

## **REDEEMING 'HONOUR' THROUGH VIOLENCE: UNRAVELING THE CONCEPT AND ITS APPLICATION - Prem Chowdhry\***

The regional and national dailies are currently full of reports of 'honour killings'.<sup>1</sup> In fact, these crimes have emerged as a raging media news item and although problematic in its coverage, it has helped to draw attention to the shocking violation of constitutional and human rights. The recent enormous interest owes itself to a May 2010 case of Manoj and Babli, in Haryana, who had been killed on the orders of a khap panchayat for marrying despite belonging to the same *gotra* or *got* (patrilineal clan). In a historic judgement, the additional sessions judge in Karnal district inflicted death sentence on the five accused and life term on one of them. The legal setback and media coverage spurred a united demand from the *khaps* of Haryana, Punjab and Rajasthan that their caste customs may be legalised or the relevant law regarding marriages should be amended to bar intra-*got* marriage by declaring them illegal in future. This sensational case has meant that now almost every day there is a startling press release about the so called 'honour killings' from virtually all over India, cutting across regions, caste, class and rural-urban divides. In response to this, the social activists from Haryana and elsewhere have greatly accelerated their efforts at raising public awareness about this issue through public interest litigations (PILs) and other means. The recent influx of cases, the enormous increase in the number of couples seeking protection, fearing for their lives once they decide to marry or have already married,<sup>2</sup> and the efforts and intervention of the activists in this problem has led the Supreme Court to step in and send notice to the Union of India and the ministries of Home Affairs and Women and Child Development to explain what steps they have undertaken to prevent violence committed in the name of 'honour'.<sup>3</sup>

Indeed, recent research has made it amply clear that crimes committed to uphold honour are fairly widely spread not only across India but also in the entire Asian subcontinent.<sup>4</sup> The Asian immigrant communities from India, Pakistan, Bangladesh and East Africa, located in the West (especially in the USA, UK and Canada), cutting across faith, age, caste, class and racial groups, similarly show crimes committed to maintain 'honour and prestige' of the family and community. India may lack the statistical evidence and even publicly deny the existence of such crimes in the international fora,<sup>5</sup> but its existence cannot be wished away. It is a hard reality.

The analysis that follows is based upon my extensive fieldwork research in Haryana during 1999–2002,<sup>6</sup> and lays special emphasis on the operation of the concept of honour, the role of the caste/khap panchayats in

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<sup>1</sup> There is a need to challenge the use of the word 'honour' in relation to crime. This usage rationalises and legitimises the crime by creating a notion that the crime is committed to 'save' one's 'honour'—a highly elusive and indefinable notion—and the society is bound by tradition to protect this.

<sup>2</sup> According to the Chandigarh lawyers, the Punjab and Haryana High Court receives as many as fifty applications per day from couples seeking protection. This is a staggering tenfold rise from about five to six applications a day, five years ago.

<sup>3</sup> The notice was sent on a petition moved by an NGO Shakti Vahini, on 21 June 2010, by Justices R.M. Lodha, and A.K. Patnaik to the centre and states of Punjab, Haryana, Rajasthan, Himachal Pradesh, Madhya Pradesh, Uttar Pradesh, Jharkhand and Bihar, seeking their response to the 'honour killings in their states.

<sup>4</sup> For the most comprehensive research, highlighting activist and practice-oriented academic perspectives from different countries of Europe, the Middle East, Latin America and South Asia, involving different religious communities see Welchman and Hossain (2005). Also see, Jafri (2008), Jasam (2001), Shah (1997), and Hussain (1997)..

<sup>5</sup> S.S. Ahluwalia, the Indian representative at the United Nations Social, Humanitarian and Cultural Committee firmly rejected charges of honour killings of women saying the report of the United Nations special rapporteur in this regard was based on 'hearsay' and lacked credibility. See *The Indian Express*, 12 October 2002.

<sup>6</sup> This paper draws upon and extends the discussion presented in Chowdhry (2007a).

regulating ‘honour’ and in supporting/advocating violence to enforce it. Although this essay draws its major insights from Haryana, these insights have resonances for other regions as well and the broad conceptual arguments may be used to understand its gender related manifestations elsewhere and in other situations.

I propose to tackle this theme in five sections: In the first section I shall very briefly analyse one of the cases to illustrate the working of the concept of honour in relation to intra-caste marriages which is currently in the news, as also its dealing by the caste panchayats. The second section will deal with the inter-caste marriages or elopements which are equally inflammatory and violent and have a wider social and regional reach; they cut across the rural and urban divide and include some of the most prominent cases of all times. The third section will go into the ideology and cultural aspect of the concept of honour and how its ideological reach determines its wider application in other public crimes related to women; it also grounds the ideological and cultural aspect in the contemporary material realities. Indeed, the changing political economy of post-colonial India and legal rights granted to women have led to the strengthening of the concept of honour, generating newer anxieties emanating from reasons other than upkeep of culture and tradition, though these are certainly played through the desire and need to uphold these aspects. The fourth section seeks to understand the reasons behind the increase in the breaches occurring in the customary marriage norms and consequent violence; it analyses the changing socio-political milieu and the shifting caste-clan configuration generating fresh apprehensions regarding marriage in a highly restricted marriage market. The last section deals with the caste/community collectives as the main regulatory authorities of caste and customary norms; the motivations behind its dictatorial and violent assertion and its inability to come to terms with the modern day requirements of law and human rights as well as a greatly changed society; it also makes a brief comment on the possible ways to salvage the situation specially in relation to the violence inflicted by this collective.

Cases relating to honour and honour killings are not infrequently runaway marriages and elopements that infringe cultural norms and customary practices. Briefly and simply stated, the customary rules regulating marriages in most parts of India, especially northern India, are based upon caste endogamy, on the one hand, and clan, village or territorial exogamy on the other; neither are legally recognised categories for marriage purposes. The introduction of modern concept of adulthood and the sanctity given to individual rights gives legal recognition to the individual settlement of marriage between two consenting heterosexual adults. Under the Hindu Marriage Act, 1955, except for certain prohibited degrees of relationship, the legal restrictions on marriage are almost non-existent.<sup>7</sup> This implies that under the law, both *sagotra* (kin in the patrilineal line of descent whose members claim descent from the same *gotra* ancestor) and inter-caste marriages are permitted among ‘Hindus’ (broadly defined as Hindus, Jains, Sikhs or Buddhists, by birth, upbringing or conversion), not withstanding any text, rule or interpretation of the Hindu law or any customary usage.

In other words, under the law, there is freedom to marry who you like but not under the customary law. Any breach of the customary law and practices leads to direct violence perpetrated by the male family members on the couple generally and on the girl specially. Perceived as common occurrences these have shown a tendency to escalate over the years. Decisively regarded as matters of ‘honour’—family or private—they remain highly hushed up and confidential affairs, till they spill over into the public domain to be dealt at the level of the community or by the state.

## SECTION I

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<sup>7</sup> Certain persons however could not marry under this Act: those related as *sapinda* (shared body relationship), unless the custom or usage governing them permitted marriage, those with a living spouse or those of unsound mind, suffering from mental disorder and incapable of giving consent, and those subject to recurrent attacks of insanity and epilepsy. See Section 5 of the Hindu Marriage Act, in Desai (1966: 599–751). The age limit of 15 years for the girl and 18 years for the boy sanctioned under this Act was raised to 18 and 21 respectively by the Child Restraint (Amendment) Act 2 of 1978.

## INTRA-CASTE MARRIAGES

Customarily, there are a variety of rules and practices and degrees of prohibited relationships observed in respect to marriage in different regions of India. This is specially marked in the north/south divide.<sup>8</sup> Customary marriage rules in most parts of north India uphold caste endogamy and adopt the rule of *gotra* or *got* exogamy. Most castes groups, upper or lower, follow three or four *got* exogamy. A person is not permitted to marry into his or her own *got*, nor with the mother's, nor with the father's mother, nor usually with the mother's mother. The last bar is, however, not universal and the restriction is apparently declining. In effect, the *got* rules prohibit marriage with the first cousins of either the parallel or the cross variety. In certain instances, the principle of *got* exogamy is enlarged by clustering several other *gots* represented in the same village into an exogamous bloc. Marriage between these *gots* is prohibited or restricted.

In extension of the principle of 'kinship exogamy', there is a rule of territorial exogamy. Most caste groups, such as the Jats, expressly forbid marriage within the same village, and every village which shares a border with the natal village, or in which other clans of one's village are well represented. The combined effects of these rules of exogamy is that, apart from the three or four *got* exogamy mentioned above, a large number of *gots* have to be kept outside the purview of marriage. The inhabitants of a particular village cannot inter-marry in a large number of villages, especially adjacent villages or those that fall in the *khap* area (the area held or controlled by a clan). In all these villages, the tradition and customs of the dominant *got* are followed by all *gots*. If the dominant *got* observes the tradition of avoiding certain *got* for purposes of marriage, all other *got* in these villages will also follow this avoidance pattern. The inclusion of village exogamy (with its notions of locality being equivalent to consanguinity) observed by virtually all caste groups, high or low, and the existence of a large exogamous *got* bloc, introduces considerable complexity to the marriage prohibitions.

