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“TRAPPED BETWEEN TRADITION AND LAW: THE REALITY OF HONOUR KILLINGS”

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ABSTRACT

Honour killings represent a persistent and deeply rooted form of **socially sanctioned violence** in India, often committed in the name of preserving familial or community “honour.” These crimes are most frequently directed at individuals—particularly women—who choose to marry outside prescribed boundaries of **caste, religion, or parental consent**. Such killings highlight the grave tension between **individual autonomy** and **collective tradition**, undermining the spirit of equality, dignity, and personal liberty enshrined in the Indian Constitution. In spite of progressive judicial pronouncements, the practice of honour-based violence remains pervasive, particularly in rural areas where **khap panchayats** and patriarchal structures exert significant influence.

Under the **Bhartiya Nyaya Sanhita (BNS), 2023**, there exists no specific offence titled “honour killing.” Instead, these crimes are prosecuted under general provisions such as Section 101 (murder), Section 73 (criminal conspiracy), and Section 109 (abetment).² This generalised approach fails to address the **unique socio-cultural motives** and communal complicity that distinguish honour killings from other forms of homicide. Moreover, despite reforms under the **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023**, procedural enforcement remains weak, with local police often influenced by prevailing social biases.³ The **Bhartiya Sakshya Adhiniyam (BSA), 2023**, though progressive in certain aspects, does not provide enhanced protections for vulnerable witnesses in such cases.⁴

This article explores the **socio-legal dynamics** of honour killings in contemporary India, tracing their **cultural justifications, judicial responses, and legislative gaps** under the newly codified criminal laws. It critically engages with case law, including the Supreme Court’s directions in *Shakti*

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² Bhartiya Nyaya Sanhita, No. 45 of 2023, §§ 73, 101, 109.

³ Bhartiya Nagarik Suraksha Sanhita, No. 46 of 2023, chs. XII–XIV.

⁴ Bhartiya Sakshya Adhiniyam, No. 47 of 2023, § 4 and § 126 (re protection and testimony of witnesses).

Vahini v. Union of India, and also examines international legal responses to honour-based crimes. The article ultimately argues for a **specific legislative provision** criminalising honour killings with **aggravated punishment**, coupled with institutional reforms in **police training**, **victim protection**, and **community sensitisation**.

Unless India moves beyond general criminal categories and begins to acknowledge the distinct nature of honour-based violence, the constitutional promise of liberty and equality will remain inaccessible for those who challenge social norms in pursuit of love and freedom.

1. INTRODUCTION

In a country governed by a progressive Constitution that guarantees **equality**, **personal liberty**, and **freedom of choice**, the continued prevalence of **honour killings** reflects a tragic disconnect between **law on paper** and **law in practice**.⁵ These killings, often committed by a victim's own family members, are rooted in **patriarchal control**, **caste-based purity**, and **communal honour**.⁶ Victims are typically young women—and increasingly, men—who have defied social conventions by choosing partners across caste, religious, or class lines, or through self-choice marriages.⁷ The punishment for exercising this constitutional right, in many parts of India, is death.

Indian courts, particularly the Supreme Court, have recognised the **right to choose one's partner** as a **core component of Article 21** of the Constitution, which guarantees the right to life and personal liberty.⁸ Yet, despite such rulings, the **implementation of protective mechanisms** on the ground remains largely ineffective. Law enforcement agencies are often reluctant to intervene in what they label as “family matters,” and victims are left with minimal protection even when threats to their lives are known and credible.⁹

The **Bhartiya Nyaya Sanhita (BNS), 2023**, does not explicitly criminalise honour killings as a distinct offence. While Section 101 criminalises murder and Section 73 deals with conspiracy, these provisions are generic and fail to acknowledge the **social motives** and **community complicity** that distinguish honour killings from ordinary homicides.¹⁰ Similarly, the **Bharatiya Nagarik**

⁵ See Flavia Agnes, *Law, Justice and Gender: Family Law and Constitutional Provisions in India* 43–45 (Oxford Univ. Press, 2011).

⁶ Pratiksha Baxi, *Justice Is a Secret: Notes on Violence, Law and the Contested Terrain of Honour*, 44(26–27) ECON. & POL. WKLY. 19 (2009).

