

# Study on Constitutionally Made Panchayats and Socially Developed Khap Panchayats

Ruchi Agarwal<sup>1\*</sup> Dr. (Prof) N. K. Thapak<sup>2</sup>

<sup>1</sup>Research Scholar, Swami Vivekananda University, Sagar

<sup>2</sup>Vice Chancellor, Swami Vivekananda University, Sagar

**Abstract – The Khap has always stood out as sensational due to its non-legal decision in race, love marriage and honor killing. Government personnels do not intervene with them as they are more keen to get the votes of the whole community. Politician prefer not to disregard them, as they realize that would cost them valuable votes. The Khap likewise figured out the mode to get political and regulatory support for its all demonstrations. The power of Khap Panchayat exists parallel to the political power of the state. This paper depends on the part of Khap Panchayat in governmental issues and a push to assess remain of Khap Panchayat, which they are taking to make their nearness in Indian legislative issues.**

**Keywords: Khap Panchayat, Social, and Community**

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## 1. INTRODUCTION

"Khap" implies village area occupied by a family. "Panchayat" actually implies a group of five reasonable and regarded older folks picked and acknowledged by the village group. In this manner, "Khap Panchayats" suggests an establishment, which controls a specific territory, area, where it has matchless quality either for the sake of the group or the gotra. Khap Panchayats was developed in various geological territories and were molded by a scope of financial components.

The Khap Panchayats have a long history of settling debate. Prior to the foundation of an effective judicial system in India, these village courts were in charge of the genial determination of question but gradually lost their significance with the development of the legal profession. These establishments started to assume a political part just in the post-pilgrim period. They have been handling applicants and stretching out constituent support to different pioneers and gatherings. In addition, they have additionally turned out to be infamous as of late for some of their choices, for example, breaking of the relational unions and rebuffing the individuals who damage the alleged custom. Khap Panchayats force decisions and judgments by different means, for example, social blacklists, fines and viciousness. Their part as a non-formal arrangement of equity they dominate the area they exist in. The unrestricted power that the Khap Panchayats employ with no legitimate premise to it, the obstructionist and closed minded disposition of individuals everywhere in villages, the stunning inaction of the police, the hesitance of the state government to get the notorious bull by the horns

demonstrates that Haryana and different states where Khap Panchayats have their nearness still have far to go in ejecting obsolete convictions of standing marriage and sexual orientation base viciousness.

The "Khap" is an old idea, which has formed references found over from the Rig Vedic conditions. These are social-political gatherings, which as a general rule contain the upper station and elderly men from the Jat society, which are joined by geology and position and these members also set fundamentals of its working. These are social associations not approved under the law and have no legitimate status.

Generally every village has its own specific Panchayat or Council. Panchayat really infers get together of five (Panch) sensible and respected more established people picked and recognized by village gathering. Ordinarily, some convincing and successful individuals, with the influenced open accord and with no race, gather together and articulate themselves the „king of the caste“, in this way constituting the assumed „Caste Panchayats“. For the most part these assemblages settle question among individuals and villages. However these bodies don't have any settled or honest to goodness start. They should not be confused for, Panchayati Raj Institutions. Khap Panchayats are undemocratic in origination. They have unwritten laws and their decisions are unmistakably unlawful and illicit. Without usage of law and following up on their motivations and wishes, they constrain independent benchmarks bolstered by approve for sparing morals and estimations of the overall population. Khap Panchayats, clashing with the Constitution, are being

dictatorial. Till the establishment of the lawful structure, Khaps were socially well known and appropriate to concordant settlements of question. With the movement of time they lost their effect. However, from last couple of years, the issues like solicitations of limitation on same-gotra social unions strengthened them again. Redress foundation of Khap Panchayat can't be found anyway we may widely consider the season of its progression in 600 AD. In the out of date conditions, when the man was living vagrant life, villages were being encircled at a quick rate and the overall population was heading towards improvement and better lifestyles. Khap Panchayats are grasped to have showed up as a social structure for bolster segment in those agrarian social requests. They are the heritages of the tribal councils, molded by various tribes with a purpose behind empowering assurance of intra-tribal civil argument and between tribal between courses. The Khap Panchayats generally include extreme segments of the common position. They are all things considered senior subjects who claim to be considered as upholders of village guidelines, guardians of commonplace social orders and watchmen of open moral quality. They have a magnificent hold both at the adjacent and normal level.