Culturally translated, the principle of village exogamy means that all men and women of the same clan, the same localised clan and the same village are bound by the morality of brother-sister and therefore that both sex and marriage are prohibited between members of any of these units (Hershman 1981: 133–34). This extends to the *khap* area involving more than one village and more than one *got*. Significantly, terms like *bhai* (brother) and *behan* (sister) in villages are even used for persons who are not related to each other. Transcending ties of biological kinship, they embrace all males or females of the village of one's own generation, notwithstanding caste affiliations. One of the important connotations of the term *bhai* is that a *behan*'s care and protection are entrusted to him. He is to safeguard her honour and not defile it. These prohibitions create the *bhaichara* (brotherhood) which establishes equality between all and denies all hierarchy. This is the idealised *biradari* (community)—both that of the village and the caste which—has full *aika* (unity). Clearly, the most hallowed cultural concepts like *aika*, *izzat*, *biradari* and *bhaichara* are contingent upon maintaining the traditional marriage prohibitions. It is a breach in these prohibitions that provokes the *biradari* to use the traditional tools available to them in the form of caste or village or *khap* panchayats to stem such attempts.

Customarily, the *biradari* uses the traditional panchayat<sup>9</sup> or rather, one of a series of traditional panchayats to settle a variety of disputes regarding caste and inter-caste matters, transgressions, and questions of property rights, inheritance and disputes which threaten the peace of the village or the immediate region.<sup>10</sup> Questions of

<sup>8</sup> For these regional diversities and their accommodation and articulation in the politico-legal regime of post-independent India, see Uberoi (2002).

<sup>9</sup> I am using the term 'traditional' panchayat to distinguish it from the statutory panchayat established in post-independence India. This usage in no way means that this pre-colonial and colonial body was in any way a non-changing, static institution. Like caste, traditional panchayat has also undergone changes over time.

<sup>10</sup> Retzlaff distinguishes four different kinds of traditional panchayats in northern India: one, caste panchayat; two, general meeting panchayat or the village multi-caste panchayat; three, the farmer-retainer panchayat; four, the single purpose panchayat. See, Retzlaff (1962: 18).

marriage and sexual affairs form a significant proportion of such disputes, and it is in this sphere that the panchayat frequently intervenes to impose ‘justice’ according to its own definition. Although very little is known about the working of traditional panchayats in contemporary times, but they remain an active force in rural north India.<sup>11</sup> In cases of contentious marriage, it is the *caste* panchayat of the *biradari* concerned that is called upon to settle matters. Recent cases show the frequent use of the caste panchayat, which has no legitimacy in law, attempting to change relationships and impose one of their own liking, subsuming the individual/family will to that of the village/collective and prioritising the village and *biradari*’s *izzat* over that of individuals. I shall very briefly mention some of the recent 2010 intra-caste ‘honour killings’ in rural India:

- January 2010: Kavita of village Kheri in Meham subdivision of Rohtak district was forced to leave her husband after her marriage with Satish was termed illegal by Benewal khap panchayat. The panchayat declared them brother and sister because they belonged to the same *got*. The couple had a son. Kavita lodged a complaint against the panchayat following which she was allowed to live with her husband but had to leave the village.
- In March 2010 there were two prominent cases: In one, Phogat khap panchayat directed Randhir Singh of Samastipur village in Charkhi Dadri of Bhiwani district to sell his land and property, and leave the village for marrying his son Sribhaghwan to Anita of Makrana village of the same district. He was declared to have brought ‘dishonour’ to the village and community for breaching the time honoured prohibition of *bhaichara* by bringing about a marriage alliance between the two *gots*. The second case was similarly that of the marriage of Ajay of Bedwa village near Meham with Poonam of Ludana village. The Meham khap panchayat ruled that they belonged to the same *got* and marriage between them should not have taken place.
- In April 2010, Usha Rani Kashyap of Bhaiswan village of Gohana, Sonapat district, was hanged to death by her brother for her relationship with her neighbour, Rakesh Kashyap. The boy’s body was found hanging from a tree in the same village the next day. They belonged to the same *got*.
- The most noteworthy case that shot into prominence in May 2010 was that of Manoj and Babli, mentioned above, who had been killed on the orders of the khap panchayat for marrying despite belonging to the same *got*.

I shall now recount an in-depth study of an intra-caste case that occurred in village Jondhi of district Jhajjar. The account that follows, based on my fieldwork, will throw light on the working of the caste panchayat and accentuate some of its more important features, which are indeed common to all the above stated cases, with slight variations in details.

### **Case Illustration: Village Jondhi**

A July 2000 case in village Jondhi demonstrates the awesome power of the caste panchayat; the brutal extent to which the village culture and tradition can be extended, the continued hold of caste customs and traditions and the challenges that these traditions and customs are facing. This case raises various questions regarding marriage and highlights the social ambivalence regarding issues of control, of prohibitive degrees and of incest.

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<sup>11</sup> According to Hershman, the clan and caste panchayats in Punjab have lost the authority they had exercised in the past, when they acted as courts and arbitrators in disputes affecting their members. According to him, cases are seldom submitted, as they once were, to the elders of the *biradari* or caste panchayats to decide. The situation in Haryana and Uttar Pradesh would appear to be different in this regard from that of Punjab. See Hershman (1981: 35–36).

In February 1998, Ashish, a Jat boy of village Jondhi in Jhajjar district, 25 years of age, married Darshana, a 16-year-old girl from village Dabari. This village adjoins Haryana but falls within Delhi. When the case surfaced in July 2000, the couple had a one-and-a-half year old son. Ashish was a truck driver by profession. As is usual with the majority of people from rural Haryana who work outside their village and state, Ashish had his wife and child were living with his other family members in village Jondhi. His immediate family included his father, Satbir Singh, and his grandfather, Daryav Singh, who lived with them. His extended family in this village, consisting of his five uncles and their families, comprised some 40 members.

Trouble around Ashish and Darshana's marriage arose nearly three years after it had taken place when it became public knowledge that a Dagar *got* boy had married a girl from the Gehlot *got*. Under the rule of exogamy, these two *gots* in village Jondhi fall in the category of prohibited *got* and cannot inter-marry. According to a 'tradition', allegedly dating back 500 years, the founder of the village Jondhi, a Jat called Jondh, Gehlot by *got*, had gifted 2,000 acres of land to the Jats of the Dagar *got*, a destitute family then living in the jungle, and settled them in the village. This gesture was claimed to have established relations of brothers, older and younger (superior and inferior) between the two *gots* that prohibited intermarriage between them. This tradition was claimed to have been duly respected by members of both the *got* till it was broken by this couple. It incensed the Gehlot Jats who summoned a caste panchayat of the village to thrash out the issue and avenge the alleged insult inflicted upon the *izzat* of the entire village by such a marriage. Although a caste panchayat, its attendance is open to all the villagers. However, as the concerned matter is internal to the caste, it is left to the villagers to attend it or not. This is important, as the decision taken at the caste panchayat is binding upon all the villagers. Indeed, the co-operation of the entire village is needed to implement the decision of the caste panchayat.

The caste panchayat, in a public pronouncement, held the concerned Gehlot and Dagar families guilty of wilfully breaking a time-honoured village tradition. The Gehlot family of village Dabari came under severe strictures for marrying their daughter to a Dagar boy. The family was expelled from the *biradari* of Gehlots. In future, no Gehlot was to have any contact with them. The Dagar family was also vehemently denounced. It was alleged that the Dagers brought about this marriage 'knowingly, stealthily, and calculatedly'.

Unequivocally condemning the marriage, the caste panchayat ordered it to be nullified. This decision was in keeping with the popular concept of woman as the 'honour' of the community. Such a concept turned Darshana into an object of 'honour' for the Gehlots—an honour that could not be allowed to be abused at any cost. If this honour had been compromised or defiled by an act of marriage, such an act must be reversed and her status of an unmarried girl must be restored. Consequently, the couple was ordered to revert back to their brother-sister fictive relationship, in keeping with the *got* status that had existed prior to their marriage. This was the only relationship between Gehlot and Dagar *got* which the Jondhi caste panchayat was willing to recognise.

To effect this transformation, the panchayat prescribed a ritual to be observed. One, Darshana was to unveil herself in the full assembly of the village. This was a symbolic turning of the *bahu* of the village into a *beti* (daughter). (No daughter is required to veil herself in her natal village.) Furthermore, she was to tie a *rakhi* on Ashish, publicly accepting him as her brother. Two, as a daughter, Darshana was to be married again. Her father-in-law, now transformed into her father, was to perform the *kanyadaan* ceremony for Darshana and give her away as a bride. The Dagar family was to bear the entire cost of her marriage. The Dagers were made responsible for remarrying her. Three, the son of Ashish and Darshana was to remain with Ashish. Ashish's family was ordered to deposit Rs 5,000 in the account of his infant son as security. Four, all 40 members of this family were to be expelled from the village. They were given a week to make their departure. Five, the members of Ashish's family were ordered to sell off their land and other property in the village within a period of two weeks. Failure to comply with these injunctions would result in confiscation of their land and property by the panchayat and forcible eviction from the village. Six, in case the Dagar family allowed a week to lapse without complying with the panchayat's orders, they alone were to be responsible for any untoward happening in the village. The panchayat refused to accept any responsibility for their lives or property after a week.

