



Mixed Marriage in India

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Section 1 – Overview

Issues relating to mixed marriage, such as inter-religious marriage and inter-caste marriage, are a recurring theme in the India caseload across both the Migration Review Tribunal and the Refugee Review Tribunal.

Marriage in India continues to occur largely within caste, religion and economic group.¹ Sources which address inter-religious marriage, inter-caste marriage and divorce note that these phenomena are not the norm.^{2 3 4} For the purposes of this paper, ‘mixed marriage’ is thus defined as a union between people of different religions, castes, or nationalities.

Thirteen laws govern marriage and divorce in India, some of which are civil and some of which are religious laws. This does not include any local laws which may only apply to a particular state.⁵ There is no centralised system for marriage registration, although the government is making moves to implement one.^{6 7} Please refer to [Section 2] for information regarding the legislative framework and social attitudes surrounding inter-religious marriage. As there is an overlap between the issues and literature pertaining to inter-religious and inter-caste marriage, it is recommended that this section be read in conjunction with [Section 3].

It is difficult to make all-encompassing statements regarding a country the size and diversity of India. That said, marriage between followers of Dharmic religions (i.e. Hinduism, Sikhism and Jainism) has traditionally been more common and generally more socially accepted than marriage between followers of Dharmic and Abrahamic religions.^{8 9 10 11} In 2006, the Immigration and Refugee Board of Canada (IRB) quoted a professor of Asian Studies¹² as

¹ Singh, D & Goli, S 2011, ‘Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey’, *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.3 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

² A state-by state comparison is available at: Singh, D & Goli, S 2011, ‘Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey’, *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.11 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

³ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, p.106 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter-religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeIQePppmOBg&ved=0CFUQ6AEwBigK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false> – Accessed 21 March 2012

⁴ Naqvi, M 2012, ‘India’s Divorce Rate Rising’, *Huffington Post*, source: *Associated Press*, 15 April http://www.huffingtonpost.com/2011/04/12/india-divorce-rate-rise_n_848201.html – Accessed 16 April 2012

⁵ For a list, see ‘Personal Law’ n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

⁶ ‘India clears way for compulsory marriage registration’ 2012, *BBC News*, 12 April <http://www.bbc.co.uk/news/world-asia-india-17686877> – Accessed 18 April 2012

⁷ ‘Registration of marriages a must’ 2012, *Hindustan Times* <<http://www.hindustantimes.com/India-news/NewDelhi/Registration-of-marriages-a-must/Article1-859354.aspx>> Accessed 30 May 2012

⁸ Monotheistic faiths which trace their origin to Abraham, namely Christianity, Judaism and Islam.

⁹ Sajid, T 2010, ‘Faith And Marriage’, SA Global Affairs website, February <http://www.saglobalaffairs.com/features/423-faith-and-marriage.html> – Accessed 20 March 2012

¹⁰ ‘38% of Hindus Marry Outside Dharmic Faiths in America’ 2009, Interfaith Shaadi website, 5 November <http://www.interfaithshaadi.org/blog/?p=213> – Accessed 19 March 2012

¹¹ Mehrotra, M 2004, ‘“Triple Outsiders”, Gender and Ethnic Identity Among Asian Indian Immigrants’, PhD dissertation, Virginia Polytechnic Institute and State University, Blacksburg, p.26 <http://vtechworks.lib.vt.edu/bitstream/handle/10919/11117/Dissertation.pdf?sequence=1> – Accessed 15 March 2012

¹² The IRB source does not identify the professor by name or institution.

stating that inter-religious marriages were more common between students and among professionals in urban areas, while they were less likely in rural areas.¹³

Some authors have also stated that inter-caste marriage is slowly increasing among certain socioeconomic groups, such as urban youth.¹⁴ Urban women are arguably more likely to marry outside of their caste, particularly if they are Christian, and if they have a high educational and economic status.¹⁵ However, the marriages which have been increasing are not those between major castes, but those between sub-castes from the same major caste group.¹⁶ Please refer to [Section 3] for an overview of the caste system.

