

# Responses to Information Requests - Immigration and Refugee Board of Canada

30-38 minutes

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India: Honour-based violence, including prevalence in rural and urban areas; legislation; state protection and support services available (2016-May 2020)

## 1. Overview

In a 2012 report on honour-based violence related to the freedom of marriage, the Law Commission of India states that the terms "honour killings" and "honour crimes" are "expressions to describe the incidents of violence and harassment caused to [a] young couple intending to marry or having married against the wishes of the community or family members" (India Aug. 2012, 1). In an opinion piece published by Al Jazeera, Kavita Krishnan, the Secretary of the All India Progressive Women's Association (AIPWA) (Al Jazeera n.d.), indicates that honour-based violence can be defined as the "[v]iolence (against men and women both) to prevent a woman from exercising her choice in love and marriage," and adds that conceptions of honour-based violence must take into account a "very wide variety of forms, including violence against [a] daughter's partner" (Krishnan 14 Mar. 2018). According to a ruling on honour crimes by the Supreme Court of India, honor-based violence can be linked to the following situations:

(i) loss of virginity outside marriage; (ii) pre-marital pregnancy; (iii) infidelity; (iv) having unapproved relationships; (v) refusing an arranged marriage; (vi) asking for divorce; (vii) demanding custody of children after divorce; (viii) leaving the family or marital home without permission; (ix) causing scandal or gossip in the community, and (x) falling victim to rape. (India 27 Mar. 2018, para. 6) (India 27 Mar. 2018, para. 6)

### 1.1 Prevalence

Sources note that honour-based violence is under-reported (Reuters 29 Dec. 2017; TRT World 16 July 2019). Honour-related murders are often reported as suicides (Reuters 29 Dec. 2017; Firstpost 1 Aug. 2019) or as accidents (NPR 22 Nov. 2018).

According to a report on crime statistics for 2018 by the National Crime Records Bureau of India, there were 30 murders with motives recorded as "honour killings" in 2018 (India [2019], 162). According to the Supreme Court ruling on honour crimes, 288 cases of honour killings were registered between 2014 and 2016 (India 27 Mar. 2018, para. 49). In an article on "honor killings," Reuters reports that Evidence, a Dalit organization, has recorded 187 cases of caste-based killings in Tamil Nadu between 2012 and 2017 (Reuters 29 Dec. 2017).

### 1.2 Regions

The US Department of State's *Country Reports on Human Rights Practices for 2019* states that honour killings are "a problem, especially in Punjab, Uttar Pradesh, and Haryana" (US 11 Mar. 2020, 45). The 2018 report on crime statistics report by the National Crime Records Bureau registered honour killings in the following states

and union territories: Jharkhand, Himachal Pradesh, Maharashtra, Punjab, Assam, Gujarat, Jammu and Kashmir, Kerala, Odisha, Rajasthan, Telangana and Delhi (India [2019], 162). In an article published in the *International Journal of Advanced Educational Research* in November 2017, Kavita Dhull, an assistant professor in the Department of Law at Maharshi Dayanand University in Rohtak (Haryana), states that although "most" honour-related crimes reportedly take place in Punjab, Haryana, Delhi, Western Uttar Pradesh and "other parts of Northern and Western India," other areas of India also register such incidents (Dhull Nov. 2017, 419). Reuters reports that while honour-based killings are "more common" in northern Indian states, such incidents were also registered in Tamil Nadu [southern India] (Reuters 29 Dec. 2017). Similarly, according to ThePrint, a news outlet based in New Delhi, honour-based violence is also present in southern regions of India (ThePrint 23 Sept. 2018). Media sources report the case of a man killed in front of his wife on 14 September 2018 in Telangana state [south-central India], by men contracted by the wife's father (BBC 20 Sept. 2018; *The New Indian Express* 13 June 2019).

