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Case Commentary 'Shakti Vahini vs. Union of India'

Mahak Raikwar

Introduction

Honor killings are a grim expression of patriarchal culture, particularly evident in India. These brutal acts occur when individuals defy social norms, especially in cases where young couples marry across castes or within the same gotra. In regions like Haryana, Punjab, and Western Uttar Pradesh, Khap Panchayats—extrajudicial assemblies of older men—often sanction these crimes by imposing severe rulings against such marriages.

To tackle this issue and highlight the shortcomings of existing laws, the organization "Shakti Vahini" conducted research in northwestern Indian villages and filed a landmark writ petition, *Shakti Vahini v. Union of India & Ors.*¹ The Supreme Court of India ruled in favor of individual liberty, asserting that the right to marry without fear is essential. The Court mandated a robust framework for preventive and remedial measures to protect against honor killings and ensure personal choice.

Facts of the case

Filing of the Writ Petition: The petitioner, Shakti Vahini, a prominent social action organization, approached the Honorable Supreme Court of India by filing a writ petition under Article 32² of the Constitution of India, which guarantees the Right to Constitutional Remedies. The petitioner sought a writ of mandamus directing the Central and State Governments to take urgent preventive measures, launch swift prosecutions to deal with honor crimes with an iron hand, and submit both a National Plan of Action and a State Plan of Action to curb this widespread social evil.

¹ *Shakti Vahini v. Union of India*, (2018) 7 SCC 192 : AIR 2018 SC 1601.

² India Const. art. 32.

Authorization and Research Mandate: By an order dated December 22, 2009, passed by the National Commission for Women (NCW), the petitioner organization was formally authorized to conduct an extensive research study on the pervasive issue of "honor killings in Haryana and western Uttar Pradesh".

The petitioner's research and empirical observations revealed a chilling trend in states like Haryana, Uttar Pradesh, and Punjab. It was found that the instances of young people entirely refraining from marrying their chosen partners had significantly increased due to the overwhelming fear of facing violent honor killings and brutal social retaliation³.

Statistical Evidence of Honor Crimes: To demonstrate the alarming rise and gravity of the situation, the petition highlighted official data from the National Crime Records Bureau (NCRB). According to these records, 288 cases of honor killings were reported across India between 2014 and 2016. The documented breakdown presented to the Court included:

- 28 cases were reported in the year 2014.
- 251 cases were reported in the year 2015 (with provisional data showing 192 cases).
- 77 cases reported in the year 2016 (with provisional data indicating 68 cases).
- Additionally, 65 cases of culpable homicide with a clear motive of honor killing were reported between the years 2015 and 2016⁴.

The Rise of Extrajudicial Khap Panchayats: The petitioner brought to the Court's attention the unconstitutional functioning of *Khap Panchayats*. These bodies act as parallel law enforcement agencies consisting of groups of men who meet periodically to address socio-cultural matters affecting their specific caste or group. Arrogating to themselves the power of lawmakers, these councils impose severe punishments, orchestrate inhumane treatment, and direct mob violence or the targeted killing of individuals simply because a couple intends to get married against traditional community norms.

Triggers for Honor-Related Violence: The petition systematically identified a specific list of actions, reasons, and grounds that commonly serve as the basis for triggering honor-related crimes and severe social pressure within these communities:

1. Loss of virginity outside marriage.

³ National Commission for Women, Research Study on "Honour Killings" in Haryana and Western Uttar Pradesh (NCW Report, 2009-2010).

⁴ National Crime Records Bureau, Crime in India Statistics Report (2014, 2015, 2016).

2. Pre-marital pregnancy.
3. Infidelity.
4. Having unapproved relationships.
5. Refusing an arranged marriage.
6. Asking for a divorce.
7. Demanding custody of children after a divorce.
8. Leaving the family or marital home without permission.
9. Causing a scandal or becoming a topic of gossip in the community.
10. Falling victim to rape.

Specific Remedies Prayed For: To counteract this brutal mindset and ensure the physical safety of vulnerable citizens, the petitioner pleaded for specific judicial interventions. These included directives for the mandatory creation of dedicated "special cells" in each district that threatened couples could easily approach for immediate shelter, protection, and safety.