## 2. REVIEW OF LITERATURE

Khap is a gathering of towns joined by position and topography. It was begun in the fourteenth century by upper station Jats to combine their imperativeness and position. All adolescents and youths inside a Khap are seen as family. Khap panchayat administers the Khap shaped by same gotra (tribe) families from two or three neighboring towns. Khap panchayats are typical in Haryana, western Uttar Pradesh and parts of Rajasthan. Love social unions are viewed as incomprehensible in territories addressed by Khap Panchayat. Those living in a Khap are not permitted to wed inside the same gotra obviously even in any gotra from a similar town. Different adolescent couples have been slaughtered in the past for testing Khap rules. Khap panchayat controls its writ through social blacklists and fines and persuading the abused people to commit suicide. The 10-15 men who constitute a Khap settle wrangle and also control the lives of adolescents. Different villagers shield these position Panchayats as they pass on a decision in one sitting however court cases delay for especially a long time. As indicated by them, general perfect individuals get irritated in the court and by police. Here as everybody is known so they cross check everything to guarantee neutrality. In some Haryana towns, adolescents are routinely injured, abused besides executed all under Khap decisions. The onus of keeping up siblinghood lays on the youngster. With regards to the Khap rules, more settled villagers endeavor to keep the adolescents isolated. A couple schools are furthermore constrained to have isolate timings for young fellows and young women. Fearing their young ladies would stray, various people marry them off at an early age. Individuals have certain trust in the esteem allocated by the Khap Panchayats.

Dave and Tanwar (2010) in their survey analyzed the perspective of people towards built up Panchayats and Khap Panchayats. The Headmen of these Khap Panchayats were elderly, experienced, overpowering, charging and respectable individuals having adequate data of gotra structure. The Khaps are encircled through tribal affiliations of chronicled standing, which the urbanites see as unfriendly to ladies, alleged essential authority bodies maintaining as age old conventions, traditions and hierarchal demands through enthusiastic interests.

Phaugat (2002 and 2009) referred to a couple reports appeared in national and widespread Journals on bio-restorative sciences which, in light of current circumstances, gave observational confirmation to show the rate and level of occasion of inherent illnesses and genetic issue in consanguineous social unions among various gatherings. Notwithstanding whether the Jats have winning with respect to shielding their quality pool for keeping the off springs sound, is an inquiry yet to be deductively answered, the maker asks. He in like manner purposely separated the substance of a couple of media reports for their exactness and said that the writers should secure key data about society before attempting to archive reports.

Sheoran (2010) has concentrated the working of dynamic Khap panchayats in Haryana. He said that in the southern bit of the express, these bodies are called Pal. In the northern part including Ambala, Panchkula, Kurukshetra and Pehowa. As to domain, each Khap covers between 5 to 757 towns. On the preface of his showed data, the total amounts of Khap Panchayats in Haryana have been processed as 149. Their region canny number is included upwards of 102 Hodel, Palwal and Mewat, 9 in Gurgaon, Rewari, Mohindergarh and Jhajjar, 8 in Rohtak and Sonapat, 9 in Bhiwani, 1 in Sirsa, 7 in Hisar, 2 in Jind, 3 in Kaithal, 3 in Panipat, 2 in Karnal and 3 in Yamuna Nagar.

Dalal (2010) opined that the custom of meeting and love to the insight of the more established people built up the structure of the Khaps. He similarly broke down the relevance of Khaps while alluding to a couple of outlines. He described the Khap as a unit created for political and social purposes to apply social control in provincial districts. Their working system is open and just. Starting from 643, the verifiable background of the Khaps is separated into four phases.

Baxi, et. al. (2006) has made a relative examination of the working of 'organization of authoritative issues' addressed by the state statutory bodies and 'organization of gatherings' containing rank Panchayats and jirgas in India and Pakistan. The makers have opined that rank Panchayats and jirgas (tribal sheets) for familial regard torment, murder, grab

or lynch ladies and men for transgressing the religious, class and station based normativity's.

Singh and Tyagi (2010) have caught that the tradition of Khap Panchayats go up against the trap by the particular individual stakes which earlier were sketched out by the Britishers to affect considering, demeanors, interests and ethics of the inhabitants. Hence, the makers blame media and limited explanation for adaptability to marry and peeped into why these Khaps have been named as, "talibani", "common", "medieval" and "direct"? The lopsided point of view of "Regard Killings" is not guarded, the makers pronounce. Such interest hatched by Western and Urbanization, Capitalism and industrialization to target nation society and the family life.

