

Bill No. XVIII of 2017

THE PREVENTION OF CRIMES IN THE NAME OF HONOUR AND
TRADITION AND PROHIBITION OF INTERFERENCE WITH THE
FREEDOM OF MATRIMONIAL ALLIANCES
BILL, 2017

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BILL

*to protect individual liberty, right of association, movement and bodily integrity and the
right of adults to choose their own partners in marriage and to prevent victimisation by
prohibiting unlawful assemblies and other conducts interfering with
matrimonial alliances in the name of honour and tradition
and for the matters connected therewith and
incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Crimes in the name of Honour and Tradition and Prohibition of Interference with the Freedom of Matrimonial Alliances Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declaration of
Rights of
persons.

2. (1) For the removal of doubts, it is hereby declared that all persons including young persons and women have the following rights—

(a) right to control their own lives;

(b) right to liberty and freedom of expression;

(c) right of association, movement and bodily integrity; and

(d) right to choose their own partners in marriage or otherwise.

(2) Any action by any person or group of persons that restricts or prevents the exercise of the rights referred to in sub-section (1) shall be an offence under this Act.

Unlawful
Assembly.

3. (1) No person or any group of persons shall gather, assemble or congregate at any time with the view or intention of condemning any marriage, not prohibited by law, on the basis that such marriage has dishonoured the caste or community tradition or brought disrepute to all or any of the persons forming part of the assembly or the family or the people of the locality concerned.

Explanation.—In this Section, the expression—

(i) 'Marriage' shall include a proposed or intended marriage; and

(ii) 'gather', 'assemble' or 'congregate' shall include acting in concert through the use of any technological means or mediums.

(2) Such gathering or assembly or congregation shall be treated unlawful and every person convening or organising such assembly and every member thereof participating therein, directly or indirectly, shall be punished with imprisonment for a term of not less than six months but which may extend to one year and shall also be liable to fine up to ten thousand rupees.

Honour
killing.

4. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly kills a women who has married or intends to marry, or kills the person whom the woman has married or intends to marry or kills any person associated with the couple, or abets, participates or incites such an act of killing, shall be guilty of an offence of murder under the Indian Penal Code, 1860.

Criminal
Intimidation.

5. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly indulges in criminal intimidation of the couple or either of them, or the members of their family, or supporters shall be punished with imprisonment for a term of not less than one year, which may extend to three years and shall also be liable to fine up to thirty thousand rupees:

Provided that if the threat be to cause death grievous hurt of the description referred to in second part of section 506 of the Indian Penal Code, then the punishment shall extend to seven years of imprisonment instead of three years and fine up to thirty thousand rupees.

Explanation.—The expression 'criminal intimidation' includes repeated harassment of the couple or either of them with the view to pressurise them not to meet or associate with each other or live with each other or threatening the couple or either of them or their family or any person associated with them or harbouring them of retributive action of any kind whatsoever.

Harassment and
endangerment
of Liberty.

6. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or

at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly harasses a woman or her partner, or any person associated with them for exercising the rights as mentioned in section 2 or attempts to prevent either one or both of them from exercising these rights shall be deemed to have acted in the endangerment of their liberty and such an act of endangerment shall be punished with imprisonment for a period of not less than two years and extending up to ten years and fine extending up to fifty thousand rupees.

Explanation.—'Endangerment of liberty' shall include the acts of social sanctions, ostracization or social boycott and shall include, but shall not be limited to the following acts,—

(i) declaring the couple, who have married or intends to marry as brother and sister provided that they are not the children from the same natural parent and such a marriage is recognised by any law or custom for the time being in force;

(ii) bringing to bear pressure on the couple or their families or any person associated with them or harbouring them to leave the village or area of residence concerned;

(iii) indulging in any conduct which impedes or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life;

(iv) divesting or dispossessing the couple or their families, or any persons associated with them or harbouring them of any land or property belonging to them;

(v) bringing to bear pressure on the couple, or their families or any person associated with them or harbouring them to pay a fine;

(vi) causing grievous hurt, or injury, or harm to the couple, or either of them, or their families, or any persons associated with them or harbouring them; and

(vii) any other act or acts of harassment whether physical or mental or psychological.

