

Bill No. XXXII of 2023

THE FREEDOM OF MARRIAGE AND ASSOCIATION AND
PROHIBITION OF CRIMES IN THE NAME OF
HONOUR BILL, 2023

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title and commencement
2. Definitions

CHAPTER II

FREEDOM OF MARRIAGE AND ASSOCIATION

3. Right to freedom of marriage and association
4. Declaration of intention to be together by a couple

CHAPTER III

PROHIBITION OF CRIMES IN THE NAME OF HONOUR

5. Prohibition of crimes in the name of honour
6. Prohibition of unlawful assembly
7. Power of court to issue injunctions

CHAPTER IV

PUNISHMENT FOR OFFENCES

8. Punishment for crimes in the name of honour
9. Punishment for causing death in the name of honour
10. Punishment for hurt or grievous hurt
11. Punishment for participation in unlawful assembly
12. Punishment for criminal intimidation
13. Offence under the Indian Penal Code
14. Application of certain provisions of the Indian Penal Code
15. Power of court to grant compensation
16. Punishment for causing disappearance of evidence of offence, or giving false information to screen offender
17. Abetment of an offence

(ii)

18. Punishment for abetment
19. Punishment for attempt to commit offence
20. Presumption as to offences
21. Burden of proof
22. Offences to be cognizable, non-bailable and non-compoundable

CHAPTER V

RIGHTS OF VICTIMS AND WITNESSES

23. Confidentiality of the victims and complainants.
24. Rights of victims and witnesses
25. Victim Compensation Scheme
26. Victim Compensation Fund

CHAPTER VI

POSITIVE OBLIGATIONS AND DUTIES

27. Power to prohibit certain acts and take preventive measures
28. Protection measures and safe houses
29. Accountability measures
30. Mandatory reporting
31. Appointment of State Nodal Officer
32. Duties of the appropriate Government to ensure effective implementation of the Act.
33. Establishment of Special Cells
34. State-level Monitoring Committees
35. District-level Monitoring Committees
36. Special Fast Track Courts
37. Procedure of Special Fast Track Courts
38. Appeals
39. Annual Report
40. Inclusion of data on honour crimes in the Annual Report of the National Crime Records Bureau
41. Appropriate Government to provide funds

CHAPTER VII

MISCELLANEOUS

42. Application of Code of Criminal Procedure, 1973
43. Application of other laws
44. Act to override other laws
45. Power to make rules

Bill No. XXXII of 2023

THE FREEDOM OF MARRIAGE AND ASSOCIATION AND
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HONOUR BILL, 2023

A

BILL

to provide for prohibition of crimes in the name of honour, unlawful assemblies and other conduct interfering with the freedom of marriage and association and to provide justice, compensation and rehabilitation in crimes committed in the name of honour in the interest of protecting individual liberty and preventing victimization and for the matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Freedom of Marriage and Association and Prohibition of Crimes in the Name of Honour Act, 2023. Short title and commencement.

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

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) 'accused' is any person or persons, whether they are members of the victim's family, member of the victims' community, caste, clan, race, tribe or indigenous community, member of any religious council, or caste panchayat or katta panchayat, (by whatever name called) or participates, abets, finances or incites or is hired to 5
commit such an act as is prohibited under this Act;

(b) "appropriate Government" means,—

(i) in relation to a Union territory, the Central Government; and

(ii) in relation to a State, the Government of that State;

(c) "association" means any association of a person with another person of any 10
sex or gender, as a partner, friend, companion, or having a relationship with another person, and includes any interactions or meetings with another person;

(d) "caste panchayats" or "community panchayats" means any caste or religious 15
community groups of persons of the same lineage, religion or caste, registered or not, which may be called by another name or description including Khap panchayats or a 'gavki', which control the personal and social behavior of any member and collectively pass orders without any legal authority against persons for acts of marriage and association with a person based on caste, religion, gotra, or against the wishes of the community members, by issuing oral or written dictums;

(e) "child" means any person below the age of eighteen years; 20

(f) "couple" means persons who intend to exercise the right to freedom of marriage and association, as per the provisions of this Act;

(g) "katta panchayats" means local groups that assemble and issue unlawful punishments against persons and are not necessarily based on caste hierarchies;

(h) "marriage" includes a marriage that has been solemnized or registered or is 25
proposed or intended to be solemnized or registered;

(i) "person" means any person who has completed eighteen years of age;

(j) "practices in the name of honour" means a collection of practices used 30
predominantly to control the behaviour of victims, especially but not limited to women and girls, within families or castes, in order to protect supposed cultural, religious and traditional beliefs, values and social norms in the name of honour;

(k) "safe house" means a safe house established by the appropriate Government as per section 28 of this Act;

(l) "social and economic boycott" includes all such acts that may lead to the 35
boycott or enforcement of social or economic sanctions on the couple or married or associated persons, and includes the following acts, namely:

(i) pressurizing, coercing, threatening them or their dependents, relatives, families or their communities to leave the settlement, household, village or area of residence concerned;