TRT World, a state-run Turkish English-language news channel (BNO News n.d.), reports that while "many conservative communities" see honour-based violence as "in line with the societal norms, particularly in rural areas," it also takes place in "India's growing urban middle class" (TRT World 16 July 2019). The *Deccan Chronicle*, an English-language newspaper based in South India, notes that in Andhra Pradesh and Telangana, honour-related crimes have taken place in both rural and in urban areas (*Deccan Chronicle* 18 Sept. 2018).

### 1.3 Demographics

According to sources, victims of honour-based violence are mostly women (Reuters 29 Dec. 2017; Firstpost 1 Aug. 2019). Sources also report incidents where victims were male (*India Today* 22 Aug. 2019; BBC 14 Apr. 2019; *Frontline* 2 Apr. 2020) or cases where victims were both men and women (*The Statesman* 13 Feb. 2019; AHRC 3 Aug. 2017; TRT World 16 July 2019).

Sources indicate that honour-based violence is perpetrated by family members (Reuters 29 Dec. 2017; Dhull Nov. 2017, 419; TRT World 16 July 2019). Sources report the case of a 16-year-old girl reportedly killed on 19 March 2020 by her mother and her uncle in Rajasthan after eloping with a young man (PTI 30 Apr. 2020; Mirror Now Digital 2 May 2020). According to the sources, after the elopement, the girl's family filed a kidnapping complaint with the police against the man and the couple was held by the Mumbai police; the girl was handed over to her family and the man was arrested and released on bail a month later (PTI 30 Apr. 2020; Mirror Now Digital 2 May 2020).

According to Dhull, family members often perpetrate acts of honour-based violence against individuals with other relatives, friends or "a certain body of persons like the 'caste' or 'khap' [1] or community[-]based panchayats," and in some cases, khap panchayats are the "main perpetrator" (Dhull Nov. 2017, 419). According to an article in the academic journal *ANTYAJAA: Indian Journal of Women and Social Change*, caste panchayat, khap panchayat or katta kanchayat "encourage [h]onour [k]illings or other atrocities in an institutionalized way on boys and girls of different castes and religions" (Kaushal 6 Feb. 2020, 10). Sources indicate that khap panchayats are found in the following states: Rajasthan, Uttar Pradesh and Haryana (ThePrint 28 Mar. 2018; *The Asian Age* 28 Mar. 2018), while ThePrint reports that the states of Maharashtra and Madhya Pradesh also have khap panchayats (ThePrint 28 Mar. 2018).

## 2. Legislation

Sources indicate that there is no specific legislation on honour-based violence (Krishnan 14 Mar. 2018; Manorama Online 18 Feb. 2020). According to sources, honour-related killings fall under section 300 of the *Indian Penal Code* (Jan and Munir 2018, 335; Dhull Nov. 2017, 418; Kaushal 6 Feb. 2020, 15), which provides the following:

**300. Murder.**—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

*2ndly.*—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

*3rdly.*—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

*4thly.*—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. (India 1860, emphasis in original)

Section 302 of the *Indian Penal Code* also provides the following:

302. Punishment for murder.—Whoever commits murder shall be punished with death or [imprisonment for life], and shall also be liable to fine. (India 1860, emphasis and square brackets in original)

In its March 2018 ruling on honour crimes, the Supreme Court stated that the "'Khap Panchayats' or such assembly should not take the law into their hands and further cannot assume the character of the law implementing agency, for that authority has not been conferred upon them under any law" (India 27 Mar. 2018, para. 47). The ruling also outlines preventive, remedial and punitive measures [see section 3 of this Response] "to be taken into account till the legislation is made" (India 27 Mar. 2018, para. 53).

Sources report that the Rajasthan state Legislative Assembly adopted a bill in August 2019 to prohibit any collective assembly from taking place to condemn and to prevent inter-caste or interfaith marriages between two consenting adults in the name of honour (India Legal 11 Aug. 2019; ANI 5 Aug. 2019) and to punish murders or ill-treatment "of a couple or either of them on the basis that marriage of such couple has dishonoured, or brought disrepute to the caste, community or family" (India Legal 11 Aug. 2019).

### 3. State Response

In its March 2018 ruling, the Supreme Court provides the following guidelines regarding judicial proceedings in cases of honour-based killings:

#### III. Punitive Measures:-

...