The treatment of same-lineage, or same-*gotra* couples arises as an issue in sources addressing inter-caste marriage. This 'lineage' is based on mythical ancestors, and there is not necessarily a blood relationship between two people of the same gotra. Nevertheless, some village caste councils have banned same-gotra marriage along with inter-caste marriage.^{17 18} These caste councils, or *khap panchayat* appear to be particularly involved in marriage matters in the northern Indian states of Haryana, Punjab and Uttar Pradesh.¹⁹

However, a number of sources cited in [Section 2] report incidents whereby those who wish to marry against family wishes have faced problems at home, some without specifying whether religion or caste is an issue. This suggests that family approval of a marriage is important regardless of religion, caste, or the marriage's legal status.

Other sources highlight the tension between young people who wish to pursue mixed unions and their families. Most women are not responsible for choosing their partner. In the north of India, parents are often solely responsible for making a decision about who their daughter should marry.²⁰ Parents may consider arranging a marriage for their children a duty, and may

¹³ Immigration and Refugee Board of Canada 2006, *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, IND100661.EX, 9 January

¹⁴ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, p.106 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter-religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeiQePppmOBg&ved=0CFUQ6AEwBigK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false> – Accessed 21 March 2012

¹⁵ A state-by state comparison is available at: Singh, D & Goli, S 2011, 'Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey', *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.6 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

¹⁶ James, L 2010 'Marriage in India', in G Thomas (ed), *Introduction to Family Life Education Vol. II*, Indira Gandhi National Open University, New Delhi, eGyanKosh website, pp.44-45 <http://egyankosh.ac.in/bitstream/123456789/39129/1/BSWE-004%20Volume-II%20Introduction%20to%20Family%20Education.pdf#page=39> – Accessed 19 March 2012

¹⁷ 'gotra' n.d., Encyclopaedia Britannica online <http://www.britannica.com/EBchecked/topic/239834/gotra> – Accessed 2 April 2012

¹⁸ Chamberlain, G 2010, 'Honour killings – saved from India's caste system by the Love Commandos', *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

¹⁹ Human Rights Watch 2010, *India: Prosecute Rampant 'Honor' Killings*, 18 July <http://www.hrw.org/en/news/2010/07/16/india-prosecute-rampant-honor-killings> – Accessed 26 August 2010

²⁰ A state-by state comparison is available at: Singh, D & Goli, S 2011, 'Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey', *Population Association of America 2011 Annual Meeting Program*, Princeton University website, pp.11-16 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

not accept modern marriage patterns such as a son or daughter choosing their own spouse.²¹ Hostile reactions to unconventional marriages are less likely amongst urban, educated families.²²

Limited information is available regarding the prevalence of mixed marriages in specific locations. The aforementioned professor of Asian Studies quoted by the IRB, for example, also stated that marriage between Sikhs and Hindus is “not uncommon” in Punjab state, where despite a Sikh majority, there are significant numbers of Hindus.²³

A 30 April 2007 report from *Outlook India*, an English news magazine published in New Delhi, regarding Hindu-Muslim marriages in Madhya Pradesh claimed that the government of that state keeps figures of such marriages. This report mentions “an ‘official’ list of 341 Hindu-Muslim marriages in Bhopal between 1997 and 2004”.²⁴

A study based on 2005 Indian Human Development Survey data suggests that incidences of inter-caste marriage are highest in Punjab (12.2 per cent of inter-caste marriages), West Bengal (9.3 per cent) and Gujarat states (8.2 per cent), and lowest in Rajasthan (1.7 per cent).²⁵

According to the Indidivorce website, “the trend of marrying NRIs [non-resident Indians, or Indian diaspora], is very much prevalent in the state of Punjab”.²⁶ [Section4] provides an overview of the process a mixed-nationality couple may go through to have their marriage recognised in India.

²¹ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, pp.104-107 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter-religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeiQePppmOBg&ved=0CFUQ6AEwBjgK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false> – Accessed 21 March 2012

²² Jayaram, V n.d., ‘Hinduism and Marriage’, Hinduwebsite.com http://www.hinduwebsite.com/hinduism/h_marriage.asp – Accessed 19 March 2012

²³ Immigration and Refugee Board of Canada 2006, *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, IND100661.EX, 9 January

²⁴ Bhaumik, S 2007, ‘Bhopal’s hour of Marital Crisis’, *Outlook India*, 30 April, International Campaign for Justice in Bhopal website http://www.bhopal.net/othernews/archives/2007/04/civil_code_de_f.html – Accessed 25 July 2007