(ii) refusing to permit a person to render to other person or receive from 40
them any customary service or to abstain from social relations that one would maintain with other person or to isolate them from others;

(iii) indulging in any conduct which will impede or is likely to impede, 45
access to markets, community facilities, places of worship or any other necessities of life;

(iv) attempting or threatening to divest or dispossess the couple or their families of any rights to any land or property and / or imposition of fine or penalty of any kind;

(v) refusing to deal with, work for hire or do business with them;

5 (vi) denying opportunities including access to services or contractual opportunities for rendering service for consideration or refusing to do anything on the terms on which things would be commonly done in the ordinary course of business;

(vii) abstaining from any professional or business relations with them;

10 (viii) preventing or obstructing the victim from observing any social or religious custom or usage or ceremony or from taking a part in a social, religious or community functions, congregation, assembly, meeting or procession;

15 (ix) refusing the right to perform marriage, funeral or other religious ceremonies and rites which the members of the victim's own community usually and ordinarily perform;

(x) shunning or refusing to engage in the society or cut social or commercial ties off with the victim or the victim's family;

(xi) preventing or obstructing access to or usage of any place used or intended to be used for a charitable, religious or public purpose;

20 (xii) preventing or obstructing from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by, or intended to be used by, or for the benefit of the victim's community; or any other public place;

25 (xiii) inciting or provoking or encouraging any member of the community, directly or indirectly, to sever social, religious, professional or business relations with the victim or their family or members of their community;

(xiv) preventing or obstructing from entering, lodging in or otherwise using any place of worship or pilgrimage, which is ordinarily open to the members of the victim's community;

30 (xv) creating or causing to create cultural obstacle or compel the victim to wear any particular type of clothes or use any specific language;

(xvi) expelling or causing to expel the victim from their community; and

35 (m) "special cell" means the special cells established under section 33 of this Act;

(n) "victim" means any individual, including a minor, who has suffered any physical, mental, psychological, emotional, or monetary harm in relation to marriage or association under this Act and includes the victim's family members, guardians, dependants or any one supporting or sympathizing with the victim (s).

40 45 of 1860. (2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860 (hereinafter referred to as the Indian Penal Code), as the case may be, shall be deemed to have the meanings as respectively assigned to them in that enactment.

CHAPTER II

FREEDOM OF MARRIAGE AND ASSOCIATION

45 **3.** (1) All persons in addition to the right to life, the right to liberty and freedom of expression guaranteed under articles 21 and 19 of the Constitution, shall have the right to freedom of marriage and association, movement and bodily autonomy, including the right to choose their own partners, the right to marry or to associate with any person of their choice.

Right to freedom of marriage and association.

(2) The consent of a person's family, religious community, caste or clan shall not be a condition precedent for any adult individual to enter into a marriage or a relationship.

(3) All persons shall have the right to marry any person, irrespective of caste, religion, tribe, indigenous status, community or gender identity and there shall be no interference therein by anyone. 5

(4) Any action to prevent or interfere with the exercise of the rights referred to in this section by any person or a group of persons shall be an offence under the provisions of this Act.

Declaration of intention to be together by a couple.

4. Any couple desirous of marrying or being in a relationship with each other or associating with each other may declare their age and willingness to be together, orally or in writing to the District Magistrate having appropriate jurisdiction or any nodal officer designated for this purpose by the District Magistrate, who on receipt of such information shall send it to the nearest police station and no action shall be taken by the police and/or any other authority either *suo-motu* or at the instance of any party, including the family members or relatives or community members of either party or any third party, against the said couple. 10 15

CHAPTER III

PROHIBITION OF CRIMES IN THE NAME OF HONOUR

Prohibition of crimes in the name of honour.

5. (1) No person or persons shall commit any acts or practices in the name of honour or any caste, culture, custom, religion, tradition, against any couple on the ground that they have transgressed cultural, religious, social or traditional norms or customs. 20

(2) Such acts, including but not limited to the following acts, shall amount to crimes in the name of honour:—

(i) forcibly declaring the couple who have got married as brother and sister;

(ii) excommunication, ostracization or forcible removal or displacement or eviction of the couple or their family or relatives from the village, town or area they live in; 25

(iii) abducting or kidnapping the victim and / or anyone associated with them;

(iv) asking the couple or anyone associated with them or harbouring them to pay a fine;

(v) imposing social and economic boycott on the couple or their families or anyone associated with them; 30

(vi) harassing the couple or either of them not to meet or associate with or live with each other, either physically or through any means of communication;

(vii) threatening the couple or either of them or their family or anyone associated with them of retributive action of any kind whatsoever; 35

(viii) causing physical harm or injury to the couple or either of them or anyone connected or related with them;

(ix) individually or collectively exhorting or pressurizing or causing psychological trauma directly or indirectly upon any person or persons to prevent or disapprove of the marriage or association of the couple, or generating an environment of hostility towards such couple or either of them or their supporters; 40

(x) confining any person illegally, or placing them under house arrest;