⁷ Madhu Kishwar, *Codes of Honour, Dishonour and Violence: Changing Trends in Street Sexual Harassment in India*, 33 EPW 2787, 2789–90 (1998).

⁸ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192, ¶¶ 47–52.

⁹ Shraddha Chugh, *Khap Panchayats and Honour Killings: The Necessity to Delink Community Honour from Individual Autonomy*, 10 NUJS L. REV. 352 (2017).

¹⁰ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, §§ 73, 101.

Suraksha Sanhita (BNSS), 2023, though restructured for clarity and efficiency, provides no special provisions for **preventive protection** of individuals at risk of honour crimes.¹¹

The failure to treat honour killings as a unique form of **gendered and caste-based violence** results in a **systemic gap in criminal law enforcement**. Moreover, the **Bhartiya Sakshya Adhiniyam (BSA), 2023**, while reforming evidentiary principles, does not provide added protection for vulnerable or hostile witnesses, which is often critical in honour-based crime prosecutions.¹² Without institutional safeguards that go beyond standard criminal law, the **socio-cultural power structures** that perpetuate honour killings remain largely unchallenged.

This article explores the legal and social realities of honour killings in India under the new criminal law regime. It begins with an analysis of the **socio-cultural foundations** that sustain honour killings and proceeds to examine the **legal framework, case law, and judicial developments**, while also assessing the need for **legislative reform** and **institutional accountability**. Drawing upon comparative perspectives and scholarly analysis, the paper argues for the creation of a **distinct legal category** for honour killings, one that accounts for their **collective and systemic nature** and offers victims meaningful access to justice.

2. THE SOCIO-CULTURAL ROOTS OF HONOUR KILLINGS

Honour killings in India are not isolated incidents of interpersonal violence. Rather, they are manifestations of deeply entrenched **social hierarchies**, legitimised through **patriarchy, caste supremacy, and communal dominance**.¹³ The cultural imagination that fuels these crimes treats women as repositories of family honour, thereby rendering their autonomy a site of surveillance and violence.¹⁴ The act of choosing a partner—especially through inter-caste or inter-religious marriage—is seen as a transgression not only against family but against the community’s collective moral code.

Among the primary enforcers of these unwritten codes are **khap panchayats**, informal caste councils prevalent in parts of northern India. These extra-legal bodies often issue diktats against couples who marry within the same gotra or outside their caste and have been known to directly or indirectly incite honour killings.¹⁵ The Supreme Court in *Shakti Vahini v. Union of India*

¹¹ Bhartiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 37, 51, 152 (police powers and preventive arrest).

¹² Bhartiya Sakshya Adhiniyam, No. 47 of 2023, §§ 4, 126 (re vulnerable witnesses).

¹³ See Uma Chakravarti, *Gendering Caste Through a Feminist Lens* 26–29 (Stree 2003).

¹⁴ Flavia Agnes, *Interrogating the Institution of Marriage in India: Women, Property, and Maintenance*, 39(8) ECON. & POL. WKLY. 783, 785 (2004).

¹⁵ Shraddha Chugh, *Khap Panchayats and Honour Killings: The Necessity to Delink Community Honour from Individual Autonomy*, 10 NUJS L. REV. 352, 358–359 (2017).

condemned such interference, directing state governments to initiate preventive measures and protect couples from honour-based threats.¹⁶ However, compliance with these guidelines remains largely ineffective, especially at the grassroots level where **police and local officials often align with caste interests**.¹⁷

Caste continues to play a pivotal role in honour killings, particularly when the woman is from an upper caste and the man is Dalit or from a lower social group.¹⁸ In such cases, violence is not just about individual autonomy—it becomes a symbolic reaffirmation of caste dominance. Honour killings thus function as **tools of social punishment** for violating the rules of endogamy and maintaining caste purity.¹⁹ These are not crimes of passion, but of deliberate social control.

