

The Prevention of Crimes in the Name of 'Honour' & Tradition Bill, 2010

august 2010

Statement of object and reasons:

A spate of murders and dishonourable crimes in the name of 'honour' whether of a family or caste or community have been reported in the recent past and are continuing to be reported. Though most of these killings and crimes are being reported from the States of Punjab and Haryana, Delhi, Western U.P and other parts of Northern and Western India, the problem is not confined to these areas alone and almost every part of the country has been witness to such incidents. A crime in the name of 'honour' is one of a range of violent or abusive acts including emotional, physical, and sexual abuse and other coercive acts. In each of these cases, the family of the girl who has chosen to exercise her choice to marry is implicated. The family, sometimes alone, and often in association with other relatives/friends, and/or a certain body of persons like the 'caste' or 'khap' or community based panchayats, is instrumental in committing these killings and crimes. On certain occasions, the main perpetrator of these crimes and killings are the 'caste' or 'khap' or community panchayats. These panchayats or associations, through various kinds of coercive and punitive actions, want to create terror and stop marriages and associations on the basis of choice from taking place. However, these actions in the name of 'honour' are due to a variety of self seeking reasons but are commonly justified on the basis of custom and tradition. These actions are also violative of certain fundamental rights in the Constitution of India, including the right to life, and liberty which includes the right to bodily integrity, and the right to choose whom to associate with. The actions of the parents of the girls to stop her from exercising her choice also result in curtailment of her freedom to movement and expression. A valid consent to a Marriage is also an essential prerequisite under the law.

However, no laws which punish crimes in the name of Honour exist in India. There are also no laws which punish the illegal and often barbaric actions of the Khap or community panchayats or other caste or religious associations. Some offences under the Indian Penal Code, 1860 are invoked to sometimes book offenders in these cases but these offences do not cover the entire gamut of illegal actions perpetrated in the name of Honour or prescribe adequate punishment for these barbaric acts.

Preliminary

Chapter I

- 1 This act may be called The Prevention of Crimes In The Name Of 'Honour' & Tradition Bill, 2010.
2. It shall come into force on such date as the Central Government of India may, by notification in the Official Gazette, appoint.

Chapter II

3. All persons including young persons and women have the right to control their own lives, a right to liberty and freedom of expression, and a right of association, movement and bodily integrity. They have a right to choose their own partners in marriage or otherwise and any action to prevent the exercise of these rights shall amount to an offence under the provisions of this Bill.
4. If any person or persons, whether he or they are members of the victims family or person or persons acting in concert with , or, at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called), kills or kill ,_a woman or her partner(or any person/persons associating with her or them) causes grievous hurt or any form of injury or to persecute her or them for exercising the rights stated in Section 1, or participates or incites such an act , shall be guilty of

murder or any offence and shall be punishable with the punishment prescribed in the Indian Penal Code,1860.

Explanation I – For the purpose of this section, all members of the caste or clan or community or caste panchayat, present or participates or incites the commission of an act by which death is caused was ordered, shall be deemed to be guilty of having committed such act.

5. If any person or persons, whether he or they are members of the victims family or person or persons acting in concert with, or, at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called) harasses or harass a woman or her partner (or anyone connected with them) for exercising the rights in Section 1 or attempts/attempt to prevent either one or both of them from exercising these rights they shall be punished with imprisonment for a minimum term of one year and a maximum term of ten years and shall also be liable for punitive fine.