(xi) confiscating a person's phone, laptop and any other means of communication, or certificates, documents, identity proofs or, other important personal effects;

(xii) freezing the bank accounts of the couple or either of them; 45

(*xiii*) causing the termination of job of the couple or either of them by their employer;

(*xiv*) publishing any defamatory and false material or information about the couple in print or online media including social media and Whatsapp;

5 (*xv*) committing an act of sexual violence or sexual harassment against the couple or either of them;

(*xvi*) forcing or causing an abortion or miscarriage of the woman in such relationship;

(*xvii*) forcing the couple or either of them to marry against their consent;

10 (*xviii*) forcefully dissolving the marriage of the couple against their consent;

(*xix*) abusing the couple or either of them with an intent to humiliate, using caste names in public;

(*xx*) raising funds for promoting or attempting to commit or committing crimes under this Act;

15 (*xxi*) spreading or inciting hate through oral/technological/written means;

(*xxii*) parading the victim naked or semi-naked or making them wear a garland of slippers/sandals through the village, or disrobing them, tying up and hitting them, or their family members or anyone supporting them or connected to them;

(*xxiii*) forcibly making them consume urine or faeces;

20 (*xxiv*) burning the house or crops or properties of the victim(s), breaking or damaging properties belonging to them, or encroaching or forcefully occupying their properties;

(*xxv*) causing disturbance or disruption in places of employment and education of the couple or either of them;

25 (*xxvi*) publicly humiliating and degrading the couple or persons associated with them;

(*xxvii*) preventing any person from exercising their right of marriage and association as provided in section 3 of this Act;

33 of 1989. 30 (*xxviii*) committing any atrocity as defined under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989; and

(*xxix*) committing any other act or acts of harassment or intimidation, whether physical or mental or psychological against any couple, or persons supporting them.

35 **6.** No group of five or more persons shall gather, assemble or congregate at any time with the view or intention to deliberate on, or condemn or prevent any marriage or association of any person or persons or punish any person or persons involved therein on the ground that such marriage or association has dishonoured the caste, tribe, indigenous status, community, religion, tradition or is against the wishes of the family or community including marriage or association of persons whose sexual orientation or gender identity is not accepted by their family or community. Prohibition of unlawful assembly.

40 **7.** (1) Notwithstanding anything to the contrary contained in this Act, if, on an application or complaint from any person or persons, a Judicial Magistrate of the first class or a Metropolitan Magistrate or a Special Fast Track Court, is satisfied that a crime in the name of honour, as described in section 5, has been committed or is about to be committed, the Magistrate shall issue an injunction against any person or persons including a caste
45 panchayat to restrain them from committing such act and providing protection to the persons against whom such acts were or are intended to be committed. Power of court to issue injunctions.

(2) A complaint under sub-section (1) may be made by any person or organization having knowledge or information or reason to believe relating to the likelihood of a crime in the name of honour taking place.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate or the Special Fast Track Court may also take *suo motu* cognizance on the basis of any reliable report or information received: 5

Provided that in the case of any urgency, the Court shall have the power to issue an *ad-interim* and *ex-parte* injunction or order or direction, without giving any notice under this section.

(4) An injunction, order or direction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued. 10

(5) Whoever knowing that an injunction has been issued under sub-section (1) against them, disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both: 15

Provided that no woman shall be punishable with imprisonment.

(6) The appropriate Government may confer such powers and impose such duties on the District Magistrate or any other authorities, as may be necessary to ensure that the provisions of the Act are properly carried out.

CHAPTER IV 20

PUNISHMENT FOR OFFENCES

Punishment for crimes in the name of honour.

8. Whoever commits any crime in the name of honour as defined in section 5, shall be punishable with imprisonment for a term not less than five years and shall also be liable to fine, which may extend to five lakh rupees.

Punishment for causing death in the name of honour.

9. Whoever causes death, through any means or commits any such act that results in death of a couple or either of them or any other person associated or related to them in the name of honour, shall be punished with rigorous imprisonment for life and with a minimum fine of ten lakh rupees or confiscation of property of similar value. 25

Punishment for hurt or grievous hurt.

10. (1) Whoever causes hurt to a couple or either of them in the name of honour shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years and with fine which may extend to three lakh rupees. 30

(2) Whoever causes grievous hurt, including loss of limb and causing disability, to a couple or either of them in the name of honour shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life and with fine which may extend to five lakh rupees. 35

Explanation.—The expressions 'hurt' or 'grievous hurt' shall have the same meaning as is given to it in sections 319 and 320 of the Indian Penal Code.

Punishment for participation in unlawful assembly.

11. Any person or persons participating in any unlawful assembly as described in section 6, either directly or indirectly, shall be punishable with imprisonment for a term not less than six months but which may extend to five years and shall also be liable to fine which may extend to one lakh rupees. 40

Punishment for criminal intimidation.