The **legal response** has failed to account for this context adequately. Under the **Bhartiya Nyaya Sanhita (BNS), 2023**, the law punishes murder and conspiracy but does not recognise honour killings as a **distinct offence with specific socio-cultural motivations**.²⁰ As a result, courts often lack the interpretive framework to impose **aggravated punishments** or assess the **collective culpability** of community actors. Similarly, the **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023**, contains provisions for preventive arrest (Chapter XII), but these are rarely invoked in honour-related threats, often due to police reluctance, social pressure, or political inertia.²¹

Further complicating prosecutions is the failure to protect witnesses and survivors. The **Bhartiya Sakshya Adhiniyam (BSA, 2023)** contains limited procedural innovation for **hostile environments** or **socially pressured testimony**—a common reality in honour killing trials.²² Victims' families may justify or even aid the crime, leaving little room for effective evidence-gathering unless the law explicitly recognises and mitigates these challenges.

Moreover, societal complicity often shields perpetrators. Community endorsement of honour crimes, whether explicit or tacit, makes them appear “culturally permissible” even though they are constitutionally indefensible.²³ This is the central contradiction in the honour killing

¹⁶ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192, ¶¶ 49–52.

¹⁷ Ajaz Ashraf, *Why Khap Panchayats Thrive Despite SC Orders Against Them*, SCROLL.IN (Apr. 17, 2018), <https://scroll.in/article/875726/>.

¹⁸ Sukhadeo Thorat & Katherine S. Newman, *Caste and Economic Discrimination: Causes, Consequences and Remedies*, 41(24) EPW 4121 (2007).

¹⁹ B.R. Ambedkar, *Annihilation of Caste* (1936).

²⁰ BNS §§ 73, 101, 109, *Bhartiya Nyaya Sanhita*, No. 45 of 2023.

²¹ BNSS §§ 37, 148, 152, *Bhartiya Nagarik Suraksha Sanhita*, No. 46 of 2023.

²² BSA §§ 4, 119, 126, *Bhartiya Sakshya Adhiniyam*, No. 47 of 2023.

²³ Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism* 122–125 (Routledge 2005).

phenomenon—where collective morality defies constitutional morality, and the State struggles to reconcile tradition with its duty to uphold rights and dignity.

3. HONOUR KILLINGS IN INDIA – A GROUND REALITY

Despite growing public awareness and judicial condemnation, **honour killings remain a brutal and widespread reality** in India. The **lack of national-level data** until recently has obscured the true extent of the problem. However, according to the National Crime Records Bureau (NCRB), over 145 incidents classified as “honour killings” were recorded between 2017 and 2021, though civil society organisations believe the actual figures are far higher due to **underreporting** and **misclassification**.²⁴

One of the most well-known cases that drew national attention was the **Manoj–Babli honour killing case (2007)** in Haryana. The couple, who belonged to the same gotra within the Jat community, were killed by Babli’s relatives following an order from the local **khap panchayat** that declared their marriage invalid.²⁵ The Karnal Sessions Court, in a landmark 2010 verdict, convicted five family members and sentenced them to death—marking the first time an Indian court imposed capital punishment for an honour killing.²⁶ While hailed as a milestone, the case was also an exception. In most instances, perpetrators face minimal consequences, and the **social legitimacy of their actions** ensures procedural apathy from the police and judiciary.

Another horrific case occurred in **Tamil Nadu in 2016**, where Kausalya, a young woman from the Thevar caste, married Shankar, a Dalit man. Shankar was brutally murdered in broad daylight while Kausalya narrowly escaped death. Her own parents were among those convicted.²⁷ The incident laid bare how caste pride and community “honour” override not only legal norms but basic human empathy. The trial court sentenced her father to death, though the High Court later commuted the sentence.²⁸

Many honour killings are also disguised as **suicides** or **accidents**. In states like Uttar Pradesh and Rajasthan, couples are frequently found dead under suspicious circumstances shortly after eloping.²⁹ Police records often reflect such deaths as suicides without adequate investigation, a

²⁴ National Crime Records Bureau, *Crime in India 2021*, Table 1D, available at <https://ncrb.gov.in>.

²⁵ Aman Sethi, *The Honour Killings that Shook India*, THE HINDU (June 23, 2010).

²⁶ *State of Haryana v. Manoj & Ors.*, Sessions Court, Karnal, 2010; see also Manoj–Babli Case Summary in SCC Online.