7. Any two persons who intend to marry or associate with each other may declare their age and willingness to marry or associate, orally or in writing, before any Government official, who shall, on receipt of such information, inform the nearest Police Station and it shall be the responsibility of the police to protect the said couple against any offences mentioned under section 3 to 6 of this Act.

Declaration by a couple of the intention to be together.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all village officers, including the Sarpanch and such other officers as may be specified by the Sub-divisional Magistrate or District Magistrate in relation to any area, if they have reason to believe or have knowledge that any of the offences mentioned under sections 3 to 6 is likely to be committed or has been committed shall provide such information to the nearest police station forthwith.

Obligation of certain persons to report an offence.

(2) Any person who fails to report the commission of an offence under sub-section (1) shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(3) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

9. (1) The District Magistrate or the Sub-Divisional Magistrate shall receive any request or information from any person or persons seeking protection from any assembly of persons or from members of any family who are likely to or who have been objecting to any lawful marriage.

Power to prohibit certain acts and taking preventing measures.

(2) Where the District Magistrate or the Sub-Divisional Magistrate receives information from any source that there is a likelihood of convening of an assembly openly or in secrecy

to condemn as objectionable any marriage proposed or solemnized, he shall, by order prohibit the convening of such assembly and doing of any act towards the commission of any offence under this Act by any person in any area specified in the order.

(3) The District Magistrate or Sub-Divisional Magistrate may take such steps as may be necessary to give effect to such order including giving appropriate directions to the police authorities concerned. 5

(4) The District Magistrate or Sub-Divisional Magistrate shall also take such steps as may be necessary to ensure the safety of the persons targeted by an unlawful assembly or by any person or a group of persons, who is or are members of the families of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called). 10

(5) The District Magistrate or the Sub-Divisional Magistrate shall be in direct supervision of the protection and safety of the persons concerned and their protection from any offence mentioned in sections 3 to 6 of this Act. 15

(6) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the concerned State Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act.

Offences to be cognizable, non-bailable and non-compoundable.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act shall be cognizable, non-bailable and non-compoundable. 20 2 of 1974.

Burden of Proof.

11. Where any person is prosecuted for an offence under this Act, the burden of proving that he has not committed the offence shall be on the person being prosecuted.

Act not in derogation of any other law.

12. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. 25

Power to make rules.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 30 35

STATEMENT OF OBJECTS AND REASONS

There has been an increase in number of crimes being committed against young couples intending to marry or having married, in the name of vindicating the honour of the family, caste or community. The Hon'ble Supreme Court of India in *Lata Singh v. State of Uttar Pradesh* rightly stated that "there is nothing honourable in such crimes, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal feudal-minded persons."

These crimes violate the fundamental rights of citizens including the right to life and liberty, right to bodily integrity and the freedom of movement and expression. They unduly emphasise on framework of 'honour' to control and regulate women's sexuality and their marital choices. Such crimes are also in violation of Article 16(1)(b) of the United Nations Convention on the Elimination of all forms of Discrimination against Women which provides that women should have the right to freely choose a spouse.

The Indian Penal Code, which is currently invoked to book offenders in cases of honour crimes neither covers the entire gamut of illegal actions perpetrated in the name of honour, nor provides for adequate provisions for ensuring protection of the consenting couple. Therefore, the Law Commission of India, in its Report No. 242 had recommended a legal framework to prevent acts endangering the liberty of the couple married or intending to marry and their family members. Furthermore, the Hon'ble Supreme Court of India, in *Arumugam Servai v. State of Tamil Nadu* had held that the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned should be held accountable for their failure to prevent honour crimes.

Therefore, in view of the need to address the grave concern, the current Bill seeks to provide for protecting the right to life and liberty of consenting adults, prohibition of unlawful assemblies, criminal intimidation, harassment, violence and interference in lawful matrimonial alliances in the name of honour and tradition and establishes power and accountability of District Magistrates and other officials concerned to prevent such crimes.

Hence this Bill.

V. VIJAYASAI REDDY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative powers is of a normal character.

RAJYA SABHA

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to protect individual liberty, right of association, movement and bodily integrity and the right of adults to choose their own partners in marriage and so prevent victimisation by prohibiting unlawful assemblies and other conducts interfering with matrimonial alliances in the name of honour and tradition and for the matters connected therewith and incidental thereto.

(Shri V. Vijayasai Reddy, M.P.)