12. Whoever, including any member of an unlawful assembly indulges in criminal intimidation of any couple or either of them or their family members or supporters, for their marriage or association or with the intention to cause their separation, shall be punishable with imprisonment for a term not less than three years but which may extend to five years and shall also be liable to fine which may extend to five lakh rupees: 45

Provided that if the threat be to cause harm or injury of the description referred to in the second part of section 506 of the Indian Penal Code, the maximum imprisonment shall extend to seven years.

Explanation.—The expression 'criminal intimidation' shall have the same meaning as is given to it in section 503 of the Indian Penal Code.

13. Whoever commits any offence under this Act being a crime in the name of honour, which is also an offence under the Indian Penal Code (45 of 1860) punishable with imprisonment of ten years or more, shall be punishable with imprisonment for life.

Offence under the Indian Penal Code.

14. Subject to the other provisions of this Act, the provisions of section 340, section 351, section 354, section 355, section 357, section 359, section 326A, and section 312 of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

Application of certain provisions of the Indian Penal Code.

15. When the Court imposes a sentence of fine or a sentence of which fine forms a part, the Court shall when passing the judgment, order the whole or any part of the fine recovered to be paid as compensation to any person or persons for any loss or injury caused by the offence.

Power of Court to grant compensation.

16. Whoever knowingly or having reason to believe that an offence has been committed under this Act, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information regarding the offence which they know or believe to be false, shall be punishable with the punishment provided for that offence.

Punishment for causing disappearance of evidence of offence, or giving false information to screen offender.

17. A person abets an offence under this Act, who—

Abetment of an offence.

First.—Instigates any person to do that offence; or

Secondly.—Engages with one or more person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that offence.

Explanation. 1—A person who, by willful misrepresentation, or by willful concealment of a material fact, which is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

Explanation. 2—Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Explanation. 3—Whoever employs, harbours, receives or transports a victim, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

Explanation. 4—The expressions 'abetment' and 'conspiracy' shall have the same meaning as is given to it in sections 107 and 120A of the Indian Penal Code.

18. Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.

Punishment for abetment.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

Punishment for attempt to commit offence.	<p>19. Whoever attempts to commit any offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence or with fine or with both.</p>	5
Presumption as to offences.	<p>20. (1) Every person committing any of the offences under this Chapter shall be presumed to have also intended to commit or abet the commission of offences under this Act.</p> <p>(2) In a prosecution for an offence under this Chapter, if it is proved that—</p> <p>(a) the accused rendered any financial assistance in relation to the offences committed by a person accused of, or reasonably suspected of, committing, an offence under this Chapter, the Court shall presume, unless the contrary is proved, that such person had abetted the offence;</p> <p>(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding marriage or association of any person, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object; and</p> <p>(c) if any person or persons intending to marry or associate or having solemnized the marriage, is or are murdered or are forcibly separated or face violence or any crimes under this Act, it will be presumed that the family members of the victim have committed the offence, unless explicitly stated otherwise in front of the Judicial Magistrate of first class by the victim themselves.</p>	10 15 20
Burden of proof.	<p>21. Where any person(s) is prosecuted for offences under this Act, the burden of proving that he or she or they have not committed the offence or offences under the said sections shall be on him or her or them.</p>	30
Offences to be cognizable, non-bailable and non-compoundable.	<p>22. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (hereinafter referred to as the Code of Criminal Procedure) all offences under this Act shall be cognizable, non-bailable and non-compoundable.</p>	2 of 1974.

CHAPTER V

RIGHTS OF VICTIMS AND WITNESSES 35

Confidentiality of the victims and complainants.	<p>23. The identity and addresses of the victims and the complainants shall not be published, communicated or made known to the public, press and media in any manner including social media platforms:</p> <p>Provided that such information may be disseminated regarding the justice secured to any victim under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the victim(s) and witnesses.</p>	40
Rights of victims and witnesses.	<p>24. (1) It shall be the duty and responsibility of the appropriate Government to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence, under this Act.</p> <p>(2) A victim or their dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.</p>	45

(3) A victim or their dependents shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

5 (4) Notwithstanding anything contained in the Code of Criminal Procedure, the Court trying a case under this Act shall provide to a victim, their dependents, informant or witnesses—

(a) complete protection to secure the ends of justice;

10 (b) travelling and maintenance expenses during investigation, inquiry and trial;
and

(c) social-economic rehabilitation during investigation, inquiry and trial including relocation where necessary.

(5) The Court shall periodically review the protection being offered to victims and witnesses and pass appropriate orders to modify any protection measures, if necessary.

15 (6) The Court may, on an application made by a victim, informant or witness in any proceedings before it or by the Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including but not limited to:

(a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;

20 (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;

(c) providing relocation to the victim and/or witnesses; and

25 (d) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for their protection.

30 (7) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of the victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them free of cost.

(8) The police shall ensure that there shall be no destruction of evidence in any manner in all crimes and First Information Report registered under this Act.

(9) It shall be the right of the victims or their dependents, to take assistance from the Non-Governmental Organizations, social workers or advocates.