The latter stricture was certainly a tacit approval of violence. Such cases are far more pervasive than acknowledged. They play an important role in maintaining structural and assumed hierarchies and are considered normal and legitimate. The Station Police Officer (SPO) maintained that the police intervene if and when the law and order breaks down or a complaint is lodged by one of the parties. This 'official' policy of wait-and-watch adopted by the state agency in such cases helps establish the might of the caste panchayat.

The caste panchayat's belligerent stand put the Dagers on the defensive. They reportedly requisitioned a larger body, that is, a khap panchayat (a multi-clan council drawn from wider clan areas, also known as mahapanchayat) to review the case. On 23 August 2000, a khap panchayat of both the *gots* assembled from different villages took place in village Jondhi.

The khap panchayat did not dissolve the marriage but refused to condone it. It also refused to review the decision taken by the Jondhi caste panchayat against the Gehlot family of village Dabari. Darshana's natal family was thrown out of their *got* for giving their daughter to a Dagar boy in marriage. They could no longer call themselves Gehlot. Socially boycotted for life, no member of the *got* was to associate with them in any way. All pleas for clemency were rejected by the khap panchayat. The khap panchayat further expelled the couple from Jondhi village for life. They were not even granted visiting rights. Their male child was exempt from this punishment, clearly on the grounds of patrilineage and sharing of blood. The other 40 members of this family in Jondhi were allowed to stay in the village but were expelled from the *biradari* for two years. After two years they could request the Jondhi caste panchayat for a review in order to seek re-admission to the *biradari*. Till then, there was to be complete social boycott of the family. Their *huqqa-pani* with other members of the village was banned. Neither could they participate in any of the village festivities nor could anyone else participate in theirs. Any infringement was to be severely punished.

The highhandedness of the khap panchayat forced the couple to go underground for a while. Darshana pointed out later that, had it not been for the child, the ending might well have been sordid and gruesome. Indeed, in several marriages that had transgressed the principle of territorial exogamy the couples concerned had been physically eliminated. The whole of north India is replete with such cases.<sup>12</sup>

The Gehlots isolated the concerned Dagar family and stopped their interaction with anyone, within or outside the village. They stationed their strongmen to shut out sympathisers. The Dagers, clearly on the defensive, accepted the 'fairness' of the panchayat's charges and criticised the marriage as well. Ashish's father and grandfather openly accepted their mistake and admitted their responsibility.

However, no voice was raised against the right of the caste panchayat to dictate marriage alliances. There was unanimity in the village about this matter being punishable. Opinion differed only on the nature of the punishment. When approached, villagers observed that 'if the culprits are not punished for breaking the moral and cultural code of the village there will be no difference between sisters, daughters and *bahus* of the village'. The hold of the caste panchayat on ruralites was complete in this respect. The village *sarpanch* of the gram panchayat, Pushpa Gehlot, summed up the popular sentiment by observing: 'Caste panchayats are empowered customarily to deliver judgements on various social issues. These must be honoured. In this alone lies the unity and prestige of the village generally and that of the *biradari* specially'.

Indeed, the role and attitude of the elected sarpanch is important to give legitimacy to matters such as these, which may not stand scrutiny under the law. The sarpanch, as the elected head of the gram panchayat, instituted by the government, has a lot of power and political leverage to intervene in matters which go against the law of the land and constitutional rights of individuals. But the *sarpanchs* are not known to act against the dictates of the traditional panchayats. The traditional panchayats represent the *vox populi*, and to go against it would be

<sup>12</sup> For details of these cases see, Chowdhry (1997).

electorally suicidal for them. It is a fact that panchayati raj is increasingly becoming a training ground for leadership at higher level and it is widely felt that the state leadership in Haryana may emerge from these institutions (Bathla 1994: 178). Therefore, instead of distancing themselves from the decisions of the traditional panchayats, the elected gram panchayat members and the *sarpanch* seek to emerge as supporters of the decisions of these panchayats. Indeed, in many cases the sarpanch leads from the front in favour of such cases. Such unqualified support from important personages associated with the state and government stands to stem any criticism and weaken any resistance that may arise.

This is not to say, however, that the *sarpanch* or the other members of the gram panchayat do not share the opinions of the traditional panchayats on social matters. They do. When approached, one of the gram panchayat members, endorsing the stand taken by the caste panchayat, maintained: 'We cannot allow the whims of individuals to divide our society'. Culturally, rural north India prioritises the collective interest over and above individual interests. The members of a family are expected, as a matter of course, to place the interests of the group above their personal desires. It is also clear that in matters such as these the caste panchayat enjoys even wider and higher political support than that of the gram panchayat. For example, the then Chief Minister O.P. Chautala, who visited Jondhi in the wake of this trouble, firmly maintained that 'whatever the panchayat (caste) decides is right'.

The Dagar community, despite offering initial support to Ashish, backed out after their own position in the village became secure. If Ashish's family had been more sound economically and more prestigious socially, his case probably would not have gone unrecognised and unsupported by his otherwise powerful Dagar community, for there are instances where socially and economically influential families have breached the *got* restrictions successfully.

In arriving at its decision, the caste panchayat of village Jondhi had treated the concept of *bhaichara* and the breach of the incest taboo by the couple as the central issue. Incest is being given special attention in view of the recent May 2010 demand by the khap panchayats of Haryana, Uttar Pradesh and Rajasthan, that the Hindu Marriage Act of 1955 may be amended to include 'incest' in its prohibitory categories, which in rural areas, as pointed above, is a very wide category. It embraces all inhabitants of a village; all *got* represented in the village who may be located anywhere, as well as the inhabitants of those villages which share a boundary with it, by creating fictive brother-sister relationships between them. Any breach in this is considered a serious transgression and dealt with summarily. Yet experience shows that the charge of incest is not applied uniformly to all caste groups in the village. In case one of the parties is of a different caste, the issue is altogether different. It becomes a caste issue and not one of incest.

On the other hand, incest within the family is generally buried under the carpet. The concept of incest is not extended to family relationships involving unequal power relations between senior males and junior females or any other prohibited category of people. This counterposes fictitious incest *versus* real incest. Activists involved in the women's movement in Rohtak, based upon their experiences in the villages of Haryana, informed me that incest has assumed truly frightening proportions. The daughters and sisters are however afraid to voice it, as it would reflect on the 'honour' of their families, for which they feel responsible. Police officers similarly vouch for the widespread incest in families. According to them these cases come to light only when they result in suicides or murders.<sup>13</sup> In some instances, the woman may approach the caste panchayat. The few cases that are brought to the notice of the panchayat, however, are not dealt with in any satisfactory way.

A recent example from village Hathanganna in Gurgaon district is a case in point. The caste panchayat, summoned twice in a case where a woman accused her father-in-law of attempting rape, did precious little. On the first occasion the panchayat summoned the father-in-law, gave him a strict warning and advised the couple

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<sup>13</sup> In January 1998, for example, in village Ichhapuri, district Gurgaon, a woman killed her *jeth* for his incestuous designs on her. See *Dainik Jagran*, 7 January 1998, p. 4.

to ignore the instance and settle it among themselves. The second time, when the father-in-law repeated his offence, the panchayat expressed its inability to do anything and advised the woman to take recourse to the law, but when the woman tried to register an FIR at the police station, the police refused to do so. In matters such as these, the bonds of community or ideology shared by the police and the traditional panchayat, and not the law of the land, determine the action or inaction of the law-enforcing agencies. The woman then moved the court at Firozpur Jhirka. It was here that the judge instructed for a criminal case to be instituted against her father-in-law.

The caste panchayats are clearly uncomfortable and unwilling to deal with the question of incest *within* the family, especially when it concerns their own caste members. This may not necessarily be the case while dealing with other caste groups, especially the lower castes. When it comes to other so-called inferior caste members, the upper caste members take a high moral stand and impose very stringent sanctions.<sup>14</sup>

## SECTION II

### INTER-CASTE ALLIANCES

As stated above, under the law, inter-caste marriages are permitted, but not under the customary law. Historically, the accepted stand of the British colonial authorities, enforceable in the courts, was against a recognition of inter-caste marriages, in keeping with the strictures found in the classical Hindu law, enunciated by members of the highest caste—the Brahmins.<sup>15</sup> Inter-caste marriages were considered by the British administrators, ethnographers and commentators on law and society to have existed in the past, and to have become obsolete by the second half of the nineteenth century.

The judicial records of the colonial period are speckled with a number of runaway cases of women with male guardians seeking to retrieve their daughters from the men the daughters chose to live with by charging the other man with kidnapping, abducting and inducing the daughters to compel them into marriage. Such runaway cases (which were essentially inter-caste liaisons) were considered to be ‘very frequent’, next to that of ‘rioting and hurt’. On the basis of the existing data at the High Court level, it is not unreasonable to assume that the available cases of runaway women were but a few compared to what might have existed in the judicial records. Several others would not even have reached either the police or the court stage. Those cases of elopement and marriage that reached the state level of intervention were not given the legal sanction of a valid marriage because the ‘consent’ of the guardian had not been forthcoming.

