political. They are the ones where the “most declining social ideas” are sought to be implemented. Their negative message is that the Lakshman-Rekhas described in stages should not be broken (Karat, 2004).

It is very sad to note that in times when people are talking about 3G technology, Indian society is back to the Dark Ages. Today, when social norms change constantly; there is always a difference between the traditional practices and the modern liberal view of youth. Public respect is being killed without thinking, considering the old beliefs that should have disappeared now as they do not fit into our modern life. Indians have become members of a divided society. This is a

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different kind of terrorism – social terrorism. India does not seem to be higher than the Taliban. This deep and prosperous destruction of Cactus requires people to wake up. They should stop following the absurd norms set by the Panchas. Education and public awareness are sorely needed. India is a very powerful country - where the population can actually be democratically divided instead of social ills.

Objectives of the Study

To introduce the social reality of the Khap Panchayat in Indian community as well as to examine the its reality of cultural crime issues and problems.

Method of the Study

This paper is based on analytical design of the study which used non-participatory scientific observation notes and secondary data of the literature and various unpublished tells. The information and fact were compiled from secondary data source and analysed it on the basis of the objectives. The result and inferences would be presented on social reality on the status and social reality of Khap Panchayat in India and its issues and problem.

Analysis and Discussion

Usually, some powerful and influential people, in accordance with public pressure and without elections, come together and proclaim the 'Lord of the class', thus forming the so-called "Caste Panchayats - Khap Panchayat."

- **Caste Panchayats: A Stunningly Unscrupulous and Democratic Democracy Program**

Traditionally, Khap meetings in Indian cities, resolved disputes between people in rural areas. However, these structures have no constitutional or legal basis, they have no democratic origins. They set their own practices based on punishment in the name of maintaining good morals and values. They should not be confused with the institutions of Panchayati Raj, without applying the law and acting in accordance with their own wishes and wishes.

- **Definition and Authority:** “Panchayat literally means a meeting of five wise and respected elders who are elected and accepted by the local community.” "Caste panchayat works as a parallel system, and selected panchayats are subordinate to or integrated into them" (Mullick & Raaj, 2007). Caste Panchayat are usually classified on the basis of their control area. When the common people living in more than one village of Patwari were led by the *Pancha*, *Kheda* formed. The latter has broad local authority. Simply put, the more the number of villages under the jurisdiction of Caste Panchayat, the greater the perceived firmness in deciding its decisions, and, as a result, the penalty is higher in the event of contempt. There is also an appeal provision. In the event of an appeal, the decision of *Maha*-Panchayat is final and unambiguous.
- **Their Role: The Perfect Past, The Present:** The Khap Panchayat were highly esteemed by the wealthy and the elite who wished to combine their power and position back in 14th-century India. The texts were compelled by panchayats that were often supported by the local people and included public deception, fines, forced suicide or the like. Gradually, these independent bodies began to show their presence in all sectors. Today caste panchayat is heavily involved in politics. Interests offered and muscle players hold sway (Joseph, 2010). These Kangaroo Courts operate in a humane, illegal manner. They have become very dominated by men.

Many assert that these khap panchayat work in the past and that their decisions were in the best interests of the community. If one supports this constructive approach to the past, the question naturally arises: why do the same caste panchayat offer retrospective judgments now? Despite being illegal organizations, they operate openly and violate national law and order. There must be an end to the obvious violations of human rights enshrined in the law of the land. Ironically, however, these Khap Panchayat are raising their ugly heads in the 21st century and the government is doing little to curb this threat, which threatens to escalate beyond any form of ideology behind it.

- **Methodology:** Killing Machines From time immemorial, the existence of Khap Panchayats has been excused in the name of preserving the dignity and values of society and promoting the sanctity of ancient traditions and customs by controlling human behaviour. These panchayats follow a certain 'code' which is their unwritten law, in which they save and defend their 'honour' and in the process even kill people for this 'respect', with the approval of their whole community. 'Fame' here focuses on "public perception of people" rather than their actual behaviour. ("Anatomy of honour-based violence", n.d.) "They commit injustice in the name of Sharia, Gotra and excuses for preserving culture and traditions" (Kumar, 2007). The atrocities perpetrated by these deadly machines are obvious (Jalpark, 2010). Many cases have appeared in recent times.

