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Q4

Khap panchayats have been in the news for functioning as extra - constitutional authorities, often delivering pronouncements amounting to human right violations. Discuss critically the actions taken by the legislative, executive and judiciary to set the things right in this regard.

UPSC Civil Services Mains 2015 · GS II · 12 marks · Federal Structure and Devolution

Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

Core demand of the question

- Discuss critically the actions of the legislature, the executive and the judiciary against khap panchayats that act as extra-constitutional authorities and violate human rights

Revision summary

Khap panchayats are not Part IX bodies; their punishment of adults violates [Articles 14, 19 and 21](#).

The legislature has mostly left the field to the IPC; a dedicated honour-crime statute is still missing.

The executive has circulars and CrPC powers; local police often share the khap's social world.

The Supreme Court in Lata Singh, Arumugam Servai and Bhagwan Dass has treated khap violence as crime and demanded State protection.

The remaining work is prevention, safe houses and prosecution, not another statement that khaps are extra-constitutional.

Introduction

Khap panchayats are clan councils, not constitutional panchayats under Part IX. They have issued diktats on marriage, dress and "honour", including social boycott and violence. A critical discussion must show what each organ has done, and that the gap is enforcement on the ground rather than a missing Article in the Constitution.

Body**Why khaps are extra-constitutional**

- Law-making and punishment belong to the legislature, the courts and the police under the Constitution; a caste council has no power to ban a marriage, exile a family, or order a killing.
- [Articles 14, 19 and 21](#) protect adult choice, association and life; khap decrees that police "honour" against those rights are unconstitutional on their face.
- Confusion with statutory gram panchayats helps the khap look like local government; it is a social body, and its writ is not law.

Legislature

- There is no dedicated Union statute named for khap panchayats; the **Indian Penal Code** already covers murder, assault, criminal intimidation, unlawful assembly and conspiracy when a diktat becomes a crime.
- The Protection of Women from **Domestic Violence Act, 2005**, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, apply when the victim fits those statutes, but they were not drafted as anti-khap codes.
- Some State assemblies, especially in the north, have debated or drafted honour-crime bills; progress has been slow, and political fear of Jat and other vote banks has delayed a clear statutory ban on unlawful caste assemblies that issue marriage fatwas.
- Parliament has not yet passed a stand-alone honour-killing law with a special offence, burden of proof, and duty on the village officer to report a khap meeting that threatens a couple.
- Legislative action is therefore mostly the general criminal law; the critical gap is a targeted statute and a duty to prevent, not only to punish after a death.

Executive

- Police circulars in Haryana, Uttar Pradesh and Rajasthan have at times told stations to record threats, give protection to runaway couples, and video-record khap meetings; practice is uneven when the local officer shares the khap's caste.
- District magistrates can bind over under the CrPC, prohibit assemblies, and use the police to stop a gathering that threatens violence; that power is used after media attention more often than as routine prevention.
- NHRC, State human rights commissions, and women's commissions have issued notices; they cannot replace an FIR and a charge sheet.
- Rehabilitation of couples, safe houses, and witness protection remain thin, so even a good circular fails when the pair must return to the same village.
- The executive's record is stronger on paper than in the thana; that is the main critical finding.

Judiciary

- **Lata Singh v. State of Uttar Pradesh (2006)** directed police protection for an adult woman who chose her partner and treated honour violence as a crime, not as a private caste matter.
- **Arumugam Servai v. State of Tamil Nadu (2011)** held that khap-type panchayats which instigate violence against inter-caste couples are illegal, and that States must protect such couples; it asked for disciplinary action against officers who fail.
- **Bhagwan Dass v. State (NCT of Delhi) (2011)** treated honour killing as a rarest-of-rare setting in that fact situation, signalling that "honour" is an aggravation, not a defence.
- High Courts have quashed illegal fiats and granted habeas relief when families or councils confine adults; the Supreme Court has also been seized of petitions seeking a special law and guidelines (including the Shakti Vahini litigation).
- Courts have thus named khaps unlawful and bound the police; they cannot patrol every village, and delayed trials still let the social order win.

Critical balance

- All three organs have spoken against extra-constitutional punishment; none has yet built a daily prevention machine of special offence, protected housing, and accountable police.
- A rights-based answer is to enforce existing IPC and constitutional rights at once, and to add a clear statutory duty on collectors and station house officers when a khap announces a diktat.

Flow diagram

Khap extra-constitutional diktat -> Arts 14 19 21
Legislature IPC no special law -> Uneven police protection
Lata Singh Arumugam Servai -> Uneven police protection
Uneven police protection -> Prevention plus prosecution

Conclusion

Khaps have no constitutional authority to punish. Legislatures still rely mainly on the IPC; executives issue circulars that the thana often dilutes; courts in Lata Singh, Arumugam Servai and Bhagwan Dass have been the clearest. Things will be set right when prevention, protection and prosecution move together, not when only a judgment names the khap illegal.

Facts & figures

Part IX panchayats

Constitutional local governments elected under State law; khap councils are caste bodies outside that scheme.

Lata Singh v. State of U.P. (2006)

Supreme Court directed protection for an adult who chose her partner and condemned honour-based harassment.

Arumugam Servai v. State of Tamil Nadu (2011)

Held khap-type panchayats that instigate violence against inter-caste couples illegal and bound States to protect them.

Bhagwan Dass v. State (NCT of Delhi) (2011)

Treated honour killing, on those facts, as calling for the rarest-of-rare approach to punishment.

Indian Penal Code

Murder, hurt, intimidation, unlawful assembly and conspiracy already cover khap-led crimes; the gap is a special preventive duty.

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