For an inter-caste marriage to be accepted in the colonial courts, the existence of a local and caste custom to this effect had to be established. Such a stand encouraged claims and counter-claims, contributing to the crystallisation of certain trends in the shifting cultural practices surrounding marriage. Clearly, the colonial intervention had introduced complexities and ambiguities in the legal processes and their interpretation. Such a situation spoke for fluctuating verdicts, especially as it was interpreted and implemented by culturally and socially embedded members of colonial society and created a great deal of confusion in judicial decision making. Each case set a precedent for all subsequent cases, even where they contradicted actual practice. Legally, therefore, independent India inherited a situation in which inter-caste marriages were highly contentious and lacked legal validity.

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<sup>14</sup> In a 1994 case from village Bhiwadi, the all-caste panchayat, dominated by the dominant Ahirs of the village, blackened the faces of a woman and her father-in-law and paraded them naked in the village for allegedly indulging in incest. Reportedly, the lower caste members of the victims’ community sided with the Ahirs in inflicting this punishment. A few villagers who protested were hounded out. The police did not even turn up. The matter was later hushed up under directions from the politicians. Case reported in *Dainik Jagran*, 19 April 1994, pp. 1, 11.

<sup>15</sup> For details see Chowdhry (2007b).

Some of the recent and well known inter-caste/community cases of ‘honour’ killings come from not only rural but also urban regions of India, extending from north to south, cutting across class lines. The media has come a long way. From disregarding the news of ‘honour’ killings and considering it as essentially belonging to the ‘Other’ India—the rural hinterland—to sensationalising it as belonging to a ‘feudal mindset’, the media has been forced to accept its existence in educated, modern, urban metropolitan India. The cases, some very well known and many obscure or little known, have been multiplying. Some of the recent high profile cases are those of:

- Bibi Jagir Kaur, as the first woman President of the SGPC (Shiromani Gurdawara Prabhandak Committee), Punjab, was a high profile minister in the then ministry of Prakash Singh Badal. Early in 2000, her pregnant daughter Harpreet, who married Kamaljeet, a *mona* (shaven) Sikh from a different caste, secretly and against her mother’s wishes, was killed after a forced abortion, allegedly at the instance of Jagir Kaur. Bibi Jagir Kaur is held as an example of one who ‘justifiably subscribed to violence against daughters if they transgressed boundaries’.
- Nitish Katara was abducted and killed by Vikas Yadav, the son of D.P. Yadav, a Member of Parliament from western Uttar Pradesh in 2002, for being friendly with his sister Bharati. The couple had planned to get married. Katara, belonging to a different caste, was totally unacceptable to the Yadavs. The killing was to preserve their ‘honour’.
- Rizwanur Rahman, a 30-year-old computer graphic trainer, secretly married Priyanka Todi, daughter of an affluent businessman, in August 2007 in Kolkata. The Todi family, under false promise, took their daughter home for a few days after the marriage. She never came back. Rahman, who tried to get her back, was severely harassed by the police and others. Within a month he was found dead near the railway track in Kolkata. ‘Honour’ had taken its toll.
- Nirupama Pathak’s case, May 2010, is most recent and is still being investigated. From all accounts it looks like an ‘honour killing’, self or induced. Belonging to two different castes, Nirupama’s Brahmin family would not accept her wanting to marry Priyabhanshu, a fellow scribe, who belonged to a lower caste than her own. Also pregnant, she was found dead in her parental house in Jharkhand.

For detailed analysis of factors operating behind inter-caste marriages, I shall take up the village Nayagaon case in Haryana which I investigated in detail to underline some of the finer points at stake in the operation of concept of honour.

### **Case Illustration: Village Navagaon**

In March 1994, in village Nayagaon in Haryana (less than 25 kilometres from the national capital), Asha was hacked to death with an axe and so was her lover Manoj, who was from Balaur, an adjacent village, by her six out of seven uncles. Asha belonged to the numerically and economically strong Saini caste in the village. The Sainis are locally considered a higher caste in relation to the Ahirs—a caste group to which Manoj belonged. The boy was declared to be an ‘upstart’ by the Sainis. According to local accounts, Asha openly asserted her right to choose her life partner. She reportedly told her family members not to interfere. Manoj and Asha had become intimately involved as high school students and carried on for two years before Asha’s family discovered them. Asha was beaten and warned repeatedly but she continued to meet Manoj stealthily. Her defiance had brutal consequences.

The uncles who perpetrated this crime surrendered to the police through a lawyer. It is unclear why they did it. An important reason that emerged out of the discussions was a sense of pride and achievement that they experienced for having punished the ‘guilty’. ‘Why should they hide it? They have done nothing wrong’ was the dominant sentiment. Their lawyer disclosed that the case was fought on the plea that it was not a premeditated murder and the deed was done in a fit of anger-cum-passion on discovering the two in a ‘compromising position’. Although no witnesses came to testify, the culprits were given 20 years of imprisonment. This harsh punishment was totally unprecedented and was condemned outright by the villagers of Nayagaon, across caste and communities.

The case was under appeal in the High Court when I was doing my fieldwork in 2000–1. The defending lawyer, when interviewed, was very confident of getting a mitigated sentence on appeal because of the grounds on which the case had been contested. This seems entirely plausible. It has been argued by legal experts on the basis of certain case studies that the Indian Supreme Court often mitigates the sentences in homicide cases on considerations of ‘justifiable grievance’ provided by ‘grave provocation’ (Dhagamwar 1992). Thus ‘loss of honour’ constitutes in their eyes a sense of grievance, which implicitly provides a ‘justified motive’. In other words, a man may kill with little or no reason if a woman’s character can be said to be bad or loose. Such reasoning is contrary to the stand of the Indian Constitution that recognises the right to life and the right to equality of all without exception. It is certainly not limited to virtuous men and women. In practice this seems to be the case.

According to the residents of Nayagaon, Asha’s uncle did what was necessary and what any one of them would have also done. The uncles, according to them, by eliminating the lovers restored not only their own *izzat* or honour but also that of the community and the village as a whole. This was declared to be the only time-honoured and traditional way of dealing with such cases. Several cases were cited in which members of these two caste groups took similar steps.

The rural opinion is heavily in favour of punishing those who ‘violate social norms’ of rural society so that ‘others can learn a lesson’. The peer group (which includes *netas* and other social bigwigs) condones this attitude and action. They openly defend the right of the peasantry to punish anyone who breaks the caste rules and codes of honour. Regarding infliction of extreme violence in certain cases, caste members see the killings as ‘executions’ and ‘just punishment’ awarded for breaking caste norms and boundaries of honour. In all such cases, the villagers in general and leaders in particular prioritise the village or caste *izzat*. Two of Asha’s uncles who were out on parole at the time when this fieldwork was done, were not treated as criminals but with due respect (*izzat*). A repeat of this can be noticed in the recent June 2010 case of a murder of an inter-caste married couple, where the killers have been hailed as ‘heroes’.<sup>16</sup>

All that was emphasised, in both the villages, was that the girl was *badmash* (of loose and bad character). It was rumoured that she had had two abortions. The girl was said to be enjoying herself or ‘*maza loot rahi thi*’, suggesting that the question of marriage was never raised or entertained by either of them. In Balaur village, Manoj was absolved of all the responsibility and only Asha was held responsible. The people’s verdict reveals patriarchal attitudes towards women and acceptance of the notion of honour as residing in the body and behaviour of women. Such an ideology provided justification for eliminating her if she were to tarnish this ‘honour’.

There was also a feeling among the Ahirs that Manoj should not have been killed when the fault lay entirely with the girl. Asha was spoken of as someone with insatiable lust who was constantly throwing herself at a

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<sup>16</sup> An inter-caste married couple, Kuldeep (Rajput) and Monika (Gujjar) from Wazirpur, near Ashok Vihar in Delhi, after four years of their marriage, along with another girl, Shubha, were killed in June 2010 allegedly by the brother and male cousins of the girls. The uncle of one of the accused openly took pride in the act, and informed the newspaper journalists and television channels that ‘*samaj ke liye yeh murder zaroori tha...is kaam se in larkon ne sahi kiya hai* (For the good of the society, this murder was necessary. These youngsters have set a good example). See *Times of India*, 24 and 25 June 2010, p. 1.

reluctant Manoj. Manoj's father regretted that the Sainis did not take him into confidence in this matter. He was confident that he would have sorted it out with his son, something which, he taunted, 'the Sainis were not able to do with their girl'. According to most people in the two villages, the killing of the girl was certainly justified but they question the killing of the boy, although for different reasons.

In Nayagaon, it is openly maintained that had it not been for the killing of the Ahir boy, the uncles would not be in prison. According to them, the question of their confessing and surrendering to the police would not have arisen as *they were fully entitled to deal with their girl, as they liked and deemed fit*. After all, it was a matter of their 'honour'. No one would have come to testify against them. In such instances, violence and death are considered preferable to condoning/accepting such a marriage. The acceptance of inter-caste marriage as a possible solution to the growing incidents of violence was lost in the ideology of lust, morality and honour.