Honour Killing or Killing Honour!

Killing respect means killing a family member or family member by one or more family members by stigmatizing family or family respect. Reasons could be for refusing to enter into an arranged marriage, being a victim of sexual harassment, being accused of adultery or engaging in sexual misconduct with someone of another race, etc. The number of such incidents has been steadily rising at the national and international level. "Khap panchayat behaviour has gone from humour to annoyance" (Jalpark, 2010). The law considers murderous honour to be "murder" and murder (Justice Mazida Rvior: Treat honour with murder as murder, n.d.). Crimes of respect for and violation of Sections 14, 15 (1) & (3) 19, 21 and 39 (f) of the Constitution of India. It violates India's international obligations. It is the opposite of the spirit of UDHR and ICCPR. In the Indian Penal Code, fines for such crimes are found in sections 299-304, 307, 308, 120A and B, 107-116, 34 and 35. However, this large number of punitive provisions appear to be ineffective in tackling this social problem. evil. Evildoers often avoid murder, harassment and lawlessness. They also continue to commit themselves without punishment (Rajalakshmi, 2009).

Respected murders or horrific murders - these are some of the crimes that are born of impure traditions that continue to live in the blood of the innocent. Anyone who is not upset about the murder needs to have their head checked. What gives a singing couple the right to hold the entire country for redemption? What is this 'fame' that the Caste Panchayat are trying to 'save' and what is so significant about this honour that they say they are so proud of? And what on earth could they possibly do to commit such acts of genocide - to protect their own reputation?" (Moggallan, 2009). Is this murder really an honour or a prestige? Are they not in the name of a society that is simply trying to prove its supremacy? "It is a shame that in the world's largest democracy, a legitimate and legitimate citizen of a country still has no right to exercise its fundamental rights" (Kohli, 2010). The persistence of such practices is far from honourable.

Significant progress

In view of the scale and frequency of the atrocities and atrocities perpetrated by the courts of the so-called Taliban, there have been several notable developments in India.

- ✓ In *Smt. Laxmi Kachhwaha vs. State of Rajasthan* (1999) a Public Interest Litigation (PIL) was filed in the Rajasthan High Court, drawing the Court's attention to the illegal states of the Caste Panchayats in the vulnerable sections of the affected communities, especially women. The court found that the panchayat did not have the power to order a public strike, or to impose fines or violations of human rights.
- ✓ In order to comply with this directive, strict guidelines were issued by the Rajasthan Regional Human Rights Commission, in its correspondence letter (No. senior state police officers. The names of those people should be included in the Blacklist and available to the district administration to ensure that they remain free of government resources and other benefits.
- ✓ Responding to a complaint and a report submitted to the Commission by the Secretary-General, Government of Rajasthan, the National Human Rights Commission (Law Division) in its correspondence letter (No. 20/52B/96-LD dated 25th February 2000) inquiring about the extent to which its functions are to prevent such evils in society and to protect people from their consequences. It stated that the relevant local authorities should be dealt with unfairly by submitting to the Government for appropriate action.
- ✓ In *State of UP vs. Our Krishna Master* (2010) Apex Court made a remarkable move by handing down life sentences to three suspects in a murder that killed six family members. The bench also noted that "the cancellation of almost every family member 's grounds for preserving the family's dignity may be subject to the extraordinary [procedural] charges brought before this court..." This was stated in *Bhagwan Das vs. State (Nct) of Delhi* (2011).
- ✓ Five of the seven convicted murderers of *Manoj-Babli* have been sentenced to life in prison by the Punjab and Haryana High Courts. The Court also ruled against the police who delayed the case ("Manoj-Babli case", n.d.).
- ✓ Going pragmatic, in *Sujit Kumar vs. State of UP* (2011) the Supreme Court of Allahabad noted that in our atheistic and liberal state "it is a matter of great concern that the police and other authorities do not appear to be taking steps to investigate these scandals and pagan acts." In this book, *Madhu Priya Singh vs. State of UP* (2004), the Court ruled that even if reported to the authorities.
- ✓ 23rd June, 2008 Justice K.S. Ahluwalia of the Punjab and Haryana High Courts made a conclusive statement while simultaneously hearing the ten cases of interracial marriage: The Kingdom is a silent observer. When will the Kingdom awaken from its sleep [and] how long will the courts be able to give comfort and peace by dismissing such cases?" (Sangwan, 2010).
- ✓ In the famous case of *Armugam Servai vs. State of Tamil Nadu* (2011) The Apex Court interpreted the law on a matter of public concern, stating: "If a person becomes an adult, he or she can marry anyone he or she loves. If the parents of the boy or girl do not approve of such a marriage, they may be able to end the relationship, but they will not be able to make threats or incite or incite violence." The Court noted that the Khap Panchayats often prescribe or condone acts of genocide or other forms of cruelty against such boys and girls, wishing to marry or ever marry, or otherwise interfere with their personal lives.
- ✓ The court strongly ordered the authorities and police officers across the country to ensure that when a male or female leader enters the ranks or denominations within a particular woman or