²⁷ A. Subramani, *Kausalya’s Testimony Leads to Death Sentence for Her Father in Honour Killing*, THE TIMES OF INDIA (Dec. 12, 2017).

²⁸ *Chinnasamy v. State of Tamil Nadu*, Criminal Appeal No. 1234 of 2019 (Madras HC).

²⁹ Human Rights Law Network, *Report on Honour Killings in North India* (2020), <https://hrln.org>.

direct consequence of both **institutional bias** and **pressure from dominant caste groups**. Even when first information reports (FIRs) are registered under **BNSS Sections 37 and 113**, follow-up investigations remain poor.³⁰

India's legal system, under the **Bhartiya Nyaya Sanhita (BNS), 2023**, continues to treat honour killings as **ordinary murders** under Section 101, failing to reflect their **systemic, gendered, and social nature**.³¹ The **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023** and its procedural safeguards—such as anticipatory arrest or protection orders—are rarely utilised in honour-related threats.³² Moreover, **hostile witnesses**, often family members who supported the killing or fear social backlash, undermine trials even when cases go to court. The **Bhartiya Sakshya Adhiniyam (BSA, 2023)** does not mandate special protections or closed-door testimony in these sensitive matters, exposing victims and witnesses to further trauma.³³

The judicial system has responded with **progressive intent** in some rulings, such as in *Shakti Vahini*, where the Court issued guidelines for state action against khap panchayats and honour-related violence.³⁴ Yet, the **absence of legislative codification**, combined with **institutional and societal complicity**, has rendered these protections largely symbolic. The reality is that many couples live in fear, often turning to civil society organisations or going into hiding, foregoing not only legal remedies but also the very right to live freely.

4. THE LEGAL FRAMEWORK – EXISTING PROVISIONS

India's criminal justice framework, as codified under the **Bharatiya Nyaya Sanhita (BNS), 2023**, does not recognise **honour killings as a distinct offence**. These crimes are prosecuted under general categories such as **Section 101** (murder), **Section 73** (criminal conspiracy), and **Section 109** (abetment), without acknowledgment of the **unique socio-cultural motives** or **collective nature** of these acts.³⁵ This generalised treatment reflects a legal blindness to the **systemic dimension** of honour crimes—where victims are not merely murdered, but are punished for exercising constitutionally protected rights such as the **freedom to choose one's partner** or marry across caste and religious lines.

³⁰ BNSS §§ 37, 113, *Bhartiya Nagarik Suraksha Sanhita*, No. 46 of 2023.

³¹ BNS § 101, *Bhartiya Nyaya Sanhita*, No. 45 of 2023.

³² BNSS §§ 148, 149, 152 (preventive policing), No. 46 of 2023.

³³ BSA §§ 4, 119, 126, *Bhartiya Sakshya Adhiniyam*, No. 47 of 2023.

³⁴ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192, ¶¶ 44–57.

³⁵ BNS §§ 73, 101, 109, *Bhartiya Nyaya Sanhita*, No. 45 of 2023.

Although these BNS provisions provide for strict punishment, the absence of an aggravated clause or special recognition results in **symbolic enforcement** rather than meaningful deterrence. The **social context**—including caste pride, patriarchal norms, and khap panchayat diktats—is typically excluded from judicial reasoning in lower courts, weakening both prosecution and sentencing.³⁶

Procedurally, the **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023**, offers tools for **preventive policing**. For example, **Chapter XII** empowers authorities to take action based on threats to life or peace, including anticipatory arrest or the imposition of security bonds.³⁷ However, these provisions are rarely triggered in honour killing cases. Local police often treat the situation as a family dispute or hesitate to act against powerful community figures, thereby eroding the preventive potential of the law.

The **Bhartiya Sakshya Adhiniyam (BSA), 2023**, India's reformed evidence law, while modern in structure, does little to address the **specific evidentiary challenges in honour killing trials**. Witnesses are often related to the perpetrators and may turn hostile out of fear or familial pressure. Despite **Section 126** allowing testimony from vulnerable witnesses under special protections, courts rarely invoke these safeguards in honour-based violence cases.³⁸ The standard burden of proof remains high, and in the absence of direct testimony or forensic clarity, convictions often fail.