35 **25. (1) It shall be the duty of the appropriate Government to frame a scheme, to be known as the Victim Compensation Scheme, for protection and rehabilitation of victims and witnesses under this Act.**

Victim
Compensation
Scheme.

(2) Such scheme may include provision of immediate relief to the victims, in the form of cash or kind, and may also include,—

40 (i) provision of relief in respect of death or injury or damage to property;

(ii) arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;

(iii) ensure that these shelters and transport facilities are accessible to persons with disability;

45 (iv) ensure that these resources are provided to the victims and witnesses without discrimination on the basis of caste, gender, disability, religion, sexual orientation, gender identity or age;

(v) provision of maintenance expenses to victims; and

(vi) provision of protection to victims or their dependents and witnesses from intimidation and harassment and any other measures.

(3) Such a scheme may also ensure that the child of a couple killed in the name of honour is fairly compensated and rehabilitated as determined by the Court. 5

Victim
Compensation
Fund.

26. The appropriate Government shall, in co-ordination with the Central Government, as the case may be, in pursuance of the Victim Compensation Scheme, provide funds for the purpose of payment of compensation to the victim or their dependents, who have suffered loss or injury as a result of commission of crimes in the name of honour under this Act, subject to applicability of the provisions of section 357A of the Code of Criminal Procedure. 10

CHAPTER VI

POSITIVE OBLIGATIONS AND DUTIES

Power to
prohibit
certain acts
and take
preventive
measures.

27. (1) Any person(s) can make complaints, file representations or submit letters to the Sub-Divisional Magistrate or the jurisdictional police seeking protection against any unlawful assembly or against any other person who have been or are likely to object to any marriage or association or commit crimes in the name of honour as referred to under this Act. 15

(2) Upon receiving such complaint or representation, the Sub-Divisional Magistrate or District Magistrate shall immediately and not later than six hours take appropriate steps to provide protection to the said person(s), and shall give appropriate directions for the same to the police. 20

(3) On receipt of such a complaint, or request for protection, as per sub-section (2), the police shall immediately and not later than six hours, provide protection and safety measures to the said persons, in such manner as they deem fit, but not limited to providing a shelter home or by any other means.

(4) The Sub-Divisional Magistrate or the District Magistrate shall be in direct supervision of the protection and safety of the persons concerned and shall supervise the same. 25

(5) On receipt of information about any proposed unlawful assembly or gathering of a caste panchayat or community panchayat or a katta panchayat in respect of crimes in the name of honour, to be committed against any victim(s),—

(a) a police officer or any officer of the District Administration, shall, forthwith intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police; 30

(b) on receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area or district) shall immediately communicate to the members of the caste panchayat that convening of such meeting or gathering is not permissible and prohibit from going ahead with such a meeting, and shall also issue appropriate directions to the Officer in-charge of the jurisdictional police station to be vigilant and, if necessary, to deploy adequate police force for prevention of unlawful assembly of the proposed gathering; 35

(c) the Sub-Divisional Magistrate or District Magistrate shall immediately issue an order prohibiting the convening of such unlawful assembly and the doing of any act towards the commission of any offence under this Act by any person in any area specified thereunder and such order shall be immediately published in a local newspaper and delivered to such persons of the said unlawful assembly; 40

(d) the Sub-Divisional Magistrate or District Magistrate shall take such steps as may be necessary to give effect to such order(s) including directions to the police authorities concerned; 45

(e) the District Magistrate shall also take such steps as may be necessary to ensure the safety of the victims as to the illegal decisions taken by the unlawful assembly;

5 (f) whoever contravenes any order made under sub-section (4) shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine;

10 (g) if the Deputy Superintendent of Police has reason to believe that the assembly or gathering cannot be prevented and/or is likely to cause harm to the potential victims, he or she shall forthwith submit a proposal to the District Magistrate or Sub-Divisional Magistrate of the District or the Competent Authority of the concerned area for issuing orders to take preventive steps under the provisions of the Code of Criminal Procedure including by invoking prohibitory orders under section 144 thereof and causing arrest of the participants in the assembly under section 151 thereof;

15 (h) despite the preventive measures taken by the police, if any unlawful assembly takes place and any such assembly or caste panchayat or khap panchayat passes any diktat to take action against the victims and/or their family members, the Officer in-Charge of the police station having jurisdiction shall cause to lodge a First Information Report immediately under the provisions of this Act and the appropriate provisions of the Indian Penal Code including sections 141, 143, 503 and 506 thereof;

45 of 1860.