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man; the couple is not being abused or threatened. Anyone who does so is prosecuted and prosecuted. Apart from this, the State Government is expected to immediately suspend the Regional Magistrate/Collector and the SSP/District Inspector General and other relevant officers and lay charges and proceed with the department if they do not. 2) When this happens, they do not immediately arrest the perpetrators and others involved and file charges against them, as the Court may determine.

- ✓ In accordance with the law, our courts appear to be committed to preventing public misconduct. In most cases, that is. *Geeta Sabharwal vs. State of Haryana* (2008), *Diwan N Mahemadsha vs. State of Gujarat* (2011), *Asari Manishaben Jivabhai vs. State of Gujarat* (2011), *Asmitaben vs. State of Gujarat* (2011) etc. Police protection was provided to large couples and they faced threats from their family. Bail is also denied on charges of murder (*Ramjee Yadav vs. State of Bihar*, 2010).
- ✓ To take this issue further, the Central Government has expressed its intention to introduce a new law. Under the proposed law, members of khap panchayat families or families of victims, if their action results in the death of a person or persons who feel that they are violating khap culture or wishes, they will be sentenced to death or life imprisonment. In such cases, the entire panchayat will face charges. More importantly, the proposed law places a burden on the defendants.
- ✓ To this end, the draft bill seeks to add a new clause to Section 300 of the IPC. It also aims to amend the Indian Evidence Act and the Special Marriages Act, 1954, which will abolish the 30-day mandatory provision of notice of marriages intended to be celebrated under the Act. The new bill is also expected to introduce a definition of honor killings by treating it as a special crime and ensuring clarity in law enforcement agencies ("Medium law enforcement programs in khap panchayat", 2010).
- ✓ Shocked by the growing "respectable massacre" and immediate disintegration of Khap Panchayats nationwide, the Indian Law Commission has also proposed the 'Risk of Health and Freedom (Security, Persecution and other measures) Act, 2011, to prosecute individuals or groups involved in such crimes. behaviour and risk activities. In essence, it prevents convicted people from voting (Venkatesan, 2011).

It is sad, however, to note that despite such encouraging points, wickedness has not been successfully investigated. Some educated people and politicians wonder if it is necessary to do so! (Venkat Subramanian, 2010). In fact, the system itself supports paganism. As these so-called Pancha keep the rules with the police authorities, managers often share the idea of (dis) respect and it becomes more difficult to register a case. Political support for the purpose of the electoral bank further strengthens such undemocratic organizations. The law has largely failed to stem the tide of bad habits. Although the judiciary has played a significant role, there are cases in the past where court orders have been ignored and disputed.

- **Isn't it Indian Talibanism?**

India is characterized by its rich culture and traditions all over the world. "But it has failed to realize that one cannot be compelling and coercive in the name of customs and traditions. As a religious and democratic society, it should be instilled (by force, if the event calls for) respect, respect and change from time to time" ("Killed in the honour of the family!", N.D.). Khap Panchayats, ancient proponents of caste policies have been in the news for all sorts of bad reasons.

These structures affirmed the values of the past, the past and the principles of the values of the Constitution of India - equality of freedom and brotherhood (Puniyani, 2010). Many Panchs are farmers who have no knowledge of pigs: men with darker minds than the city below and full of feudal beliefs that have not been re-examined for centuries; men believe that their respect is not based on their exemplary conduct but on their wives (Dhillon, n.d., para 3). These strong people act like the Taliban: they always do inhumane jobs, but call them the saviour of their culture and traditions. To them caste and gotra are more important than human health. They are opposed to a developing, non-segregated and open and equitable society (Saggo, 2010; Ray, 2010).

