

Khap Panchayats: The Socio-Legal Abyss

Dr. R P Saini
Associate Professor
SD (PG) College Panipat

ABSTRACT

Khap Panchayat is a strong traditional institution which is basically betrothed in a process of dispute resolution and reconciliation among the villagers and communities. But some potent and powerful persons, with coerced public consensus and without any election, acclaim themselves to be the rulers and assume the responsibility of settling disputes between individuals and villages. The Khap Panchayats thus become undemocratic and without application of law they impose self-created norms in the name of preserving morals and values in the society. The government and the honourable Supreme Court of India have taken a very stern view against the dictatorial and authoritarian decisions of the Khap Panchayats. The present paper reviews such actions in detail and also tries to give the ways by which these obnoxious Khap Panchayats can be made to perform more constructive works for the betterment of the society as they had done in the past.

Keywords: Khap Panchayat, Government, Villages, Society

Khap Panchayat is a strong traditional institution which is basically betrothed in a process of dispute resolution and reconciliation among the villagers and communities. From ancient times every village in India had its own Panchayat or Council which meant the assembly of five (*Panch*) wise and respected elders elected and accepted by the village. But it has also been seen that at times, some potent and powerful persons, with coerced public consensus and without any election, acclaim themselves to be the “rulers of their caste”. These people then take the responsibility of settling disputes between individuals and villages although they do not have any constitutional or legal basis to do so. Thus Khap Panchayats are undemocratic in origin as they have unwritten laws and their decisions are clearly illegal and unconstitutional. Without application of law and acting on their whims and wishes, they impose self-created norms backed by sanction in the name of preserving morals and values in the society.

The undemocratic Khap Panchayats are autocratic and less transparent in their working and processes. Before law was established in the country, the Khaps were socially relevant for the harmonious settlements of disputes and issues. But with the passage of time their influence has diminished. But their tentacles have grown once again in the last few years and on issues like ban on same-gotra marriages etc has strengthened them once again. Khap Panchayats came into existence as a social system for keeping harmony and peace in the agrarian villages. These are nothing but the legacies of the tribal councils with the purpose of facilitating resolution of intra-tribal disputes and inter-tribal inter-course. Hence the Khap Panchayats contained powerful people of the

dominant caste who consider themselves to be the saviours of village norms, rural cultures and public morality. But are the Khaps recognized by the law of the land?

The Indian judiciary, particularly the Supreme Court has remained stringent towards the unlawful activities of Khap Panchayats in the recent past. A public interest litigation was filed in the Rajasthan High Court in 1999 to draw the attention of the Court towards the illegal decisions and working of Khap Panchayats against the weaker sections of the society especially the women. The Court averred that these Panchayats have no jurisdiction to pass social boycott order, or to impose fine on anyone and to violate the basic rights of a person. It ordered the state authorities to take steps for preventing the abuse of social influence by restraining such Panchayats from functioning and ensuring arrest and punishment to its members. The Apex Court's order in 2010 in life sentence to the three accused of honour killing who murdered six persons of a family, is well known today. The Court also emphasized that wiping out almost the whole family on the flimsy ground of saving the honour of the family would fall within the rarest of rare cases. Supreme Court opined that the caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation. The Court further observed that "Khap panchayats often decree or encourage honour killings or other atrocities in an institutionalized way on boys and girls of different castes and religion, who wish to get married or have been married, or interfere with the personal lives of people. It is wholly illegal and has to be ruthlessly stamped out. There is nothing honorable in honour killings or other atrocities and, in fact, it is nothing but barbaric and shameful murder.

The Court also instructed the authorities that: (1) prevent the incident if it has not already occurred but they have knowledge of it in advance, or (2) if it has occurred, they do not promptly apprehend the culprits and others involved and institute criminal proceedings against them, as in our opinion they will be deemed to be directly or indirectly accountable in this connection. Khap Panchayats are playing a powerful role today though they are not legally elected bodies. Their decisions are not enforceable but still their terror is perennial. Unless these bodies not realize the lack of basic moral values in their functioning, they cannot be permitted to exist today. It is also necessary that the illegal activities of Khaps should be strictly and promptly checked by police and other authorities responsible for maintenance of law and order.

Law Commission has also come out with a Bill to prevent interference of any person in the matrimonial alliance in the name of honour and tradition. The draft bill intends to declare such panchayats unlawful. The Bill says that any member of an unlawful assembly who alone or in association with other such member counsels, exhorts or bring pressure upon an, person or persons so as to prevent, or disapprove of the marriage which is objected to by the said member of the unlawful assembly or creates an environment of hostility toward such couple or either of them or their relatives or supporters, shall be deemed to have acted in endangerment of their liberty.

It is high time to curb the prevailing malpractices altogether and the harsh and brutal practices of the Khaps must be curtailed. People today are aware about their rights and know that the working of Khaps in the name of honour and tradition is nothing but harm to the basic human rights of individual. Legislature on its part should deal strictly with the law enforcement bodies so that such illegal practices are not repeated. The

problem is also due to our century's old society, with a feudal and patriarchal set-up, which can do anything for its culture and tradition. It is our duty to change the perceptions of people to root out outdated traditions. The leaders of the Khaps should also be educated and aware about the prevailing law. Participation of women will lend justice to them.

REFERENCES

- Kachhwaha, Kavita. "Khap Adjudication in India: Honouring the Culture with Crimes". *International Journal of Criminal Justice Sciences*. Vol 6. Issue 1 & 2. January-June. 2011. Print.
- Singh, Ranbir. "The Need to Tame Khap Panchayats". *Economic and Political Weekly*. Vol XLV No 21. Print.
- Sangwan, K.S. "Khap Panchayat in Haryana". www.Jatland.com/forum, August 29, 2012. Web.
- Srivastava, Sakaar, Honour Killing in India, <http://www.academia.edu/4806197>. Web.