Chowdhry (2005) feels, is unleashed by the creating number of unmarried, unemployed men and elderly men. This social affair strengthens casteism, cleavages, abuse which along these lines prompts more conspicuous antagonistic vibe and violence. This, she terms the 'Crisis of Masculinity in Haryana' whose association with control reevaluate the states of social weights. Such masculinities, in interest with rank Panchayats governed by an inside social affair of elderly men, are legitimized and kept up through an open show of masculine collectivity, threatening vibe and solidarity. The short review of composing centers out that the issue needs empower examination and elaboration.

Yadav (2009) has dismembered the reasons of making the Khap Panchayats as the target of open outrage. For him, these included spreading notions of separation and overbearance of the and totalitarian direct and loathsome decisions flung on the losses by the functionaries of the Khap Panchayat articulating that it was an occasion of interbreeding that is illegal for close blood relations of with a family.

Ananthpur (2007), the observational data exhibited the effect and relationship between Customary Village Councils (CVCs) and the statutory Gram Panchayats (GPs). These CVCs having coordinated in the customary practices, qualities and power relations include the summit position over other rank Panchayats and street Panchayats.

### **3. INTERRELATIONSHIP BETWEEN CULTURE AND WOMEN'S RIGHTS**

To the extent India is concerned, Khap Panchayats can be said to be showing an interrelationship between culture, women' human rights and sex viciousness. Of the many reasons of such additional legal bodies practicing their control in the public eye, their primary trump card is culture. They summon social practices that profoundly established convictions and qualities held by men and regularly by women to make the later

to agree to their requests. Khap Panchayats have been receiving this course to implement their diktat "by expecting to himself or herself the part of social or group gatekeeper". They abrogate any thought of sex fairness or sexual orientation strengthening that the Indian legitimate framework gives. It is regularly observed that culture is disguised and seen as a potential device for controlling the essential human privileges of women. The reclassified idea of culture has noteworthy ramifications for hypothetical understandings of the linkage amongst law and culture. Social reasons are utilized worldwide to endure or legitimize segregation and savagery against women.

Cases of strange diktats by Khap Panchayats can be outlined as under:

1. A Khap Panchayats in a Hisar town has restricted cell phones for adolescents and requested young women not to wear pants and T-shirts or convey cell phones in 2013.
2. In Jind area, moving by young women at social capacities was prohibited by a Panchayats saying that it was a "wrongdoing against women".
3. In 2004, the Tevatia group, in Haryana, issued a pronouncement expressing that families with less than two children couldn't approach a town board for the settlement of property debate. The suggestion was that families with little girls did not merit rise to thought.
4. In 2004, in Bhawanipur town in Moradabad, Uttar Pradesh, 20-year-old Chetan ran away with Pinky, the little girl of a powerful Yadav family. The Tevatia Khap requested that Chetan's mom, was to be assaulted turn-after-turn by the individuals from the Yadav family, since her child had shamed the Yadavs and later she was burnt alive. The police was aware of the fact yet did nothing. Simply after activists interceded were a few arrests made yet everybody was later discharged.
5. In a choice like that of Afghanistan's Taliban, in March 2007, the Ruhel Khap prohibited DJs from playing in marriage parties in Rohtak, refering to the 'unsettling influence to milch creatures' as the reason. The genuine purpose behind the preclusion was the assurance to prevent young women from entering move floors.

Randhir Singh, individual from sarv Khap Panchayats of MehamChaubisi has on record expressed that, "our forerunners have set down principles, the lines along which life should be lived. Women, on the off chance that they violate and in the event that they are driven by

their yearning may wind up being killed." He has additionally expressed that co instruction is destroying the lives of young lady. It is because of instruction that the general public is seeing the transgression of maryada by women, which is at last prompting disorder. O.P. Dhankar, an individual from sarvkhap has even felt free to say that women are bound by specific limits of society. Nobody can exceed it.