Indeed, it is a well known and openly stated fact that a large number of girls who are forcibly 'retrieved' in cases of elopement or marriage are either murdered or encouraged by family members and the community to commit suicide. A girl's death is seen as the only way in which the 'honour' of the family can be salvaged. To this may be added the financial burden of marrying off a girl who was said to have eloped. In the dowry economy of north India, such a girl is even more of a burden than is normally the case.

It may be underlined that cases of breaches show a gendered response. A number of instances show that women are more likely than men to become victims of violence. However, the Dalit men are an exception. They are invariably killed, making a mockery of the state-sponsored reward instituted and periodically increased for encouraging Dalit-non-Dalit marriages in Haryana.<sup>17</sup> This gendered response of the upper castes for 'honour' in a bitter struggle with lower caste groups for assertion of their power and domination leading to violence has its parallel in other parts of India as well.<sup>18</sup> Recently, in May 2010, a high caste Reddy girl and her Dalit husband, married for just three months, were 'stoned to death for honour' in Krishanjiwadi village in Nizamabad, Andhra Pradesh.<sup>19</sup>

### SECTION III

#### THE IDEOLOGY OF HONOUR: CULTURAL AND MATERIAL UNDERPINNINGS

What is this ideology of honour that sanctifies such violence? An analysis of the ideology highlights it as a gendered notion producing inequality and hierarchy. Both men and women embody notions of honour, but differently. The woman is the repository and the man is the regulator of this honour. Therefore, the greatest danger to the ideology of honour comes from the woman. One oft-repeated phrase is: *Ladki ke saath uske kutumb ki izzat judi huee hai* (the honour of every family is connected to its girl). Honour so posited in a woman is importantly located in her body. A woman dishonours her family by what is considered her shameful physical behaviour. This stretches from observing *sharm* and *lihaz* (modesty and deference) to her sexuality. Honour is the overarching concept, which regulates and puts into effect the practice of *purdah* and its attendant ideology of seclusion as a controlling device.<sup>20</sup>

<sup>17</sup> In such marriages, each girl or boy from the scheduled caste receives Rs 25,000. This amount includes Rs 10,000 in cash and Rs 15,000 in fixed deposit for six years in the joint account of the couple. This amount has been raised recently. However, there were hardly any takers. According to figures available Rs 2 lakh were distributed under this scheme in the year 1999 and Rs 3 lakhs in 2000. See *Dainik Bhaskar*, 10 August 2000, p. 7.

<sup>18</sup> For this, see a most incisive report by Sanghata (1991); also see, Balagopal (1991) and Kannabiran and Kannabiran (1991: 2130–33).

<sup>19</sup> See *Times of India*, 28 May 2010, p. 1.

<sup>20</sup> G.D. Mandelbaum (1988) argues how the concept of honour and the practice of *purdah* operate to control female sexuality.

Why does honour lie in the body of a woman? The answer lies partly in the specific construction of procreation, which is conceived in terms of the male seed germinating the female earth or field (Dube 1986). In this, the male semen is perceived to create while the woman is seen as the passive recipient. This social perception of the male creative ability acts as the foundation upon which the notion of honour is built. The ideology of the seed and the earth, going back to ancient times, forms a part of the literate tradition as well as a part of customary law and popular consciousness. According to this, the blood that flows in the child's veins comes from the father's seed and gives a child (particularly a male child) its identity as belonging to the father's lineage. Semen is commonly considered as concentrated blood and there is a clear notion of a common bloodline for agnatic kin continuing through male members who serve as links for the passing of the common blood to the next generation through their semen. The practice of caste endogamy, preserving caste boundaries and caste purity, ensures this patriliney and lineage. It implies the need for control of female sexuality to assure the paternity and lineage of the offspring.

Therefore, a man's honour is predicated largely on his ability to impose this control over his womenfolk. This means that a woman has no control over her own self. All decisions regarding her body must be made by the male members of her family—the upholders of her honour. The familial ties are extended through ties of blood to the clan and then the caste/community. The blood tie makes them co-sharers of this honour. They must all join to safeguard and preserve its purity. The imagery of blood kinship or *bhaichara* (brotherhood) virtually excludes women from this powerful and hierarchical *biradari*.

In patrilineal communities this cultural understanding provides the ideological basis for legitimisation of crucial principles of kinship and their operation in respect of inheritance of all resources, whether land or labour in an agrarian economy. By equating the woman's body with the field or the earth and the semen with the seed, the process of reproduction is equated with the process of production and rights over the children with rights over the produce. In other words, the seed/earth symbolism of reproduction sustains an ideology of honour in which strategic resources of both types—material as well as human—remains in the hands of men. Clearly, honour is not merely a cultural construct. It is grounded in material conditions and social worth. As such, both production and reproduction need to be controlled, as autonomous reproduction spell danger.

For reproduction to be a legitimate act, marriage must be within the group that seeks to reproduce itself in terms of status and control over property. It then becomes an alliance between two families and kin groups involving a series of material transactions and counter transactions, with emotions being subordinated to wider 'utilitarian' considerations. This makes reproduction or marriage a social rather than an individual act. Desire, choice and love are thus separated from the institution of marriage, which is about social reproduction and not about individual needs and their fulfilment. The dominant morality does not expect emotional and erotic satisfaction in marriage and regards love and sexuality with distrust and suspicion. In fact, it is not merely that a woman and a man get married; it is a woman's family that ties the marital knot with the man's family. Therefore, the emphasis is not necessarily on the individual, though s/he remains a vital consideration, but mostly on the family. It is the family/caste/community nexus which produces the crucial test of a status marriage and upward mobility.

Consequently, the wider social, caste and customary considerations have meant that marriages in most parts of rural and urban India are arranged marriages—arranged by senior males and females of the family strictly within the caste. For a woman, hypergamy, that is, marriage with a man of higher social status is always desired. In arranging this family members or kin, both male and female, as well as friends, often act as go-betweens. The earlier use of a professional mediator, generally from the Nai (barber) caste, as a negotiator of marriage, has all but disappeared. Instead, professional negotiators in the form of a marriage bureau have become a visible presence. Use of technology has also meant placing advertisements in the newspapers and even on the Internet, stating caste, clan and other vital statistics and even video clippings for the intended spouse. Indeed, the demand for 'suitable grooms and brides' specifying their caste groups has promoted a huge

matrimonial business. There are also modern day caste associations which are in the forefront of arranging marriages within their caste groups.

Apart from the arranged marriages, there are also the so-called ‘love arranged’ marriages (essentially a middle-class term which seeks to accommodate ‘modernity’) in which the self-chosen partners get the approval of their families to get married. However, this emotional structuring of a relationship is contingent upon following the dominant caste and community, as well as appropriate class status and marriage norms. Breaches are not tolerated. Moreover, an overwhelming majority of those interviewed, both men and women, believed that the choice of spouse is best decided by parents, rather than by the individuals concerned.<sup>21</sup>

In matters of marriage, the overarching ideology of patriarchy, kinship and caste, which lie at the root of honour, is easily and most commonly translated into a comprehensible ideology of guardianship of a woman. This becomes the guiding force for all relationships between males and females. A female, minor or adult, is always under guardianship. While single she is under the guardianship of her father, or if he were dead, of other male relatives. With marriage she comes under the guardianship of her husband; on his death until remarriage she is under the guardianship of his family, whether she is minor or major. In actuality, neither an unmarried girl nor a widow is allowed to exercise her choice in the marriage partnership. A widow, unlike an unmarried woman, may resist remarriage but she cannot marry without the consent of her conjugal or natal family males. Given the strong hold of patriarchy, this male control over a woman, minor or major, single or widowed, is never slackened throughout her life. It is a mere change of authority, from that of her father and brother to her husband and her son.

It is this ideology of honour and guardianship that acquires wider dimensions in its applicability. It no longer remains confined to the domain of the family/kinship and caste but spills over into the public realm where it gets manifested in the ideal of masculinity—in ‘guarding’ and ‘policing’ female behaviour, freedom of movement and sexuality. It is basically the desire to follow these ideals that is largely responsible for producing moral policing of women in different regional and social contexts. If women’s public behaviour is not in accordance with what some males decree to be ‘honourable’ it leads to infliction of violence on them. In the opinion of such males, women, by their ‘indecent western’ behaviour, stand to ‘shame’ or ‘dishonour’ all: their families, friends, community and even the larger ‘Indian society’ and ultimately the nation itself. This has meant that not only in rural areas, with a highly segregated society, and the semi-urban and small townships like Meerut<sup>22</sup>, but even in the metropolitan cities like Bangalore and Pune and even in the capital itself, there is heavy surveillance by the moral police cutting across political and social lines.<sup>23</sup>

The ideological and cultural patterns working behind the concept of honour, delineated above, are substantiated by material realities. Indeed, under the changed political economy of post-independent India, the material conditions have come to assume even more importance in the operation of ‘honour’. With the females being given legal rights to inheritance and the right to marry whom they wish, the question of honour has

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<sup>21</sup> A series of surveys conducted among the youth of major cities of India showed an overwhelming majority (84 per cent) opting for arranged marriage. This is when they have ample opportunity to interact with the opposite sex. For details of the survey see *Hindustan Times*, 16 February 2003, Sunday magazine, p. 1.