Defense and Stance of the Respondent: In response, the state authorities and respondents did not justify the crimes. It was argued by the respondent that honor killings are legally considered murder as defined under Section 300 of the Indian Penal Code, 1860 (IPC), and are fully punishable with maximum severity under Section 302 of the IPC.⁵⁶⁷

Issues raised in this case

The Supreme Court summarized the core questions of law and constitutional validity into the following structural issues:

1. Whether the extrajudicial actions, diktats, and parallel law enforcement functions of Khap Panchayats infringe upon the fundamental rights of citizens guaranteed under Articles 14, 19, and 21 of the Constitution of India.
2. Whether the right of an individual to choose their own life partner forms an inseparable part of personal liberty and human dignity under Article 21 of the Constitution.
3. Whether the lack of standalone, specific central legislation addressing honor crimes results in a violation of the State's fundamental duty to protect its citizens from vigilante violence.

⁵ Kirti Jaggi & Darshna Nair, *Case Comment: Shakti Vahini V. Union of India and Others*, 3 Int'l J. L. Mgmt. & Hum. 1621 (2020).

⁶ Indian Penal Code, 1860, §§ 300, 302.

⁷ Harshita Shanker, *Case Comment: Shakti Vahini vs Union of India & Ors.*, 5 J. Legal Stud. & Res. 117 (2019).

4. Whether the arbitrary and coercive practices carried out by community elders satisfy the principles of natural justice and constitutional morality.⁸⁹¹⁰

Arguments presented by both parties

Argument by Petitioner

The petitioner, represented by Shakti Vahini, advanced compelling arguments focused on constitutional transformation and the protection of civil liberties against non-state actors. It was argued that the right to marry a partner of one's choice is an absolute, core component of the Right to Life and Personal Liberty guaranteed under Article 21¹¹ of the Constitution. The petitioner emphasized that the operation of Khap Panchayats as parallel, unregulated enforcement cells effectively establishes a climate of fear, crushing the fundamental rights to free movement and speech under Article 19¹².

The petitioner contended that Articles 14¹³ 19 and 21 are not mutually exclusive but form a "Golden Triangle" that must be read together to evaluate any deprivation of personal liberty. They pointed out that forcing a couple into physical separation, public humiliation, or execution completely fails the tests of reasonableness, fairness, and justice. Furthermore, they argued that the existing provisions under the IPC were grossly insufficient and poorly enforced by local police officers, who frequently shared the same cultural prejudices as the village councils. Thus, immediate and binding judicial guidelines were necessary to save innocent lives.¹⁴¹⁵.

Arguments by Respondent

The Union of India and various state governments took an unyielding stand against honor crimes, conceding that such practices are barbaric, outdated, and totally unacceptable in a constitutional democracy. However, from a jurisdictional perspective, the respondents argued that because

⁸ *Shakti Vahini v. Union of India*, Drishti Judiciary, <https://www.drishtijudiciary.com/indian-penal-code/shakti-vahini-v-union-of-india-air-2018-supreme-court-1601>.

⁹ *Shakti Vahini vs. Union of India (2018) Case Analysis*, iPleaders, https://blog.iplayers.in/shakti-vahini-vs-union-of-india-2018-case-analysis/#Facts_of_the_case.

¹⁰ *Supreme Court's Landmark Ruling in Shakti Vahini v. Union of India: Strengthening Constitutional Protection Against Honour Crimes*, CaseMine (Mar. 28, 2018), <https://www.casemine.com/commentary/in/supreme-court%27s-landmark-ruling-in-shakti-vahini-v.-union-of-india%3A-strengthening-constitutional-protection-against-honour-crimes/view>.

¹¹ India Const. art. 21.

¹² India Const. art. 19.

¹³ India Const. art. 14.

¹⁴ Jaggi & Nair, *supra* note 5.

¹⁵ Shanker, *supra* note 7.

"Public Order" and "Police" are state subjects under Entry 1 and Entry 2 of List II (State List) of the Seventh Schedule, the primary burden of law enforcement and execution rests on individual states.