20 (i) upon registration of First Information Report, intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police;

25 (j) the District Magistrate or Superintendent of Police shall deal with the complaint regarding threat administered to such couple or family with utmost sensitivity and if necessary, provide them with logistical support for solemnizing their marriage and/or for being duly registered under police protection, if they so desire;

(k) after the marriage, if the couple so desire, in addition to adequate protection, they can be provided accommodation on payment of nominal charges in a safe house initially for a period of one month to be extended on a monthly basis but not exceeding one year in aggregate, depending on their threat assessment on a case-to-case basis;

30 (l) the initial inquiry regarding the complaint received from the couple or upon receiving information from any other source that the relationship or marriage of such couple is opposed by their family members or local community or caste panchayat shall be entrusted by the District Magistrate or Superintendent of Police to an officer not below the rank of Additional Superintendent of Police and such officer shall conduct a preliminary inquiry in order to ascertain the authenticity, nature and gravity of threat and shall immediately submit a report to the Superintendent of Police not later than

35 seven days of receipt of the complaint; and

40 (m) the Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police in-charge of the concerned sub-division to cause to register a First Information Report against the persons threatening the couple(s)/ victims and, if necessary, may also invoke section 151 of the Code of Criminal Procedure and the Deputy Superintendent shall also personally supervise the progress of investigation and ensure that the same is completed and charge sheet is filed within thirty days of receipt of the report.

45 (6) In a case where the victim(s) has/have been killed in the name of honour, as defined under section 9 of this Act, the District Magistrate and the Superintendent of Police shall ensure that:—

(a) an intimation be given to the National Human Rights Commission within twenty-four hours of their death;

(b) a post-mortem be conducted of the body and the post-mortem report along with videography and Magisterial Inquest Report, be submitted to the Special Fast Track Court within thirty days of the incident; and

(c) the body of the deceased is neither disposed off nor the last rites for the victim(s) performed without the written consent of the victim's family. 5

(7) The appropriate Government shall be responsible for creating and maintaining a post of Mental Health Counsellor, who may be a mental health professional, mental health nurse or a psychiatric social worker at the Special Cells as described under section 33 of this Act and in the safe houses as described under section 28 of this Act, for providing counseling to victim(s) who may have been threatened or harmed in any way defined under this Act, and the appointment and terms of conditions of service of such counselors shall be in such manner as may be prescribed. 10

(8) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the appropriate Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act, under the provisions of this Act. 15

Protection Measures and safe houses.

28. It shall be the duty of the appropriate Government to:—

(a) establish a safe house at each District Headquarter for persons seeking protection against crimes in the name of honour and ensure that such safe houses be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police in a manner as may be prescribed; 20

(b) ensure that the couple are able to stay together in the safe house, with access to facilities to meet with their lawyers or members from any Non-Governmental Organizations providing them support and assistance;

(c) take steps to provide security to the couple or family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety; and 25

(d) ensure that in cases requiring immediate medical attention, any woman or transgender person(s) needing special assistance are provided the same, including from the One Stop Centres established by the Ministry of Women and Child Development. 30

Accountability measures.

29. (1) Any failure by either the police or district officer or officials, including Marriage Officers appointed under the Special Marriage Act, 1954, to comply with the, provisions of this Act shall be considered as an act of deliberate negligence and/or misconduct for which departmental action shall be taken under the relevant service rules which shall be completed within six months of the incident, in such manner as may be prescribed. 43 of 1954. 35

(2) In addition to imprisonment for a term which shall not be less than six months but which may extend to one year, disciplinary action shall be taken against the concerned officials if it is found that—

(i) such official(s) did not prevent the incident, despite having prior knowledge of it, or 40

(ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

Mandatory reporting.

30. (1) All village officers and such other officers as may be specified by the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that any of the offences mentioned under this Act are about to be, or have been committed in the area shall mandatorily report such fact to the nearest police station forthwith. 45

(2) It shall be the duty of all State Government officers and Central Government officers to assist the police in implementing the provisions of this Act or any rule or order made thereunder.

(3) Whoever contravenes the provisions of this section shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

31. (1) The State Government shall nominate a nodal officer not below the rank of a Secretary to the State Government, for coordinating the functioning of the District Magistrates and Superintendent of Police or the officers authorized by them responsible for implementing the provisions of the Act.

Appointment of State Nodal Officer.

(2) The nodal officer shall at the end of every quarter, review the status of cases registered under this Act; various measures adopted for providing immediate relief in cash or kind or both to the victims or their dependents; adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims or his/her dependents; performance of Non-Governmental Organizations, the Special Cell, various committees and the public servants responsible for implementing the provisions of the Act, and accordingly prepare a report which shall be submitted to the State-level Monitoring Committee, in such form and manner as may be prescribed.

32. (1) The appropriate Government shall forthwith identify such districts, sub-divisions and/or villages where instances of crimes in the name of honour or assembly of caste panchayats have been reported in the last five years.

Duties of the appropriate Government to ensure effective implementation of the Act.

(2) The Secretary, Ministry of Home Affairs in the appropriate Government shall issue directions to the Superintendent of Police of the concerned Districts for ensuring that the Officers in-charge of the police stations of the identified areas are extra cautious if any instance of inter-caste or inter-religious marriage within their jurisdiction comes to their notice.

(3) The Central Government shall designate a nodal Ministry to oversee, supervise and monitor the effective implementation of this Act.

(4) The Ministry of Home Affairs, Government of India shall, in coordination with the State Governments, take necessary measures to create awareness and sensitize law enforcement agencies, government departments, the police, Judges and Special Public Prosecutors on the provisions of this Act and also for the prevention of crimes in the name of honour.