(e) The criminal cases pertaining to honour killing or violence to the couple(s) shall be tried before the designated Court/Fast Track Court earmarked for that purpose. The trial must proceed on day to day basis to be concluded preferably within six months from the date of taking cognizance of the offence. We may hasten to

add that this direction shall apply even to pending cases. The concerned District Judge shall assign those cases, as far as possible, to one jurisdictional court so as to ensure expeditious disposal thereof. (India 27 Mar. 2018, para. 53)

The guidelines provide the following measures to be applied by the police forces in order to prevent honour-based violence:

I. Preventive Steps:-

...

(c) If information about any proposed gathering of a Khap Panchayat comes to the knowledge of any police officer or any officer of the District Administration, he shall forthwith inform his immediate superior officer and also simultaneously intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police.

(d) On receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area/district) shall immediately interact with the members of the Khap Panchayat and impress upon them that convening of such meeting/gathering is not permissible in law and to eschew from going ahead with such a meeting. Additionally, he should issue appropriate directions to the Officer [in] charge of the jurisdictional Police Station to be vigilant and, if necessary, to deploy adequate police force for prevention of assembly of the proposed gathering.

(e) Despite taking such measures, if the meeting is conducted, the Deputy Superintendent of Police shall personally remain present during the meeting and impress upon the assembly that no decision can be taken to cause any harm to the couple or the family members of the couple, failing which each one participating in the meeting besides the organisers would be personally liable for criminal prosecution. He shall also ensure that video recording of the discussion and participation of the members of the assembly is done on the basis of which the law enforcing machinery can resort to suitable action.

(f) If the Deputy Superintendent of Police, after interaction with the members of the Khap Panchayat, has reason to believe that the gathering cannot be prevented and/or is likely to cause harm to the couple or members of their family, he shall forthwith submit a proposal to the District Magistrate/Sub-Divisional Magistrate of the District/ Competent Authority of the concerned area for issuing orders to take preventive steps under the Cr.P.C. [Criminal Penal Code], including by invoking prohibitory orders under Section 144 Cr.P.C. and also by causing arrest of the participants in the assembly under Section 151 Cr.P.C. (India 27 Mar. 2018, para. 53)

In addition, the Supreme Court requests the following regarding cooperation between different governmental bodies:

I. Preventive Steps:-

...

(g) The Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of such violence and to implement the constitutional goal of social justice and the rule of law.

(h) There should be an institutional machinery with the necessary coordination of all the stakeholders. The different State Governments and the Centre ought to work on sensitization of the law enforcement agencies to mandate social initiatives and awareness to curb such violence. (India 27 Mar. 2018, para. 53)

If the gathering of Khap Panchayat still happens, the Supreme Court provides the following guidelines regarding remedial measures to be taken by police forces:

## II. Remedial Measures:-

(a) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the Khap Panchayat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an F.I.R. [First Information Report] under the appropriate provisions of the Indian Penal Code including Sections 141, 143, 503 read with 506 of IPC.

(b) Upon registration of F.I.R., intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is done and taken to its logical end with promptitude.

(c) Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety and threat perception. The State Government may consider of establishing a safe house at each District Headquarter for that purpose. (India 27 Mar. 2018, para. 53)

The ruling also states that special cells should be created:

## III. Punitive Measures:-

...

(c) The State Governments shall create Special Cells in every District comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive petitions/complaints of harassment of and threat to couples of inter-caste marriage.

(d) These Special Cells shall create a 24 hour helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple. (India 27 Mar. 2018, para. 53)

If authorities do not comply with the guidelines provided by the Supreme Court, or if police officials do not take sufficient action to prevent an honour-based crime or to investigate such incident, the Supreme Court states that the following measures are to be taken:

## III. Punitive Measures:-

(a) Any failure by either the police or district officer/officials to comply with the aforesaid directions shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules. The departmental action shall be initiated and taken to its logical end, preferably not exceeding six months, by the authority of the first instance.