Appropriately noted in *Madhu Priya Singh v. State of UP*, (2004) “no matter how useful the framework system was at some point in our history and social development; there can be no doubt that today is a great evil and a curse in our society. In fact, it is an obstacle to the development of our nation, and if we wish to progress, we must be destroyed immediately, so that we can truly become Indians rather than remain Pandit, Thakurs, Yadav, Jatav, Harijan, Sheikhs etc. it is a free, democratic and free country. Our national goal should be to become a modern, powerful industrial state”. In the case of *Lata Singh v. State of UP* (2006) Judge Markandey Katju noted that “the class system serves as a divisive social and political force at a time when it is important for us to remain united in order to meet the challenges ahead. a nation.” He also added *G. Gishnan vs. OI* (2005) states that “the caste system is an obsolete institution that has weakened our country. The sooner it is done, the better.

Indeed, Khaps has divided the Indian community, especially the North-Indian society. People are imprisoned for their fear. The merciless approaches of these judges to justice are difficult today when human rights are inevitable; where the right to life also means a life of dignity and freedom; where equality and justice are paramount; when the law is too high. As India tries to fly high on its nuclear agreements, accuses itself of a permanent seat in the UNSC, denounces human rights abuses around the world etc. ‘Dignified murder’ is murder, human rights abuses, violence against women, denial of individual freedom, and manifestation of the failure of law (Kulkarni, 2010). India will not claim to be a democracy if it does not protect its citizens' basic human rights to life in accordance with the provisions of Article 21 of the Constitution. “There is nothing degrading in these practices, and they are in fact brutal and degrading in the hands of cruel, inhuman beings who deserve to be punished severely. Only in this way can we eliminate such pagan practices” (*Lata Singh vs. State of UP*, 2006).

- **The way forward**

In order to eradicate this evil from society, it is important to understand what holds this ancient law and the collection of modern and official institutions such as the Panchayati Raj, the Judge, the Police and the Great Empire. This is a country where Article 14 of the Constitution guarantees equal rights and opportunities to all its citizens regardless of their race, religion or any other status. Inspired by the spirit of the constitution and international obligations, our judiciary has shown remarkable resilience. The Union Cabinet is also developing a framework to introduce a comprehensive law that will prevent such efforts in the future. However, educated people like Kamal Nath, Gill and Kapil Sibal wonder if it is necessary to enforce this law at all (Venkat Subramanian, 2010). The encouraging role of the state is already evident. However, the rapidly growing fear of the illegal Khap Panchayats' diktats shows our failure. Even law enforcement agencies are on the move as no case has been reported or action taken against these perpetrators of injustice (Kumar, 2007).

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Traditionally, caste panchayat has played a powerful role. Since they are not elected structures, their decisions are not legally enforceable but their fears will continue unabated. In a recent ruling the Supreme Court of Delhi made it clear that "legal conduct is in line with public morality" (Naz Foundation vs. Govt. Of NCT of Delhi, 2009). As the Constitution lays the foundation of India, the only possible solution is to ban khaps from India. If the khaps are against the freedom of the people, let them use some good form of peaceful protest. If they threaten with cruelty, they need to be put down (Arya, 2004). There is nothing wrong with killing or torturing innocent people. It is imperative to severely punish those responsible for preventing degrading cultural and religious practices and violating human rights and dignity. Based on the above discussion, the following suggestions were submitted:

- ✓ The Central and Provincial Governments must come up with an effective way to use the guidelines issued in Lata Singh vs. State of UP (2006) and Armugam Servai vs. State of Tamil Nadu (2011).
- ✓ India's parliament is required to pass a new law in advance to curb misconduct and unconstitutional khap panchayats.
- ✓ Every person convicted of an offense under any law, regardless of the penal code, must be barred from running for office (even in any local council) for a period of five years. Participation in Khap congregations should draw a prison sentence.
- ✓ Managers should bring various helpline numbers and special cells where such couples can approach for protection.
- ✓ Prompt courts must be set up to deal with cases of dishonesty.
- ✓ Amendments to the Special Marriage Act should be made to reduce the registration period for a marriage from one month to a week.
- ✓ Amendments to the Indian Evidence Act should be made to remove the burden of proof from the defendant, thus making him obligated to prove his innocence in the event of a murder.
- ✓ Amendments to the Indian Trade Code should be made to include a new clause to define the crime of murder and to impose the same sentence. The idea of this is to expand the scope of the existing provision (Section 300 of the IPC) to include even those cases where deaths are indirectly due to incitement to abuse or cruelty.