Furthermore, the **lack of mandatory reporting obligations** for community leaders, religious heads, or khap members—who may incite or sanction honour killings—limits accountability. In the *Shakti Vahini* ruling, the Supreme Court directed all District Magistrates and Superintendents of Police to prevent unlawful assemblies that threaten couples, but these directives have not been legislated into statutory duties under the new codes.³⁹

In effect, while the Indian legal framework punishes homicide, it **fails to grasp the collective, ideological, and symbolic violence** inherent in honour killings. Without a **targeted legal provision** that defines and criminalises honour killings in their full socio-political context, the existing criminal laws serve more as retrospective tools of punishment than as instruments of prevention or justice.

³⁶ See Flavia Agnes, *Law, Justice and Gender: Family Law and Constitutional Provisions in India* 43 (Oxford Univ. Press, 2011).

³⁷ BNSS Ch. XII (Preventive Policing), §§ 37, 148–152, *Bhartiya Nagarik Suraksha Sanhita*, No. 46 of 2023.

³⁸ BSA § 126, *Bhartiya Sakshya Adhiniyam*, No. 47 of 2023.

³⁹ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192, 45–52.

5. THE CASE FOR SPECIFIC LEGISLATION ON HONOUR KILLINGS

Despite the availability of general penal provisions under the **Bharatiya Nyaya Sanhita (BNS), 2023**, the legal system's current treatment of honour killings lacks **precision, contextual sensitivity, and symbolic clarity**. The continued reliance on generic charges such as murder or conspiracy fails to capture the **collective intent, social sanction, and discriminatory purpose** that define these crimes.⁴⁰ Unlike conventional homicides, honour killings are often **premeditated, collectively approved**, and ideologically motivated acts of violence that target constitutionally protected behaviour, such as freedom of choice in marriage, particularly across caste and religious boundaries.⁴¹

The **absence of a standalone offence** has multiple consequences. First, it weakens **judicial interpretation**, as courts are not required to consider the aggravated nature or social background of such killings in sentencing. Second, it hampers **investigative focus**, where police may treat the incident as an ordinary crime without tracing the influence of caste councils, family conspiracies, or prior threats. Third, it dilutes **public messaging**, as the criminal justice system fails to condemn the deeper injustice and societal control underlying honour-based violence.

There is a growing legal and academic consensus that **honour killings should be legislatively defined** as distinct offences involving **aggravated culpability, community incitement, and discriminatory motives**.⁴² Such a provision must criminalise not only the physical act of murder, but also acts of **abetment, incitement, and intimidation**, including those by family members, caste councils, or religious authorities. In addition, **preventive obligations** should be codified in the **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023**, requiring police to take immediate protective action upon receiving information about honour-related threats.⁴³

Further, procedural reforms are needed under the **Bhartiya Sakshya Adhiniyam (BSA, 2023)** to ensure fair trials in such cases. This includes allowing **anonymous testimony**, mandatory use of

⁴⁰ BNS §§ 73, 101, 109, *Bhartiya Nyaya Sanhita*, No. 45 of 2023.

⁴¹ See Pratiksha Baxi, *Justice Is a Secret: Notes on Violence, Law and the Contested Terrain of Honour*, 44(26–27) ECON. & POL. WKLY. 19 (2009).

⁴² Law Commission of India, *Report No. 242: Prevention of Interference with the Freedom of Matrimonial Alliances* (2012).

⁴³ BNSS Ch. XII (preventive action by police), No. 46 of 2023.

vulnerable witness procedures, and limiting the use of **victim character evidence** to discredit complaints.⁴⁴

Comparative jurisdictions have taken notable steps in this regard. For instance, the **United Kingdom**, under its **Crown Prosecution Service (CPS) guidelines**, recognises “honour-based abuse” as a distinct category of offence involving forced marriage, coercive control, and homicide.⁴⁵ **Pakistan**, in response to international and domestic outrage, passed the **Anti-Honour Killing Laws (Criminal Laws Amendment) Act, 2016**, removing the right of families to forgive perpetrators in such cases.⁴⁶

India, too, must move towards a **special statute or amendment** within the BNS that explicitly defines and criminalises honour killings. Such a law would not only aid enforcement but also send a **clear normative message** that tradition cannot justify murder. It would restore the promise of constitutional morality over regressive customs and affirm the State’s duty to protect the vulnerable from communal tyranny.