The Preamble of United Nation Charter insisted unequivocally 'the equivalent privileges of men and women. India, as a State gathering to the International Convention on Economic, Social and Cultural Rights, 1966 (ICESCR) is lawfully committed to guarantee that women who can move toward becoming casualties of respect, wrongdoings, can carry on with a noble life as per arrangements. The 2005 World Summit underlined the direness of taking out all types of separation and savagery against women and the young lady youngster and connected this to the accomplishment of the Millennium Development Goals. Working towards the Elimination of Crimes against Women and Girls Committed for the sake Of Honor calls upon states to keep on intensifying endeavors to anticipate and wipe out violations against women and young women carried out for the sake of respect, which take a wide range of structures, by utilizing authoritative, regulatory and automatic measures. As indicated by the Country Reports on Human Rights Practices - India, 2011 the issue of respect killings ought to be the reason for worry for Indian government, particularly in Punjab and Haryana, where upwards of 10 percent of all killings were respect killings. On 25 January, 2013, The UN High Commissioner for Human Rights Navi Pillay respected the report of the Verma Committee as a historic reason for activity against brutality against women in India, and asked the Government to finish on its vision and proposals on getting serious about additional lawful town chambers, known as Khap Panchayats, which frequently issue declarations against women.

#### 4. LAWS REGARDING KHAP PANCHAYATS IN INDIA

An analysis of honor killings in India would be fragmented without a comprehension of the roots of social frameworks that embody and effectively advance this social wonder. Khap Panchayats impugn relational unions that are between standing and savagely respond to relational unions that are intra-gotra. Protest of the Khap Panchayats to intra gotra or sagotra relational unions on the premise of fellowship is proposed to save benefit and property. Along these lines, even as Khaps spit fire at courts for holding such relational unions lawful, it is informative to find out about the thoroughness with which two rumored judges went into the issue in 1945, much under the watchful eye of Hindu individual law was systematized.

The case, 'Madhavrao versus Raghavendrarao', included a Deshastha Brahmin couple and the two-

judge seat contained Hiralal Kania, the principal boss equity of autonomous India, and P B Gajendragadkar, who progressed toward becoming CJI in the 1960s. The embodiment of the case was whether "sagotra" marriage or marriage inside the same gotra was substantial under Hindu custom. The court in the wake of going more than a few court decisions on the proof to demonstrate a custom, the seat presumed that the marriage being referred to between a couple having a place with same gotra was substantial.

The honor wrongdoing additionally damages Article 14, 21 and 39 (f) of the Constitution of India. It is against different universal responsibilities of India. It is against the soul of the worldwide laws, which India will undoubtedly follow. Disgracefully, even today there is no lawful meaning of honor wrongdoing in India. Notwithstanding, this immense number of correctional arrangements has demonstrated wasteful to manage this social insidiousness. The states of a substantial marriage under the Hindu Marriage Act, 1955 require under Section 5 of the said Act that if the conditions as previously mentioned are fulfilled at that point, there is no bar to marriage.

It states that these conditions being satisfied a person who is represented under the Hindu Marriage Act might go into a marital organization together with any individual of her decision. This is the right lawful position. The bar to wed a man inside the degrees of restricted relationship implies that no marriage is legitimate on the ground that it is solemnized between people identified with each other inside the precluded degrees, unless such marriage is authorized by the custom or use representing both the parties to the marriage. The custom, which allows a marriage between people who are inside degrees of restricted relationship, must satisfy the prerequisites of a legitimate custom. The tenets identifying with 'degrees of disallowed relationship' are recommended in the definition condition of Section 3(g) and have been talked about under that statement. Marriage inside restricted degrees is not a substantial marriage. At the end of the day if the lady of the hour and spouse are not identified with each other to be inside the degrees of denied relationship as plotted in Section 3(g), at that point there is no bar to wed, and the parties are free to marry each other.

Khap Panchayats request of intra gotra marriage is not in light of the laws rather marriage amongst man and lady is disallowed on regional premise, a case not perceived in eyes of law. Legitimately, under the Hindu Marriage Act, 1955 which is the overseeing tradition that must be adhered to on marriage in India, with the exception of the perception of certain disallowed degrees of relationship, lawful limitations on the decision of marriage accomplice are nearly non-existent, this infers under the law, both marketplace (kinfolk in the patrilineal line of plunge whose individuals assert plummet from the same gotra predecessor) and between rank relational

unions are allowed. Consequently, the working of the Khap Panchayats is outdated as well as ultra vires of the law. Comparable laws identifying with this are Special Marriage Act, 1954, Indian corrective code, 1860, The Indian Majority Act, 1857 and The Protection of Human Rights Act, 1993.

The power of Khap Panchayats exists parallel to the political power of the state government. Legislators from among the enormous Jat proprietors involve imperative clerical posts in each legislature in the state and they have been anxious to put a blessing on the diktats of Khap Panchayats. To exacerbate the situation, the Khaps even have the political support of their local pioneers, just to keep the tally of their votes in place. The police and the managerial hardware additionally tend to remain by the culprits against the casualties or, best case scenario assume the part of quiet onlookers in instances of between standing marriage, savagery on ladies and position barbarities.