²⁵ A state-by state comparison is available at: Singh, D & Goli, S 2011, ‘Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey’, *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.11 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

²⁶ ‘Laws related to NRI divorce’ n.d., Indidivorce website <http://www.indidivorce.com/nri-divorce.html> – Accessed 16 April 2012

Section 2 – Inter-religious marriages

Legislative Framework – *Special Marriage Act 1954*

The *Special Marriage Act 1954* provides for civil marriage, including civil marriage between people of different religions.^{27 28 29} The National Portal of India website, the official website that acts as an access point for information about Indian government services, explains that the *Special Marriage Act* applies to all of India except Jammu and Kashmir state.³⁰ However, the Act does allow for the appointment of Marriage Officers within Jammu and Kashmir to register the marriages of Indian citizens living in that state.³¹

The Special Marriage Act, 1954 extends to the whole of India except the State of Jammu and Kashmir, but also applies to the citizens of India domiciled in Jammu and Kashmir. Persons governed by this Act can specifically register marriage under the said Act even though they are of different religious faiths.³²

The *Special Marriage Act* does not require a marriage to include any religious rituals or ceremonies,³³ and does not require either party to convert to the others' religion.^{34 35} In May 2011, the Department of Foreign Affairs and Trade (DFAT) advised that:

India is officially a secular and multi-ethnic country. Inter-religious marriage is legal in India. The *Special Marriage Act* of 1954 is an optional law in India and an alternative to each of the various religious personal laws. The *Special Marriage Act* is available to all citizens who choose to marry outside their faith. Religion of the parties to an intended marriage is immaterial under the Act.³⁶

The *Special Marriage Act* does require that the parties are not blood or adopted relatives (unless there is a cultural custom governing at least one of the parties which permits of a marriage between them), and that the male be a minimum of twenty-one years of age and the female a minimum of eighteen years of age. Additionally, the Act requires that neither party:

²⁷ Law Commission of India 2008, 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', Law Commission of India website, p.11

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

²⁸ 'Getting married in India' n.d., Australian High Commission in India website

<http://www.india.embassy.gov.au/ndli/GmiI.html> – Accessed 12 December 2011

²⁹ UK Home Office 2010, *Country of Origin Information Report – India*, 21 September

³⁰ 'Personal Law' n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

³¹ Law Commission of India 2008, 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', Law Commission of India website, p.12

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

³² 'Personal Law' n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

³³ 'Some Frequently Asked Questions on Women and Hindu Marriage Law' 2003, *Manushi Journal*, Issue 136, May-June, pp.35-37 http://manushi-india.org/pdfs_issues/issue136/6.%20Know%20Your%20Rights%20-%20Women%20and%20Hindu%20Marriage%20Law.pdf – Accessed 9 February 2006

³⁴ 'Some Frequently Asked Questions on Women and Hindu Marriage Law' 2003, *Manushi Journal*, Issue 136, May-June, pp.35-37 http://manushi-india.org/pdfs_issues/issue136/6.%20Know%20Your%20Rights%20-%20Women%20and%20Hindu%20Marriage%20Law.pdf – Accessed 9 February 2006

³⁵ 'Marriage and Divorce' 2009, High Commission of Canada to India website, 23 March http://www.canadainternational.gc.ca/india-inde/consular_services_consulaires/marriage-mariage_divorce.aspx?lang=eng&view=d – Accessed 12 December 2011

³⁶ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

has a living spouse; is of unsound mind; is unfit for marriage and procreation due to mental illness; or has experienced recurring attacks of insanity.^{37 38}

According to the Australian High Commission in India website, couples wishing to get married under the *Special Marriage Act* must file documents with a local marriage registrar, including “affidavits (in prescribed form) by each party that they are single, and certifications from the local police station for each party that they have been resident of that area for at least 30 days”.³⁹ However, the National Portal of India website states that only one of the parties need have been a resident for 30 days:

The parties to the intended marriage have to give a notice to the Marriage Officer in whose jurisdiction at least one of the parties has resided for not less than 30 days prior to the date of notice.⁴⁰

The registrar then posts the notice in his office.⁴¹ The *Special Marriage Act* also requires that the couple’s parents be notified of the impending union.⁴² Provided that no objections to the marriage are received,⁴³ the marriage may then be solemnized by the marriage registrar one month following the publication of the marriage notice, in the presence of the bride, the groom, and three witnesses.⁴⁴