<sup>22</sup> In December 2005, a police assault in Meerut mounted under the code name of ‘Operation Majnu’ (operation lovers) on young couples in a public park has seen its repeat in most cities, in one form or the other. In a bizarre display of police brutality the Meerut (UP) police physically assaulted couples, slapping, punching and dragging the ‘offenders’ under Section 294 of the Indian Penal Code (IPC) in a drive against ‘obscenity’. It specially targeted women, forcing them to face television camera crews. Such instances of violence in pursuance of the ideology of ‘honour’ and guardianship can be multiplied manifold across India, even in the capital Delhi. It is a similar behavioural pattern at work when the rejected suitors throw acid on women or even kill those who assert themselves and rebuff their ‘romantic’ overtures. The ideology working behind these is the same: women are not free to exercise their choice in these matters.

<sup>23</sup> For instance, in February 2009, women outside a pub in Bangalore were abused and beaten up by goons who did not like their ‘behaviour’. Since then moral police has been regularly on the prowl in the city attacking various entertainment places. On Valentines Day in 2010, the Pune police turned moral police by instructing the youngsters not to indulge in any ‘love celebrations’.

surfaced in a big way. One of the major changes that strengthened the so-called concept of honour is the enactment of the Hindu Succession Act of 1956.<sup>24</sup> It amended and codified the law relating to intestate succession among Hindus and brought about fundamental and radical changes in the law of succession, breaking violently with the past. It abrogated all the rules of the law of succession hitherto applicable to Hindus, by virtue of Hindu law or any custom.

The Act enabled, for the first time, daughters, sisters, widows and mothers (along with the male members) to inherit land with full proprietary rights to its disposal.<sup>25</sup> This has aroused tremendous anxieties in rural society. In the event of its proper implementation, the patrilineal and patriarchal hold stands to weaken and even be demolished in time. This Act affected greatly the code of honour regulating marriage alliance, that is, village exogamy and caste endogamy. For instance, the land of the village is taken to belong to the male descendants of ancestors who originally settled and worked on it, the male agnatic descendants, as members of the localised clan, alone are considered to have reversionary rights in the estate. Land is ordinarily not to be alienated outside this group. The only ideal and 'izzatwala' (honourable) pattern of inheritance is acknowledged to be by males from males. Basically, this means that daughters and sisters who are potential introducers of fresh blood and new descent lines through their husbands are to be kept from exercising their inheritance rights. The introduction of a rank outsider into the family who can and may claim the property on behalf of his wife needs to be effectively stopped. As an outsider he remains outside the influence of the family and caste/community rules and ethics which ensure a patrilineal inheritance.

Similarly, location of a married daughter within the natal village also spells danger to patrilineal inheritance as it facilitates and could lead to assumption of land inherited by her. It is small wonder then that the khap panchayats of Haryana, Uttar Pradesh and Rajasthan have demanded an amendment to the Hindu Marriage Act, which allows such marriages to take place. Consequently, one of the major effects of the Act of Succession has been to tighten the noose of control over females, unmarried or married, especially in relation to her marriage. Thus, the tightening of restrictions on marriage practice has had the effect of negating the progressive fallout of the inheritance enablement law on female population.

The significance of this practice can be easily visualised if it is juxtaposed to the custom prevalent among the lower castes. These castes allow flexibility in the rule of patrilocality. In other words, since the land and its ownership are not in question, the family of a married daughter might settle in her natal village. With the result that the *ghar jamai* (resident son-in-law) phenomenon among lower castes is not uncommon in rural Haryana-Punjab or across the border in western Uttar Pradesh (Kolenda 1982). Yet, at the time of marriage, the principle of village exogamy is as rigorously enforced as the prohibited degree of clan (*got*) and other taboos by the lower caste groups. A failure to observe these norms brings up the question of honour as much for the lower castes as the upper castes and any breach in it is violently dealt with. This is in keeping with the norms set by the dominant landowning caste groups. It is clear that the cultural codes of honour can and do function autonomously without necessarily having any social and material factors underpinning them.

As the Act of Succession evoked great tension in the rural society, the landowners of Haryana-Punjab were unanimous about the urgency of abolishing it in order to uphold their 'honour' and the 'honour' of their 'timeless traditions'. The other caste groups followed suit. On the one hand they tried to abolish it through the legislative procedures and on the other hand they accelerated their attempts through the caste panchayats to control its fallout effects. Consequently, three to four efforts were made in the Assembly of Haryana-Punjab (1967, 1977, 1979, and 1989). All these moves have failed but not the spirit behind them. The recent demand of the khap panchayats to amend the Hindu Marriage Act is yet another attempt in a similar direction. Attempts are

<sup>24</sup> For details of the Act and its comparison with the earlier situation existing in British India, see the Hindu Succession Act, No. XXX of 1956, in Desai (1966). Also see, Gupte (1981).

<sup>25</sup> This equal share of intestate succession however did not extend to the concept of joint family property where a son's share in the property is calculated to be five times that of the daughter's share. For details see Carroll (1991).

also being made to seek a ban on same-*got* unions through the courts. All these are likely to meet the same fate as the attempts to abolish the Act of Succession.

Clearly, the legal acts have introduced anxieties stemming from different reasons and not necessarily out of concern for caste endogamy or village exogamy or even upkeep of honour, culture and tradition, even though these anxieties are played through these concerns and in fact reinforce them. Since the social, legal and political changes cannot be further resisted, cultural practices and notions of 'honour' have gained paramouncy. Consequently, the resultant violent opposition to breach of marriage norms or codes of honour overrides any education or modernising process that the rural families may have undergone. In fact, this opposition is almost always based upon the grounds of honour, tradition and culture vs. modernism and westernization. Significantly, cultural ideas tend to benefit social groups that construct or promote them. The operation of concepts of honour and shame operate to restore the male, familial and community domination considered to have been compromised and endangered by the post-colonial legal enablement.

## SECTION IV

### CHANGING SOCIAL MILIEU: GROWING MARRIAGE ANXIETIES

Although there is no statistical evidence, breaches of customary norms in marriages, whether inter-caste or intra-caste, are perceived to have escalated over the years. The roots of this lie in the rapidly changing social milieu. The process of political democratisation and the opening of economic opportunities have altered local power dynamics, complicating relationships between members of different caste groups as well as between members within a caste group. The traditional linkages of unequal status, hierarchy and prestige are challenged and replaced by new norms based upon notions of egalitarianism, citizenship and entitlement. Certain shifts are occurring simultaneously. On one hand, caste solidarities are crystallising, and on the other, education, reservations, and opening out of the economy are eroding the system of caste by changing the material base for different caste groups. There is a certain amount of de-linking between caste, occupation and power in contemporary India. Other identities have taken over. A politically convenient self-classification is assumed or discarded according to the situation. Consequently, there is a conflict between traditional expectations and quest for status and power in caste terms and individualist aspirations, divorced from past or inherited identities. This contradiction has made the issue of marriage extremely complicated and conflict-ridden.

The social reality shows the growing resentment and assertiveness of the subordinate lower castes and classes, not infrequently resulting in inter-caste liaisons which infringe upon upper caste norms and sexual codes. For example, many Dalit youth, who can no longer be absorbed in agriculture or others who do not wish to, opt out of working as agricultural labourers and migrate to cities. It is a move by the Dalit youth to break away from the subordinate pattern of the past that is closely tied to agricultural work. Some of them, who have been able to take advantage of educational opportunities, have aspired and some even gained access to positions such as those of peons, clerks or drivers, or have been taken in the military service. Yet others have migrated to the cities and have become salaried workers. Consequently, many of them have been able to build brick houses in the village and also own cattle. Their standard of living not only equals that of the lower class, upper caste groups, but also sometimes has a distinct edge.

The educational aspirations of the Dalits and consequent disassociation from their traditional occupational roles are a considerable source of tension not only in the north but in other parts of India as well (Balagopal 1991, Kannabiran and Kannabiran 1991, Sanghtana 1991). The non-working by Dalits for the dominant caste group, for whatever reason, is taken as contesting upper caste dominance. The breakdown in the correspondence existing between caste and occupation is construed as an attempt to change caste itself; hence it is resisted by the dominant landowning caste groups. The latter greatly resent government scholarships for the lower caste children and reservations in government jobs which, according to them, have given the lower caste groups an edge over them. Education is considered to be at the root of all ills. Dalit-non-Dalit

relationships/elopements/marriages are touted as the Dalits' ambition in life—to get assimilated among the higher caste groups (Chowdhry 2009). The Dalits, however, denounce any such aspirations and maintain that they were also zealous followers of rules of caste endogamy just like the higher castes.

In fact, there are a number of cases involving Dalits caught in the contradictions of caste endogamy, highlighting how most caste groups follow the dominant caste norms in this region. In October 2001, for example, a Chamar panchayat (of leather workers) expelled from the village the family of the girl who belonged to the Balmiki caste for breaking the norm of caste endogamy. The boy she was involved with belonged to the Chamar caste, a higher caste than Balmiki. The girl herself is reported to have been killed.