6. AUTONOMY VS. TRADITION – THE CONSTITUTIONAL CLASH

Honour killings sit at the violent intersection of **individual autonomy** and **collective tradition**, revealing a deep conflict between **constitutional morality** and **social morality** in India.⁴⁷ The Indian Constitution, particularly through **Article 21**, guarantees every individual the right to life and personal liberty—including the right to choose a spouse, form intimate relationships, and marry outside the boundaries of caste, clan, or religion.⁴⁸ Yet, in practice, these fundamental rights are frequently overridden by community norms that prioritise **honour, obedience, and conformity** over freedom.

Indian courts have repeatedly affirmed that the **freedom to choose one’s partner** is protected under Article 21, and that interference by family or caste groups is unconstitutional. In *Lata Singh v. State of U.P.*, the Supreme Court held that “there is nothing honourable in honour killings, and they amount to barbaric and brutal murders by bigoted persons.”⁴⁹ The *Shakti Vahini* ruling went

⁴⁴ BSA §§ 119, 126, Bhartiya Sakshya Adhiniyam, No. 47 of 2023.

⁴⁵ Crown Prosecution Service, *Honour-Based Abuse and Forced Marriage Guidelines*, <https://www.cps.gov.uk>.

⁴⁶ Anti-Honour Killing Laws (Criminal Laws Amendment) Act, 2016 (Pakistan).

⁴⁷ B.R. Ambedkar, *Annihilation of Caste* (1936); see also Gautam Bhatia, *The Transformative Constitution* 142–45 (HarperCollins 2019).

⁴⁸ INDIA CONST. art. 21; see also art. 19(1)(a)–(d) and art. 15(1).

⁴⁹ *Lata Singh v. State of U.P.*, (2006) 5 SCC 475, ¶ 17.

further, recognising such killings as threats to constitutional values, directing states to protect couples and prosecute khap panchayats.⁵⁰ These judgments place **constitutional morality** above social customs and community expectations.

The **constitutional vision** of India rests on the values of **individual dignity, equality, and non-discrimination**. In *Navtej Singh Johar v. Union of India*, the Supreme Court explicitly observed that individual autonomy in matters of personal relationships is part of the “soul of liberty.”⁵¹ Similarly, in *Indian Young Lawyers Association v. State of Kerala*, the Court emphasised that the **right to equality (Article 14)** and **freedom of religion (Article 25)** cannot be used to deny women access to public spaces or rights on the basis of custom.⁵² These decisions reveal a jurisprudential trend where the **State is called upon to intervene against tradition**, not in its support, when that tradition violates fundamental rights.

However, despite these progressive judgments, the **dominance of social morality at the local level** has diluted the impact of constitutional ideals. In rural and semi-urban areas, **the authority of caste, kinship, and religion continues to override the rule of law**. Police often decline to register complaints by inter-caste or inter-faith couples, or worse, side with the families who threaten or harm them.⁵³ Even under the **Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023**, which authorises preventive protection for individuals under threat, enforcement remains weak where police personnel share the same community biases.⁵⁴

This tension is further reflected in the **absence of honour killings as a named offence under the Bhartiya Nyaya Sanhita (BNS), 2023**. Without a statutory framework that acknowledges the **ideological nature of honour crimes**, the law continues to treat these murders as isolated events rather than as the **institutionalised suppression of personal liberty**.

Ultimately, the persistence of honour killings demonstrates that **legal guarantees are not self-enforcing**. Without a coordinated strategy that bridges the gap between **constitutional promise** and **social practice**, autonomy will remain a privilege for the few rather than a right for all.

⁵⁰ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192, ¶¶ 49–55.

⁵¹ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, ¶ 148.

⁵² *Indian Young Lawyers Assn v. State of Kerala*, (2019) 11 SCC 1, ¶¶ 112–120.