(5) The Ministry of Home Affairs, Government of India shall in co-ordination with the State Government, take necessary measures to create awareness for the prevention of crimes in the name of honour, and inclusion of such topics in the school curriculum and textbooks in the public education system, media, and other forms for spreading awareness.

(6) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act, including—

(a) provision for adequate facilities, including legal aid, to the persons subjected to honour crimes to enable them to avail themselves of justice;

(b) provision for travelling and maintenance expenses to victims and witnesses in honour crimes during investigation and trial of offences under this Act; and

(c) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act.

Establishment
of Special
Cells.

33. (1) The appropriate Government shall establish a Special Cell in every District comprising the Superintendent of Police and the District Social Welfare Officer, for prevention of crimes in the name of honour and to receive petitions or complaints from victims regarding infringement of the right of freedom of marriage and association, as described in section 3 of this Act.

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(2) These Special Cells shall establish a dedicated 24-hours telephone and e-mail helpline to receive and register such complaints and to provide necessary assistance/ advice and protection to the couple.

State-level
Monitoring
Committees.

34. (1) The Chief Minister of a State, and the Administrator of a Union Territory, shall establish in their State or Union Territory, as the case may be, a Committee to be known as a State-level Monitoring Committee, to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers or agencies responsible for implementing the provisions of the Act and various reports received by the State Government or the Union Territory administration.

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(2) The State-Level Monitoring Committee shall consist of:

(i) the Chief Minister of the State, or the Administrator of the Union Territory, as the case may be, Chairman, *ex-officio*;

(ii) the Minister of Home Affairs in the State Government—Member, *ex-officio*;

(iii) the Minister of Women and Child Development in the State Government— Member, *ex-officio*;

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(iv) five elected Members of Parliament from that State to be appointed or nominated Members, in such manner as may be prescribed;

(v) five elected Members of the State Legislative Assembly and Legislative Council if any, to be appointed or nominated as Members, in such manner as may be prescribed;

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(vi) The Commissioner of Police of the State—Member, *ex-officio*;

(vii) The Chief Secretary, Department of Women and Child Development of the State Government—Member, *ex-officio*; and

(viii) three representatives of Non-Governmental Organisations working in the field of crimes in the name of honour to be appointed or nominated as Members, in such manner as may be prescribed.

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(3) The State-level Monitoring Committee shall meet at least once in six months.

District-level
Monitoring
Committees.

35. (1) In each district within the State or the Union Territory, as the case may be, the District Magistrate shall set up a District-Level Monitoring Committee, to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers or agencies responsible for implementing the provisions of the Act and various reports received by the regional administration.

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(2) The District-level Monitoring Committee shall consist of the District Magistrate, Deputy Superintendent of Police, the Director of the District Legal Services Authority and three members having association with Non-Governmental Organizations, appointed or nominated thereto, in such manner as may be prescribed.

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(3) The District Level Monitoring Committee shall meet at least once every three months.

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Special Fast
Track Courts.

36. (1) The appropriate Government, may after consultation with the concerned High Court, by notification, designate a District Court as Special Fast Track Court for the purpose of trying the cases pertaining to crimes in the name of honour and offences under this Act.

(2) Such Special Fast Track Court shall exercise all jurisdiction exercisable by the District Court under any law for the time being in force in respect of any proceedings under this Act.

(3) The appropriate Government shall, after consultation with the High Court, by notification, extend, reduce or alter the local limits of the area to which the jurisdiction of the Fast Track Court extends.

(4) The concerned District judge presiding over a designated Special Fast Track Court shall receive prior training on this Act, in such manner as may be prescribed.

(5) For every Special Fast Track Court, the appropriate Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that court.

(6) Where an application is made by a victim seeking the appointment of a particular Special Public Prosecutor, the same may be considered and allowed by the Special Fast Track Court, in a manner as may be prescribed.

37. (1) The Special Fast Track Court may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint of facts which constitutes such offence or upon a police report of such facts.

Procedure of
Special Fast
Track Courts.

(2) While framing charges under this Act, the Court may also frame charges under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Protection of Women from Domestic Violence Act, 2005, any provision of the Indian Penal Code, as the case may be, and under any other special legislations, if the facts disclose the commission of an offence under those provisions.

(3) The Special Fast Track Court shall try cases in-camera and the trial must proceed on a day-to-day basis to be concluded, preferably within three months from the date of filing of charge sheet/final report.

(4) If, during the course of any trial of any offence under this Act, it is found that the accused person has committed any other offence under this Act or any other law, the notified Court may convict such person of such other offence also and pass appropriate sentence authorized by that law.

(5) A victim or their dependent shall have the right to apply to the Special Fast Track Court to summon parties for production of any documents or material, witnesses or examine the persons present.

(6) A victim or their dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

38. (1) Notwithstanding anything contained in the Code of Criminal Procedure, or in any other law, an appeal shall lie from every judgment or order under this Act to the High Court.

(2) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order under this Act.