The Central Government informed the court that honor killings are not legally insulated; they are dealt with as clear cases of murder under Section 300 and are punishable under Section 302 of the IPC. The state respondents added that the principles of natural justice cannot be easily codified or held against informal social assemblies unless a concrete statutory breach occurs. They stated that the state mechanisms were doing their best to preserve peace and that the 242nd Report of the Law Commission of India, which proposed specialized legislation against matrimonial interference, was under active consultation with local stakeholders. Therefore, the respondents urged that instead of creating a completely parallel administrative system, the Court should strengthen existing state police frameworks¹⁶.

Judgment

The Supreme Court of India, through a unanimous judgment authored by Chief Justice Dipak Misra, delivered a stellar blow to extrajudicial vigilante groups. The Court emphatically stated that when two consenting adults choose to enter into a matrimonial alliance, no third party—whether a family member, a clan, or an entire village council—has any legal authority to restrict, judge, or interfere with their choice. The bench observed that the autonomy of the individual is paramount and that concepts of group or family "honor" cannot be permitted to extinguish individual rights. The Court significantly expanded the jurisprudence of Article 21 by reading the right to choose a life partner as an intrinsic element of privacy, dignity, and personal liberty. Drawing heavily from the constitutional ethos of *K.S. Puttaswamy v. Union of India*¹⁷ The judgment clarified that an individual's romantic and marital choices are completely insulated from community majoritarianism. The Khap Panchayats were declared entirely illegal in their self-assumed judicial capacities.

Recognizing a clear legislative vacuum, the Supreme Court exercised its authority to issue a comprehensive set of directives divided into three categories, binding across all states until specific legislation is passed by Parliament:

1. Preventive Measures

¹⁶ *Shakti Vahini v. Union of India*, LawBhoomi, <https://lawbhoomi.com/shakti-vahini-v-union-of-india/>.

¹⁷ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

- State governments must identify districts, sub-divisions, and specific villages where honor crimes or illegal Khap assemblies have occurred in the past five years.
- The Home Department of each state must direct the Superintendents of Police (SPs) to maintain absolute vigilance regarding inter-caste or inter-religious marriages within these areas.
- If law enforcement receives information regarding an upcoming unauthorized gathering intended to target a couple, senior police officials must intervene and explicitly warn organizers that the assembly is unlawful. If it continues, the entire proceeding must be video-recorded to identify participants for criminal prosecution.

2. Remedial Measures

- State administrations are mandated to build and maintain high-security "Safe Houses" at each district headquarters to provide immediate sanctuary and logistical security for threatened couples.
- A dedicated cell consisting of the District Magistrate and the Superintendent of Police must be set up in every district to systematically evaluate threat levels and provide instant logistical protection.

3. Punitive Measures

- Any deliberate negligence or failure on the part of local police or administrative officials to prevent honor violence or dismantle illegal assemblies will be treated as systemic misconduct, leading to immediate departmental disciplinary action.
- Fast-Track Courts must be designated to try all cases of honor killings and community harassment, with trials proceeding on a day-to-day basis and wrapping up within an explicit timeline of six months¹⁸¹⁹²⁰.

Conclusion

The *Shakti Vahini* case represents a major milestone in Indian legal history, offering a progressive interpretation of individual autonomy under Article 21 of the Constitution. It successfully shifted the balance of power away from oppressive community collectives and directly back to individual

¹⁸ *Shakti Vahini v. Union of India*, MANU/SC/0291/2018 : (2018) 7 SCC 192.

¹⁹ Jaggi & Nair, *supra* note 5.

²⁰ Jaggi & Nair, *supra* note 5.

citizens. The judgment effectively restored public faith in the judiciary's ability to protect fundamental liberties from non-state actors who invoke tradition to justify violence.

By quashing the extrajudicial power of Khap Panchayats, the Supreme Court made it clear that custom can never override constitutional rights. While this decision created an essential shield for young couples, changing deeply ingrained social attitudes will require more than judicial orders. To fully realize the vision of *Shakti Vahini*, India needs both a dedicated national law and a sustained, grassroots effort to dismantle patriarchal biases and reform administrative practices.