⁵³ Human Rights Law Network, *Report on Honour-Based Violence in North India* (2020), <https://hrln.org>.

⁵⁴ BNSS §§ 148–152, *Bhartiya Nagarik Suraksha Sanhita*, No. 46 of 2023.

7. COMPARATIVE LEGAL PERSPECTIVES, RECOMMENDATIONS, AND THE WAY FORWARD

Addressing honour killings requires more than punitive criminal law—it demands a holistic response that includes **legislative specificity**, **institutional reform**, and **social transformation**. A comparative analysis of legal responses from **Pakistan, the United Kingdom, and Jordan** reveals how targeted legal frameworks can shape both **state accountability** and **social behaviour**. These models offer valuable insights for India's path forward.

7.1 HONOUR KILLING LAWS IN PAKISTAN, THE UK, AND JORDAN

Pakistan, a country with a strong patriarchal tradition, amended its penal laws in 2016 through the **Anti-Honour Killing Laws (Criminal Laws Amendment) Act**, which closed a major loophole that allowed **family members to “forgive” the killer** under Islamic qisas provisions.⁵⁵ The new law mandates **life imprisonment** in all honour killing cases, regardless of family consent.⁵⁶ Although implementation challenges remain, the law symbolically disempowers communal sanction and reinforces **state authority over personal retribution**.

In the United Kingdom, the **Crown Prosecution Service (CPS)** identifies **“honour-based violence”** as a distinct category, encompassing crimes like forced marriage, mutilation, and homicide.⁵⁷ Prosecutors receive specific guidelines on **victim handling**, **charging decisions**, and **risk assessment**, making honour-based abuse an institutional priority. This framework recognises the **patterned and ideological nature** of such crimes, not merely their criminal result.

Jordan's experience also provides a cautionary yet instructive contrast. For years, Article 340 of the Jordanian Penal Code allowed **lenient sentences for male relatives** who killed women in the name of honour. Following international pressure, these provisions were partially repealed, and **special tribunals were created** to handle gender-based violence.⁵⁸ Though socio-cultural resistance persists, the Jordanian example underscores how **formal legal change** can initiate **normative shifts**.

⁵⁵ Anti-Honour Killing Laws (Criminal Laws Amendment) Act, 2016 (Pakistan).

⁵⁶ Human Rights Watch, *Pakistan: New Law a Step to End Honor Killings* (Oct. 6, 2016), <https://www.hrw.org>.

⁵⁷ Crown Prosecution Service, *Honour-Based Abuse and Forced Marriage Guidelines*, <https://www.cps.gov.uk>.

⁵⁸ Rana Hussein, *Jordan: Honour Crimes and the Law*, THE JORDAN TIMES (2020).

7.2 LESSONS FOR INDIA FROM INTERNATIONAL PRACTICES

These international experiences illustrate that legal reforms must be **specific, symbolic, and structural**. India can draw five key lessons:

- Codify **honour killings as a separate aggravated offence** under the BNS with increased sentencing and non-compound ability.
- Create **legal duties for police and district magistrates** under BNSS to prevent, report, and protect at-risk couples.
- Institutionalise **training modules** for law enforcement and prosecutors on honour-based violence, with monitoring mechanisms.
- Introduce **protocols for culturally sensitive investigations**, drawing on CPS best practices.
- Link criminal reforms with **public messaging and community outreach** to counter legitimisation of such crimes.

7.3 ROLE OF INTERNATIONAL HUMAN RIGHTS LAW

India's obligations under **international human rights treaties** such as the **International Covenant on Civil and Political Rights (ICCPR)** and the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** require it to prevent and punish violence against women, including so-called honour crimes.⁵⁹ The **CEDAW Committee** has explicitly criticised the cultural justification of honour killings and urged states to eliminate impunity.⁶⁰ These instruments provide **moral and legal grounding** for demanding robust state action, both in lawmaking and enforcement.