(b) In terms of the ruling of this Court in *Arumugam Servai* (supra), the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits. (India 27 Mar. 2018, para. 53)

According to the *Times of India*, on 31 May 2018, the central government's Ministry of Home Affairs has sent an advisory to all states and union territories to ask them "to identify districts, sub-divisions and villages" where cases of honour killings or meeting of khap panchayat have been reported between 2013 and 2018, in order to implement the Supreme Court guidelines (*The Times of India* 3 June 2018).

### 3.1 Police Response

The director of Evidence, quoted by the Indian news source Firstpost, notes that honour killings "'are usually not even registered by the police as caste-based crimes'" (Firstpost 1 Aug. 2019). Sources report the case of a Dalit [Christian (*Gulf News* 30 May 2018)] who married a woman from a wealthier Christian family and who, subsequently, was allegedly abducted and murdered by his wife's relatives (*Gulf News* 30 May 2018; *The Times of India* 29 May 2018). According to the same sources, upon his abduction, his wife lodged a complaint with a local police station, but the officers refused to register a case immediately because of the visit of the chief minister (*Gulf News* 30 May 2018; *The Times of India* 29 May 2018) and told her that they would investigate later (*Gulf News* 30 May 2018). According to *Gulf News*, an English-language newspaper based in the United Arab Emirates, the police accepted the complaint in the evening "after live reporting from media from the station" (*Gulf News* 30 May 2018). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The *Hindu*, an Indian daily newspaper, reports that in July 2019 in Tamil Nadu, the Madras High Court "refused to buy the argument" that the Police department had taken steps to implement the preventive, remedial and punitive measures issued by the Supreme Court (*The Hindu* 31 July 2019). According to the source, the hotline that was reportedly set up especially for cases of honor violence was in reality a phone number for general complaints and for "those related to women's issues," and a lack of "pamphlets and "flex boards [billboards]" intended for a campaign on preventing honour killings was also noted by the judges (*The Hindu* 31 July 2019).

According to sources, in Tamil Nadu, in August 2017 the Madurai police force launched a hotline to protect inter-faith or inter-caste couples fearing family retribution (Reuters 8 Aug. 2017; Livemint 9 Aug. 2017). The hotline was to operate 24 hours a day and 7 days a week (Reuters 8 Aug. 2017; Livemint 9 Aug. 2017). The *New Indian Express*, a daily Indian newspaper, reports that in other districts of Tamil Nadu, the "anti-honour killing cells" with helplines that were publicized were the phone numbers of "'existing police stations or NGOs, some of whom were taken aback when informed that their numbers were submitted in court as the numbers to the special hotline'" according to the general secretary of the Tamil Nadu Untouchability Eradication Front (TNUEF) (*The New Indian Express* 25 Nov. 2018). Further and corroborating information on the implementation of the hotlines could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3.2 Court Cases

According to sources, in December 2017, the Tirupur (Tamil Nadu) court issued the death penalty for five [or six BBC 22 Jan. 2018]] individuals accused in the case of the honour-based killing in March 2016 of an engineering student who had married a young woman against the wishes of her family; one of the condemned was the young woman's father (Firstpost 1 Aug. 2019; BBC 22 Jan. 2018). In the Dalit Christian case, 10 defendants were found guilty and were sentenced to double life imprisonment in August 2019 (*The Indian Express* 27 Aug. 2019; PTI 27 Aug. 2019; *Hindustan Times* 28 Aug. 2019) out of 14 persons accused (PTI 27 Aug. 2019; *Hindustan Times* 28 Aug. 2019). The *Indian Express*, an English-language daily newspaper, reports that, in April and May 2018, courts in the Haryana state convicted family members, including parents, of three young women killed in three separate cases of honour killings and that in two of those cases, the convicted were sentenced to life imprisonment, while in the third case, the sentence was still to be pronounced (*The Indian Express* 18 May 2018). Firstpost indicates that in addition to the case of the engineering student, two other judgments on honor killings were pronounced in Tamil Nadu between 2016 and 2019 (Firstpost 1 Aug. 2019). In the case of a couple and their baby that were killed by the husband's brother and some of his friends, three of the perpetrators were sentenced to over 30 years of imprisonment (Firstpost 1 Aug. 2019). In the other case, the sister of a Dalit man who eloped with an upper-caste woman was killed by the parents of the woman, who received a death sentence (Firstpost 1 Aug. 2019). However, the same source adds that cases resulting in a conviction "are exceptions rather than the norm, in terms of the justice delivered. Even when cases are reported, perpetrators get out of jail on bail within a few months" (Firstpost 1 Aug. 2019). Further and corroborating information on court cases of honour-based crime could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 4. Support Services