Thus, an inclusive struggle based on a four-dimensional democratic system is a need of the hour. Forcing the political structure of the legislature, which "escapes these social questions", to take up the issue, is the key. The second job is at the executive level. Failure to enforce the law constitutes a deliberate violation of the duties of senior officials. "Why don't they provide protection for the victims even though they know full well about it? The excuse that the victim did not make a formal complaint is foolish. It is foolish to expect FIRE for someone whose life is in danger. Are the local authorities the illegal panchayats responding with contempt for their work?" (Singh, 2004). The third aspect of justice. Though it has done wonderfully, yet we cannot ignore the fact that the caste panchayat strongly despises the guidelines. Courts should recognize suo-moto in the worst cases raised by the media and punish those cruel judges. The fourth and most important factor is community intervention. It is this effective intervention, which will ensure that the three components listed above are also effective (Bedi, 2010).

Conclusion

The medieval justice system is still prevalent despite India boasting of a modern, independent and effective justice system and law enforcement system. It is unfortunate that the system of class divisions in India has become a social evil for many. "There is no doubt that

religious freedom, cultural rights and practices are legitimate and respected by the rule of law. However, these rights are incomplete and cannot be used to commit crimes against humanity. India must clean up its act and take action to end this vicious system no matter how politically it is involved. It would be hypocritical to think that the world could be so close and to so long ignore the frequency of such atrocities by Khap Panchayats. It is important that law enforcement agencies prevent cultural and religious practices that degrade and violate human rights and dignity” (Kumar, 2007).

Thus, as discussed above, the adoption of strict legal action is a matter of an hour. However, that alone will not suffice. The reason is this: Attitude. "For centuries the feudal and patriarchal arrangements have been made, changing people's attitudes today is the most difficult thing in the world" (Kulkarni, 2010). The new law or provision of the Indian Penal Code may prohibit Khap panchayat or criminalize honorary offenses as a non-bailable crime with the death penalty; but such evil practices will continue to prevail until we assure people, whether uneducated rural people or highly educated urban dwellers, that what they are doing is a sin and an unclean and illegal act. "It has become necessary to redefine the concept of respect in society” (Pervizat, 2003). As long as society has justice, equality and impartiality as its core values, it cannot transcend Hobbesian existence (Dey, 2005). Therefore, in addition to other effective alternatives, government and social organizations will need to turn to changing people's attitudes. It is more than just a legal and order issue; it is evil in society! Maturity at grass root level is equally important.

References

1. Ahlawat, Neerja (2012, December 1): The Political Economy of Haryana’s Khaps
2. Kachhwaha, Kavita (2011): Khap Adjudication in India-Honouring the Culture with Crimes (IJCJS, Vol 6 Issue 1 & 2 January- June / July – December 2011)
3. Kachhwaha, Kavita. “Khap Adjudication in India: Honouring the Culture with Crimes”. International Journal of Criminal Justice Sciences. Vol 6. Issue 1 & 2. January-June. 2011. Print.
4. Kaur, Ravinder (2010, June 5): Khap-Panchayats, Sex Ratio and Female Agency
5. Pradhan, M. C. (1965, December 18): The Jats of Northern India (The Economic Weekly)
6. Singh, Ranbir. “The Need to Tame Khap Panchayats”. Economic and Political Weekly. Vol XLV No 21. Print.
7. Wikipedia, “Khap-Panchayats” (2015, July 16)
8. Wikipedia, “Honour Killings” (2015, July 16)
9. Yadav, Bhupendra (2009, December 26): KhapPanchayats- Stealing Freedom? (EPW)
- a. **Web-References**
10. Sangwan, K.S. “Khap Panchayat in Haryana”. www.Jatland.com/forum, Nov., 2021.
11. Srivastava, Sakaar, Honour Killing in India, <http://www.academia.edu/4806197>. Web.
12. Youtube, “Satyamev Jayate Episodes of Honour Killing”, Nov., 2021.