(3) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment, order or decree under this Act.

(4) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

39. (1) The State Government shall every year, before the first day of July, prepare and furnish a report to the Central Government about the measures taken for implementing the

Annual
Report.

provisions of the Act and various schemes and plans framed by it during the previous calendar year.

(2) The Central Government shall cause, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section, to be laid, every year, before each House of Parliament. 5

Inclusion of data on honour crimes in Annual Report of National Crime Records Bureau.

40. The Central Government shall issue directions to the National Crime Records Bureau to collect and include data on the crimes committed in the name of honour in its annual report.

Appropriate Government to provide funds.

41. The appropriate Government shall after due appropriation by the Parliament or the State Legislatures, as the case may be, provide funds for the effective implementation of the provision of this Act. 10

CHAPTER VII

MISCELLANEOUS

Application of Code of Criminal Procedure, 1973.

42. Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings under this Act. 15 2 of 1974.

Application of other laws.

43. Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

Act to override other laws.

44. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law. 20

Power to make rules.

45. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions 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. 25 30

STATEMENT OF OBJECTS AND REASONS

Crimes and violence in the name of honour affect caste-marginalised communities, religious minorities and the LGBTQI communities disproportionately. Such violence is also an attack on the institution of family and community which are central to life in India. As family and community members turn killers, rapists, abductors, punishers, the institution of the family and community weakens.

Honour-based crimes are a symptom of the rampant caste and faith-based discrimination that exists in Indian society. As a result of this, countless young people bear the brunt of this malaise. We live in the world's largest democracy, however it appears that the freedom to safely associate, live-in, marry a person of our choice, still evades us. We live in two Indias, one where some unions are celebrated with great fanfare while some lead to boycotts from the family and communities, police intimidation, forced separations and even death.

The complex and dangerous nature of honour violence cannot be allowed to go unchecked. Further, in the absence of any codified law and no definite way to determine cases, convictions in cases of honour killings remain woefully low and none of the crimes committed in the name of honour are classified as such.

Furthermore, there is no reliable summary data available regarding honour crimes. The National Crime Records Bureau (NCRB) reports that only 540 cases of honour killing have taken place since 2014. This shows that honour crimes are being drastically underreported as these statistics are in conflict with real life figures and reports collected by NGOs which place the number of honour killing deaths to be much higher.

Since, there is no separate legislation on honour-based crimes in India, these crimes fall under existing provisions of the Indian Penal Code including section 300 for murder and and/or the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Law Commission has strongly recommended for formation of a separate law for dealing with crimes in the name of honour. There have been several judgements on honour crimes over the years with the Supreme Court of India stressing on the need for a separate legislation on honour crimes including the judgement of *Shakti Vahini vs Union of India* on 27 March, 2018.

Accordingly, this Bill proposes to aid the Government address honour crimes and incorporates the measures suggested by grassroot activists and survivors to mitigate the harm caused by honour-based crimes such as—

- (i) enactment of a comprehensive legislation to address crimes based on honour and protection of human rights of those affected by the issue;
- (ii) mandating separate record keeping on honour-based crimes (not just killings but all related crimes) by the NCRB and the police;
- (iii) mandating exclusive special courts and fast-track courts to address honour-based crimes cases;
- (iv) stringent action against law enforcement agencies, particularly police officials who fail to act swiftly to stop any violence in the name of honour;
- (v) providing protection for couples dealing with honour-based intimidation or violence in the form of police protection, financial support, legal support, safe homes and mental support; and

(vi) abolition or regularisation of bodies like caste/katta/khap panchayats that commit or abet honour-based crimes.

This Bill aims to achieve the above objectives.

RAM NATH THAKUR.

FINANCIAL MEMORANDUM

Clause 25 of the Bill provides that the appropriate Government shall frame a scheme, to be known as the Victim Compensation Scheme, for protection and rehabilitation of victims and witnesses under this Act and Clause 26 provides for provision of funds thereunder.

Clause 27(6) of the Bill provides that the appropriate Government shall create and maintain a post of Mental Health Counsellor at the Special Cells and the Safe Houses established under the provisions of this Bill and for the appointment and terms and conditions of service of such counsellors.

Clause 28 of the Bill provides for establishment of safe houses at each District Headquarter for persons seeking protection against crimes in the name of honour and clause 33 provides that for establishment of Special Cells in every District for prevention of crimes in the name of honour and to receive petitions or complaints from victims.

Clause 34 of the Bill provides for conditions of service of such counselors and for the appointment and terms and establishment of the State-level Monitoring Committees, and clause 35 provides for the establishment of District-level Monitoring Committees.

The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the exact expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 45 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

RAJYA SABHA

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BILL

to provide for prohibition of crimes in the name of honour, unlawful assemblies and other conduct interfering with the freedom of marriage and association and to provide justice, compensation and rehabilitation in crimes committed in the name of honour in the interest of protecting individual liberty and preventing victimization and for the matters connected therewith or incidental thereto.

(Shri Ram Nath Thakur, M.P.)