My fieldwork reveals that the lower caste groups are as much 'honour bound' and status conscious as the upper caste groups. They also observe the norms of caste-endogamous marriage and deal with such cases individually or through panchayats in the same way as the higher castes do. Yet, given their weak socio-economic position they are unable to claim any such honour especially in relation to the higher castes. They may vaguely share in the honour of the village as a whole. This identification may mean going willingly or unwillingly along with the dictates of the upper caste leadership. Consequently, the only 'honour' which the lower caste groups may 'honourably' claim is in relation to members of their own caste and it lies in their ability to enforce it within their own caste group. Denied any claims of honour in relation to higher castes, the lower castes therefore become hypersensitive in defending it within their own caste. Such a concept of honour is not only claimed, but also defended and implemented.

Among the intra-caste cases, too, the post-colonial political economy suggests an increase. The most significant point to note and worth remembering is that intra-caste cases, which infringe the caste and customary codes, are not necessarily so-called runaway 'love matches', which may raise the ire of the caste and communities. Many times these are arranged matches, brought about by the respective individual and extended families and attended by members of their community. It is because of this factor that not only the individuals concerned come under grave pressure, but also their immediate as well as extended families.

For the eloping couples it can be maintained that they are defying the age old customs and revolting against the caste constrictions, which they may not believe in. In the given social milieu of education and higher mobility, and facing a globalised and consumerist society which has increased the intermingling of the sexes, it is not difficult to understand their defiance or 'revolt'. But why are the parents of young girls and boys breaching what are claimed to be the village and caste traditions?

In the answer lies the crux of understanding this problem. Over the years, the customary regulations governing marriages have had the effect of creating a very tight market for prospective brides and grooms. With the increase in population, the prohibited categories of people have tended to increase. For example, inter-village and regional migrations have resulted in a severe drop in the number of very small villages and corresponding increase in that of large and very large villages. This has had the effect of multiplying the number of *gots* represented in different villages. From two to three *gots*, villages may well have as many as 20 to 25 *gots*. An extension of the principle of village exogamy means that apart from three to four parental *gots* which have to be avoided, all the other *got* represented in a village cannot be entertained for marriage. This leaves the marriage market highly restricted. The extension of the concept of *bhaichara* (brotherhood) also means that all the neighbouring villages have to be similarly excluded.

These prohibitions imposed on marriages are greatly compounded by the fact that a girl has to be given in a hypergamous alliance, that is, she has to marry upwards to a man of higher clan and not a lower one. This is becoming increasingly difficult in an extremely flux social situation where different groups are either claiming a higher or equal status or attempting to maintain their status against challenges and erosions effected by other clan groups within the caste fold. The changes occurring in ideas about rank and equality, along with the increasing differentiation of status, power and wealth developing within each caste are contributing to a re-

evaluation of the relative status of different clans. The resultant collapse of the earlier relatively coherent, traditional hierarchy has led to breaches in the customary marriage norms. As marriage alliances are a significant means to establish one's status in society they assume great importance and demand sharper vigilance. The contemporary multi-directional pulls within a caste account for confrontation and violence in relation to contested marriage alliances.

Moreover, the whole of north India, especially Haryana, is also labouring under other problems. Briefly speaking, these relate to the extremely unfavourable sex-ratio, the presence of a large number of unmarried men, and the dowry economy. All these are interconnected. The widespread foeticide practised in this region in combination with suspected female infanticide through neglect and other causes has led to an adverse ratio of only 819 females to 1,000 males. In the estimate of the activists these census figures of 2001 are on the higher side. According to them, the female ratio in many villages is as low as 500–550. With the declining number of women, the anxiety to control them and use of violence to affect this control has steadily grown. Indeed, this uneven sex ratio is creating havoc in matters of marriage in more ways than one

In a situation where, as stated above, status hypergamous marriage is also the customary norm for a girl's marriage, there is a surplus of brides at the top but a pronounced deficit at the bottom. This situation is compounded by the very large number of unemployed men in Haryana. The unemployment figures have more than doubled in less than 20 years from 3,59,255 in 1980–81 to 8,11,359 in the year 1999—a staggering rise of 125 per cent. Whereas between 1981 and 1991 the population increase in Haryana was 27.40 per cent. The limited number of employed males who alone are considered 'suitable boys' means competition to net them in marriage. The existence of surplus girls in this stratum feeds into the dowry economy, successfully defeating the economics of demand and supply.

Such concerns leave the unemployed males to either settle for lesser matches or not get married at all. Consequently, a substantial number of the unemployed is to be found among those who are unmarried. In the 1991 Census, 36.24 per cent of men in the category of 15–44 years of age (the so-called reproductive or marriageable age) are shown to be unmarried.<sup>26</sup> In districts like Rohtak, the percentage of unmarried males between the ages of 15–44 is as high as 44 per cent.<sup>27</sup> Existence of a vast number of such males has a decisive effect on the problem under discussion. The enforced bachelorhood has meant a growing law and order problem, sex-related crimes, violence, increase in drug and alcoholic intake and its related troubles. Unable to get married themselves, or reduced to purchasing brides from any caste group and region (Andhra Pradesh, Kerala, Orissa, Bengal, Mizoram, Assam, Bihar and Nepal), this male segment shows great resentment of any breach in customary marriage norms. They are in the forefront of initiating all action against the culprits and are major implementers of the diktats of the caste panchayats.

## SECTION V

### THE CASTE PANCHAYAT: SALVAGING A SITUATION

In the present milieu the marriage restrictions are extremely hard on both the sides—for the boys as well as for the girls. Importantly, these breaches are attempts to open out the marriage market. However, such attempts by the 'erring' individuals and families provide an occasion to the caste panchayat to assert itself. This intervention is also an assertion of the united power and domination of upper caste, senior male members over younger men and women. It represents a direct attempt at retention of power by the caste leadership which is fast being eroded and challenged by aspirants from different socio-economic strata as well as by the younger generation. In the colonial period, these caste panchayats held an important position. In post-colonial India, the traditional

<sup>26</sup> A total of 1,438,997 males in the age group of 15–44 years out of a population of 3,970,390 males are unmarried. See *Census of Haryana*, 1991, Socio-cultural Tables, Series 8, Part IV-A, Chandigarh, 1994, p. 22.

<sup>27</sup> In Rohtak, out of a total male population of 977,075 between the age group of 15–44, 547,922 were unmarried. See *Census of Haryana*, 1991, Socio-cultural Tables, Series 8, Part IV-A, Chandigarh, 1994, pp. 22–23.

power base stands considerably eroded with the introduction of different state structures such as the elected statutory panchayat (since 1950) and an election mechanism based upon equal citizenship and adult franchise. The statutory panchayat, which has become the focus of political life of the village, has thrown up new, socially mixed groups, in many cases drawing substantial representation from the lower social strata. In the changing scenario, the traditional leadership of village bigwigs, derived from the ranks of those born to power and prestige, is being pushed to the margins of the power structure.

This diminishing power is sought to be resurrected through the traditional panchayat who use social problems, like cases relating to questions of marriage, for legitimating its authority. In this a large collection of people come together temporarily and rather promiscuously for a certain specific purpose. What follows is claimed to be an open, fair and democratic decision. A close observation of the proceedings suggests the contrary. For one, it is a wholly male body; two, on many occasions, one of the concerned parties is not even present or is too thinly represented; three, women are not even allowed to enter the panchayat premises (not even the one who is a party in the dispute), although, more often than not, the decision involves them in an important way. The woman is represented by her male family members. The male head of her family is held responsible for her conduct.

Moreover, the youth, usually the affected party, is not allowed to voice its opinion, especially when any other older male member of the family is present. They are reprimanded, 'Why do you speak when your father/elders are present?' In rural north India, age and experience are still respected, though change, howsoever slow, now favours the youth. The decision of such a body, with the older generation monopolising and directing its course, is projected and implemented as a unanimous decision democratically arrived at and dissenters are dismissed as of 'no importance'.

For arriving at a decision, the traditional panchayat mobilises a large number of people on the basis of family, kin, *got*, caste, community and village, including persons from outside the local area. By bringing in a wider *biradari* from outside the village, links are activated which make the panchayat look more powerful. Issues such as the breaking of social taboos, customs, rituals and hierarchy are used as mobilising strategies. Being highly emotive issues, these succeed in uniting people and closing ranks and cleavages in rural society. In this the concept of village honour based upon idealised norms and village *unity* produces a powerful plank.