Explanation I –

The acts of harassment and prevention in this Section shall include both physical and mental acts such as

- i. **Declaring the couple, who have got married, a brother and sister, provided that they are not children from the same natural parent and such marriages are recognised by any law or custom for the time being in force**
- ii. **Extraditing the couple or their family or relatives from the village or area they live in,**

- iii. Asking the couple or anyone associated with them or harbouring them to pay a fine,
 - iv. Imposing social sanctions or social boycott on the couple or their family or anyone associated with them,
 - v. Imposing economic sanctions or boycott on the couple or their family associated with them,
 - vi. Divesting the couple or their family including the family of the male partner of any land or property belonging to them,
 - vii. Repeatedly harassing the couple or either of them not to meet or associate with or live with each other, by physically visiting them or through any means of communication,
 - viii. Threatening the couple or either of them or their family or anyone associated with them of retributive action of any kind whatsoever,
 - ix. Causing harm or injury to the girl or the couple or anyone connected with them.
 - x. Any other act or acts of harassment or intimidation, whether physical or mental or psychological, to stop the couple or either of them from meeting or being in the company of each other
6. If any person or persons, including a body of persons by whatever name it is called, eulogises or publicly supports or incites , the harassment or killing or any kind of violence against the couple or either of them or any member of their family, he or they shall be punishable with a term of imprisonment upto two years and with punitive fine.

7. **Burden of Proof – Where any person or persons is or are prosecuted for an Offence under Sections 4, 5 or 6, the Burden of proving that he or they have not committed the offence or offences under the said sections shall be on him or them.**

8. **Power to prohibit certain acts – (1) Where the Collector or the District Magistrate is of the opinion or has received information that any of the offences under Sections 4,5 or 6 are likely to be committed, he shall by order prohibit/prevent the commission of such offences and further prohibit the meeting of any persons or body of persons likely to discuss the commission of the said offences.**

(2) Whoever contravenes any order made under Sub-Section(1) shall be punishable with imprisonment for a term which shall not be less than six months but may extend to two years and with fine.

3) When an Executive Magistrate receives information that any person or persons acting in concert with , or, at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called), is likely to commit any wrongful and is of opinion that there is sufficient ground for proceeding, he may in the manner hereinafter provided, require such person or persons acting in concert with , or, at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called),to show cause why he/they should not be ordered to execute a bond with sureties for keeping peace and maintain good conduct for such period, not exceeding one year, as the Magistrate thinks fit.Proceeding under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

When a Magistrate acting under this provision , deems it necessary to require any person to show cause under such section he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

9. **Declaration by a Couple of intention to be together- Any two persons desirous of marrying each other, or associating with each other shall be entitled to declare their age and willingness to be together, in oral or in writing, before any Government official who shall send the said information to the nearest Police Station and no action shall be taken by the Police and or any other authority or at the instance of third party, against the said couple.**

10. **Obligation of certain persons to report about commission of the offences under this Bill – (1) All officers of the Government are hereby required and empowered to assist the police in the execution of the provisions of this Bill or any rule or order made there under.**

(2) All village officers and such other officers as may be specified by the Collector or the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that any of the offences mentioned under Sections 4, 5 or 6 is are about to be, or have been committed in the area they shall forthwith report such fact to the nearest police station.

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

11. Bill not in derogation of any other law – The provisions of this Bill shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

12. Procedure – Save as otherwise provided in this Act, all proceedings under the Act shall be governed by the provisions of the Code of Criminal Procedure, 1973.

13. Power to make rules – (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament.

14. Appeal – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law an appeal shall lie from every judgment or order under this Act to the High Court.

(2) Every appeal under this Section shall be preferred within a period of thirty from the date of the judgment or order under this Act.

(3) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment, order or decree under this Act.

(4) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more judges.

Amendment to the Special Marriage Act, 1954

- 15. In Section 5 of the Special Marriage Act, 1954, the words “for a period of not less than thirty days” shall be omitted.**

A spate of murders and dishonourable crimes in the name of 'honour' whether of a family or caste or community have been reported in the recent past and frequently recur. Although the Commission welcomes the initiative of the Central Government for having initiated the move to amend section 300 of the Indian penal code , to include "Honour killings". The Commission feels that a separate legislation on the subject matter would be appropriate

Accordingly I am enclosing a draft Bill titled "Prevention of Crimes In The Name Of 'Honour' & Tradition Bill, 2010" for kind information and suitable action .

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