### 4.1 Government Support Services

According to sources, the Kerala government launched in December 2019 a call for a service to manage safe houses in each district for inter-faith and inter-religious couples, aiming to avoid honour killings (Kerala Kaumudi Online 4 Dec. 2019; *The Times of India* 4 Dec. 2019). Information on the implementation of this call for safe houses could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources also report that the Kerala government is giving financial support of 30,000 Indian rupees (INR) [C\$550] to couples marrying outside their religion if they have an annual income below 100,000 INR [C\$1,800] (*The Times of India* 4 Dec. 2019; PTI 5 Mar. 2020) and have lived together for at least one year (*The Times of India* 4 Dec. 2019).

According to sources, there are safe houses for couples fearing honour-based violence in Haryana state (*Hindustan Times* 14 Feb. 2020; *The Tribune* 22 Apr. 2018). The *Tribune*, an Indian English-language newspaper, states that there are safe houses in the Rohtak, Hisar and Karnal districts (*The Tribune* 22 Apr. 2018). The *Hindustan Times*, an English-language newspaper, indicates that safe houses are situated in Jind, Karnal, Rohtak and Sonapat (*Hindustan Times* 14 Feb. 2020). Both sources report that couples sheltering in such houses share a room with a single bathroom (*Hindustan Times* 14 Feb. 2020; *The Tribune* 22 Apr. 2018). According to sources, police provide protection to the couples in the safe houses (*Hindustan Times* 14 Feb. 2020; *The Tribune* 22 Apr. 2018). According to the *Tribune*, safe houses lack space and have poor hygienic conditions (*The Tribune* 22 Apr. 2018). The source gives the example of a safe house in Karnal, where "[a]t

least seven couples share a room" and are allowed to use air conditioning "only for an hour" (*The Tribune* 22 Apr. 2018).

Information on support services provided by other states could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 4.2 Support Services Provided by NGOs

Information on support services offered by NGOs to victims of honour-based violence was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

Dhanak of Humanity is a not-for-profit organization supporting inter-faith and inter-caste couples in India (Dhanak of Humanity n.d.). The organization provides legal guidance and support, facilitation of stays in governmental safe houses, protection, financial aid, and support for marriage solemnization and registration (Dhanak of Humanity n.d.).

Sources report the existence of a free smartphone android-based application called Kadhal Aran that was developed to help couples fearing honour-based violence by connecting them to a network of volunteers who will put them in contact with the relevant authorities (NPR 22 Nov. 2018; *The Better India* 19 Feb. 2018) in the Tamil Nadu state (*The Better India* 19 Feb. 2018).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### Note

[1] Khap panchayats are an administrative mechanism formed by the elders of a village's caste or community through units composed of 84 villages, and sometimes 24 or 12 villages (*ThePrint* 28 Mar. 2018).

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## Additional Sources Consulted

**Oral sources:** Professor of policy studies working on violence against women in South Asia; professor of women's studies working on gender-based violence in India.

**Internet sites, including:** All India Progressive Women's Association; All India Women's Conference; Amnesty International; Australia – Department of Foreign Affairs and Trade; eoi.net; EU – European Asylum Support Office; Freedom House; Human Rights Watch; Shakti Vahini; UN – Committee on the Elimination of Discrimination Against Women, Office of the High Commissioner for Human Rights, Office on Drugs and Crime.