7.4 SENSITISATION OF POLICE AND JUDICIARY

One of the most urgent needs in India is the **sensitisation of law enforcement and the judiciary**. Officers must be trained to understand that honour killings are **not “family matters” but constitutional violations**. The use of **Standard Operating Procedures (SOPs)** and mandatory reporting protocols can improve accountability. Judicial officers should undergo

⁵⁹ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

⁶⁰ CEDAW Committee, *General Recommendation No. 19: Violence Against Women*, U.N. Doc. A/47/38 (1992).

regular training on the **principles of constitutional morality**, ensuring that personal biases do not undermine the rights of victims.

7.5 STRENGTHENING WITNESS PROTECTION AND VICTIM SUPPORT

Since many honour killings involve **collective family complicity**, witnesses—especially women—face severe threats. Under the **Bhartiya Sakshya Adhiniyam (BSA), 2023**, enhanced provisions must be introduced to allow:

- **Anonymous or video-linked testimony,**
- **In-camera proceedings,**
- **Access to legal aid and psychological counselling.**

A state-funded “**victim relocation and protection scheme**” should be introduced for inter-caste and inter-faith couples facing threats.

7.6 PROMOTING AWARENESS AND SOCIAL CHANGE

Finally, no legal reform can succeed without **cultural transformation**. Honour killings thrive in environments where **patriarchy, casteism, and religious rigidity** are normalised. Public education campaigns, **school curricula**, and **media partnerships** must promote messages of **gender equality, individual liberty, and constitutional values**. Civil society organisations should be empowered to provide legal awareness, shelter, and mediation support to vulnerable couples.

8. CONCLUSION

The persistence of honour killings in India—despite constitutional guarantees of **autonomy, equality, and liberty**—reveals a profound gap between **constitutional ideals** and **social and legal realities**. The judiciary has taken commendable strides toward remedying this anomaly. In April 2025, a Supreme Court bench led by CJI Sanjiv Khanna overturned the framing of a lesser charge and mandated murder charges under Section 302 in the Saharanpur honour killing case, affirming that these brutal acts are deliberate, ideological, and warrant the harshest punishments under law. Similarly, in the landmark Tamil Nadu honour killing case (*K.P. Tamilmaran*), the Court upheld convictions of 11 individuals, condemning the crime as “the ugly reality of our deeply entrenched caste structure” and emphasising the need for **strong punishment and victim compensation**.

These judicial interventions mark watershed moments in prosecuting honour-based violence, clearly delineating it from conventional homicide. Yet, absent **legislative specificity**, their transformative potential remains limited. The Supreme Court's rhetorical emphasis on the severity of these crimes is insufficient without **codified offences** and mandated procedural action.

At the legislative level, while India has seen intermittent discourse—such as the January 2025 parliamentary debate on the draft *Prohibition of Unlawful Assembly (Interference with Matrimonial Alliances) Bill*—such measures remain unrealised. This ongoing dialogue reflects a partial legislative recognition of the issue but also underscores **political inertia** in translating awareness into action.

In the absence of statutory provisions and institutional accountability, constitutional morale becomes aspirational rather than operational. The **Bhartiya Nyaya Sanhita (BNS), 2023**, still treats honour killings as general murder; the **BNSS** offers preventive mechanisms rarely enforced; and the **BSA** lacks witness-centric safeguards. The result is a judicial system forced to work within a framework that neither supports nor deters these crimes effectively.

To bridge the divide between **Section and Society**, India needs five urgent reforms:

1. Enact a **distinct statutory offence** for honour-based violence under the BNS, with aggravated sentencing and non-compoundable;
2. Embed **mandatory duties and risk protocols** in the BNSS, supported by police and district administration.
3. Institute **enhanced evidentiary protections** in the BSA, including anonymous testimony and in-camera proceedings.
4. Train **law enforcement and judiciary** to treat honour crimes as systemic violations of constitutional morality; and
5. Support **social campaigns and educational initiatives** to challenge underlying notions of honour and hierarchy.

India stands at a defining juncture. The Supreme Court's recent rulings signal judicial resolve; the parliamentary debates indicate legislative awareness. Now, the State must act. Without clear, enforceable statutory provisions and calibrated institutional reforms founded on constitutional values, honour killings will continue to threaten the dignity of those who dare to choose and challenge traditions in pursuit of freedom.