Jagmati Sangwan, of All India Democratic Women's Association says that the Khaps have turned out to be excess and ought to have been disbanded after the Panchayati Raj framework was founded. She has straightforwardly scrutinized them by expressing that they may have been reformist in past however as opposed to concentrating on issues identified with female foeticide, share and liquor abuse in the general public today, their sole focus now is just on standing relational unions and passing strange diktats against ladies. Commentators compare the Khap Panchayats to the Taliban, blaming them for being oblivious of the privileges of the person.

In an examination directed by Shakti Vahini of cases from Haryana, Punjab and Western Uttar Pradesh, in which couples were undermined with savagery, percent of cases were identified with between rank relational unions, percent were between religious, 3.2 percent were from the same gotra, while 9.8 percent were from a similar position and 3.2 percent were "other" issues. On February 18, 2014, P. Sathasivam, Chief Justice of India kept in touch with the Prime Minister expressing that "It needs no specify that parallel additional Constitutional courts and Khap Panchayats have, in the current past, appeared, and have been passing requests and declarations. Cases relating thereto have additionally been recorded in the Supreme Court". He additionally stated, "However it (the additional Constitutional courts and Khap Panchayats) has no lawful sacredness, yet the same might be brisk redressed and constrained redressed ". The Supreme Court has likewise said that Khap Panchayats' diktats abuse the law. The issue identifying with the part of Khap Panchayats is pending under the steady gaze of the Court in Shakti Vahini v. Union of India and Ors in which the court has watched that the State is compelled by a solemn obligation to secure the Fundamental Rights of its subjects; and a natural part of Article 21 of

the Constitution would be the opportunity of decision in marriage. This was repeated in Arumugam Servai v. Condition of Tamil Nadu (2011).

In Bhagwan Dass v. State (NCT) of Delhi (2011) court held that 'All people who are wanting to execute `honor' killings should realize that the hangman's tree anticipate them. In Manoj-Babli Honor Killing Case decision, District Judge Vani Gopal Sharma expressed, "This court has experienced restless evenings and attempted to place itself in the shoes of the guilty parties and think in the matter of what may have incited them to make such a stride. Khap Panchayats have worked in opposition to the Constitution disparaged it and have turned into a law unto themselves."

There is an ugly nexus between khap leaders, the police, and local politicians" that also need to be exposed. In Shakti Vahini v. Union of India and Ors (2010) the court held that "till such time legislation regulating such bodies is enacted, we will issue whatever direction which is legal and proper, and suggested that the guidelines could be implemented as a pilot project in few of the worst affected districts where Khap dictated violence against matrimonial alliances had been recurring." In Lawyers for Human Rights International v. State of Haryana & others it was contended by the petitioner before the Court that the Khap Panchayats that the decisions of the Khap Panchayats of Haryana, which are against the spirit of Constitution of India, be declared to be illegal. In Lata Singh v. State of Uttar Pradesh and Anr 115 (2006) the court in this case acknowledged that they cannot remain silent in matters of great public concern, such as the present one. Court held that "Honour" killings of such persons who undergo inter caste or inter-religious marriage is out of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment.

## CONCLUSION

The need of the hour is working laws that punish these Khaps when they disturb women's rights and civil rights through their diktats. At a time when a younger generation of women is becoming more independent, the Khaps are becoming dying to maintain traditional control over women and property. Under the garb of culture their Taliban style diktats incidents the very foundation of human rights being inalienable rights, which cannot be snatched away under any circumstances. Culture, in modern times, has to be interpreted differently. Every transition brings some changes and causes inopportunities to the other. One cannot question the change. This does not imply that certain groups of people have the right to trample the rights of a weak group. Similarly, culture ought to change with time. Criminal acts of extra Legal bodies,

like Khap Panchayats, which restrain the rights of women, do not enjoy the sanction of law in India. As said by one of the jurist that, the very idea of Khap Panchayat needs to be nipped in the bud, lest there should be parallel courts of Khaps throughout the country in future and future generations hold the present incumbents responsible for the situation.

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### Corresponding Author

**Ruchi Agarwal\***

Research Scholar, Swami Vivekananda University, Sagar

**E-Mail – [ruchi.nls24@gmail.com](mailto:ruchi.nls24@gmail.com)**