The dominant caste groups, though severely divided into factions and interest groups, throw their might behind the traditional panchayat. In cases such as these, they cannot afford to split their own ranks or caste. A show of solidarity serves them in a twofold way: (a) it helps them to present a united caste-*biradari* front despite their political and party differences. Such a front comes in handy in demanding political and economic concessions from the state; (b) it helps them in establishing their might in the village against other caste groups, specially the lower castes, reaffirming the existing hierarchy and caste/community domination.<sup>28</sup>

The illegal verdicts of the panchayats, however, can be legally challenged. There is always the potential danger that dissenters may move the court. Not many people exercise the option of going to court, but some do. However, recourse to the court over 'personal' issues internal to the caste is not generally approved and remains a last resort. Any attempt to reverse the panchayat's decision may well lead to permanent antagonism, revenge and violent retribution. For the ruralites, the financially draining courts, based upon different principles, are hardly equipped to resolve questions of marriage. In case recourse to law is taken, it is done only against grave social pressure and incurs a great deal of community displeasure. Moreover, in cases regarding contentious marriages or elopements state agencies like the police and the local administration are known to throw in their

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<sup>28</sup> This has been repeatedly witnessed in cases like that of lynching of Dalits in Dulina in 2005 and in Gohana in 2007, and now most recent one of April 2010 in village Mirchpur of Hissar district, where a section of Jats torched a dozen Dalit houses, leading to the burning alive of a polio-stricken girl and her grandfather. In cases where violence is resorted to, to implement the panchayat's decision an even more effective weapon is placed in their hands. Significantly, the desire to enforce their domination and prove their strength is an interest that is amply shared by other members of dominant caste groups.

lot on the side of traditional authority. In northern India, the police are heavily drawn from the dominant upper caste groups, and are acknowledgedly casteist. In law-keeping, the socio-political role of such a force has proved to be highly dubious.

The court can and, at times, has declared a marriage legal. But the difficulties remain. A recent July 2009 case from district Jind in Haryana underlines the utter futility of even getting a positive verdict from the High Court. The young husband, Ved Pal, succeeded in getting a court order against the verdict of the caste panchayat. He had been forcibly separated from his wife on the ground that their marriage was incestuous as they belonged to the same *got*. When Ved Pal went to legally retrieve his wife, he was savagely murdered. The warrant officer and the police party of 15 who had accompanied him in this mission fled from the scene. Such cases can be multiplied. Moreover, a court can hardly stop the social boycott or ostracism inflicted upon the couple or the family. Taking recourse to the law is not considered an effective solution in such cases although the caste panchayats make a mockery of the law of the land.

However, it is also true that any recourse to the court of law leads to a dramatic loss of the caste panchayat's prestige as well as its delegitimation. It is a public demonstration of the refusal to obey its dictates. Also, going to court means a further transgression of the norms of community, compounding the earlier transgression. It is construed as an even greater challenge to the panchayat's decision, leading to a further hardening of its posture. The traditional leadership considers the judiciary, run by people who have no knowledge of rural culture and customary practices, to be working against caste and community's norms. Anyone taking recourse to it is similarly condemned and stereotyped as 'westernised', 'urbanised' and 'modernised', and out of touch with rural realities. The state and its laws are blamed for all those marriages, which go against traditional norms and customary practices.

In such a situation what can be done to salvage the state of affairs? How can a much needed campaign for choice in marriage address and counter the violence of the family and the sanction, support and participation in killings by a large section of community to which the victims belong. The answers are not easy. A lot of them lie in the sphere of the law itself. The law must protect the right to choose a partner. As of now, some of the required legal changes are reportedly on the anvil.<sup>29</sup> Here are a few suggestions in relation to the state, the civil society and the khap panchayats in order to safeguard the citizens' fundamental rights in asserting choice in marriage:

1. **State accountability:** In questions of marriage the role of the state remains highly ambiguous.<sup>30</sup> It emerges as providing a space for social change as well as space for intervention to stem the process of social change. However, it must be recognised that the state's responsibility in combating such crimes is undisputed. The state agencies, whether political, legal or administrative, must be made accountable for safeguarding the citizens' fundamental rights in asserting choice in marriage; implementing existing laws; for failing to take and follow up appropriate measures, or adopting measures to prevent the commission of these crimes, as well as effective investigation and prosecution of perpetrators of these crimes. Provision should be made for exemplary punishment of the state functionaries, at all levels, in case of dereliction of duty.

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<sup>29</sup> Changes on the anvil are: amendments to The Indian Penal Act, The Indian Evidence Act and The Special Marriages Act. A host of other measures to deter violence associated with marriages inflicted by the family members or the caste/community collective are also being discussed. For example, the existing criminal law requires the prosecution to establish guilt of the accused, the new law will reverse the onus of proof; the accused will have to prove their innocence. The law enforcement agencies would also have the power to arrest and act against community leaders who may be spurring or condoning violence. The proposed law also proposes to factor in punishment for the intangibles of social humiliation—social boycotts, hurting, ostracizing, denying water and rations or exiling those who defy the community's diktats. Even the High Court of Haryana and Punjab as in its latest directive (June 2010) to all the District and Session judges of Haryana, Punjab and the Union Territory of Delhi, has instructed that trial of runaway couples must be concluded within three months of the filling of the charge sheet.

<sup>30</sup> For details see Chowdhry (2004).

For enforcing this, the onus is on the top-most level of our society—the politicians. Politicians who are even afraid to condemn the criminal activities of these unconstitutional bodies are hardly going to encourage any harsh measures against the traditional panchayats or rather against their caste constituencies and vote banks. In Haryana, for example, former Chief Minister O.P. Chautala had firmly maintained in an earlier case (cited earlier), that in social matters the khap panchayat has the right to decide. In the Manoj-Babli murder case he has openly supported the call of the khap panchayat to amend the Hindu Marriage Act. This has also been supported by, what the media describes as ‘young, educated and modern’, Congress MP Navin Jindal, as also some other Congress MLAs like Shadi Lal Batra and Jagbir Malik. According to the media reports, the current Chief Minister Hooda, after prevaricating, has finally thrown his lot with the khap panchayats by declaring himself against same-*got* marriages.<sup>31</sup> The lead given by the politicians is only going to encourage the other state functionaries, like the police and the administration, to follow suit. In order to guard against the politicians’ shenanigans, the state responsibility has to be underlined. The state or its functionaries must not be allowed to invoke custom, tradition or religious considerations to justify violence, or they must be prepared to be penalised. There is a need to develop penal sanctions against state functionaries who promote violence, directly or indirectly.

The state should also devise ways to adopt appropriate educational measures to modify social and cultural behaviour that sanction such crimes. Awareness raising programmes should be followed to educate the state functionaries and the people of their rights, including all freedoms sanctioned under the Constitution including that of exercising choice in marriage.

State protection must be made available to couples defying the tradition. High powered special cells could be constituted in every district to enable couples to approach them for purposes of marriage and safety. Women must be compulsorily placed by the state in ‘protective custody’ pending judicial decision rather than be forced to go back to their parents, as is done in most of the cases, to be victims of violence, inflicted or self-induced.

**2. Civil Society:** There is an urgent need to involve different segments of society in an attempt to evolve a solution to this problem and build a consensus against such crimes. For this, all forms of protests, ineffective or suppressed now, need to be encouraged. If needed, protestors should be given state protection. One major target for this attempt should be the youth who are the foremost segment of society who stand to be directly affected by customary and caste-related traditions. Women need to be encouraged to mobilise and work against violence of all kind, public or private. It may be noted here that the major opposition to all such moves has come from women themselves. This is amply demonstrated in all the cases which I investigated, including the one given above. While men take a back seat or in some cases even succumb to the illegal and draconian decisions of the caste panchayats, it is the women concerned who refuse to relinquish their rights. In the recent Manoj and Babli case, it is Chandrapati, the mother of Manoj, who initiated and carried to fruition a determined fight against the murderers, leading to their conviction. In this fight, very valuable help, moral and material, was rendered by women’s organisations, but it essentially remained Chandrapati’s fight and her refusal to crumble against heavy odds, which won her the day. The need is to strengthen the hands of both private and public institutions, NGOs and women’s organisations and acknowledge the work that they are doing. Although difficult, in these efforts party labels and affiliations should be forgotten to accommodate all against a common concern.

**3. The traditional panchayats:** These need to be made representative of different segments of society. Women, among others, for example, must be allowed full participation in the community life and in decision making—be it family, village, caste or khap panchayat, where they are totally absent now.

Further, steps must be taken to make the traditional panchayats responsive to social needs. Historically, there is evidence to suggest that from time to time the khap panchayats themselves had initiated certain

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<sup>31</sup> See *Times of India*, 4 June 2010, pp. 1, 16.

alleviating measures to correct the situation by relaxing the prohibitions on marriage between certain *gots*. For example, the Gulia and Kadyan *gots* were deemed to have originated from two brothers and marriage relations between them were prohibited. This was relaxed under British rule. Similarly, marriages between Kadyan and Jakhad *gots* were also prohibited. In 1946–47, this restriction was thrown open. More recently, in April 1995, a sarv-khap panchayat of the Chhahal and Mor *got* declared that members of these two *gots* could inter-marry. The prohibition on inter-marriage between these two *gots* was apparently instituted so long back that no one even remembered its origin. The decision of the sarv-khap panchayat was a ratification and formalisation of the already changing, and indeed changed, position.

The question is why it cannot be done now? The panchayats must be made to move towards this end. The need is for the state to encourage the reformist agenda of the traditional panchayats, which would remove the imposed restrictions on marriage. In fact, the reformist agenda of the caste panchayats must be made obligatory to their survival. They must be made to take up issues such as female foeticide, dowry, ostentatious weddings, erasing marriage restriction in both inter-caste and intra-caste marriages among other socially relevant issues. Why cannot the traditional panchayats adopt this reform agenda now when there is clearly a greater need of it today than ever before?

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