Legislative Framework – Religious Personal Laws

Couples not marrying under the *Special Marriage Act 1954* may seek to marry under one of India’s personal religious laws. According to the government’s National Portal of India website, the “[l]aw relating to marriage and/or divorce has been codified in different enactments applicable to people of different religions”.⁴⁵

³⁷ Immigration and Refugee Board of Canada 2006, IND100661.EX – *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January

³⁸ The Act initially required that neither party be afflicted by recurring attacks of epilepsy, however the Act has been amended in 1999 and this requirement has been removed. See Nambi, S. 2005, ‘Marriage, mental health and the Indian legislation’, *Indian Journal of Psychiatry*, Vol.47, Iss.1, National Center for Biotechnology Information website <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2918313/> – Accessed 20 April 2012; ‘Personal Law’ n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> Accessed 21 March 2012

³⁹ ‘Getting married in India’ n.d., Australian High Commission in India website <http://www.india.embassy.gov.au/ndli/GmiI.html> – Accessed 12 December 2011

⁴⁰ ‘Obtain Marriage Certificate’ n.d., National Portal of India website <http://india.gov.in/howdo/howdoi.php?service=3> – Accessed 14 December 2011

⁴¹ ‘Obtain Marriage Certificate’ n.d., National Portal of India website <http://india.gov.in/howdo/howdoi.php?service=3> – Accessed 14 December 2011

⁴² Sura, A. 2010, ‘Sikh-Muslim couple gets cover’, *The Times of India*, 3 September http://articles.timesofindia.indiatimes.com/2010-09-03/chandigarh/28236289_1_moga-legal-protection-special-marriage-act – Accessed 12 December 2011

⁴³ ‘Obtain Marriage Certificate’ n.d., National Portal of India website <http://india.gov.in/howdo/howdoi.php?service=3> – Accessed 14 December 2011

⁴⁴ ‘Getting married in India’ n.d., Australian High Commission in India website <http://www.india.embassy.gov.au/ndli/GmiI.html> – Accessed 12 December 2011

⁴⁵ ‘Personal Law’ n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

However, the most recent US Department of State (USDOS) *International Religious Freedom Report – India* states that Hindu, Islamic, Christian and Parsi laws are legally recognised:

There were different personal laws for the various religious communities in matters of marriage, divorce, adoption, and inheritance. The government granted a significant amount of autonomy to personal status law boards in crafting these laws. There was Hindu law, Christian law, Parsi law, and Islamic law; all were legally recognized and judicially enforceable. None were exempt from national and state level legislative powers or social reform obligations as laid down in the constitution.⁴⁶

The *Hindu Marriage Act 1955* applies to marriages among Hindus, Buddhists, Sikhs, Jains, and other persons who are not Muslims, Christians, Jews or Parsis.^{47 48} This Act, however, does not apply to members of scheduled tribes^{49 50} unless the central government directs otherwise in the official Gazette.⁵¹ According to the Law Commission of India, the *Hindu Marriage Act* does not apply in Goa state, or the Union Territory of Daman and Diu. In Pondicherry state, it does not apply to ‘Renoncants’. Jammu and Kashmir state has a separate, local *Hindu Marriage Act 1980*, which is similar to the central Act.⁵² For the purposes of the *Hindu Marriage Act 1955*, the term ‘Hindu’ applies to the following people:

- adherents of Hinduism, Buddhism, Jainism, or Sikhism
- converts or re-converts to these religions
- legitimate and illegitimate children whose parents are both of these religions
- legitimate and illegitimate children who have one parent of one of the aforementioned religions, and who was brought up in the tribe, community, group or family to which this parent belongs or belonged.⁵³

The *Hindu Marriage Act* thus only applies to marriages between two ‘Hindus’, as defined above.^{54 55} As the Australian High Commission in India website states, “[i]f one of the parties

⁴⁶ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – India*, 13 September, Section II

⁴⁷ ‘Personal Law’ n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

⁴⁸ Tandon, A 2011, ‘Centre drops proposal for separate Sikh Marriage Act’, *The Tribune*, 29 August <http://www.tribuneindia.com/2011/20110830/main6.htm> – Accessed 21 March 2012

⁴⁹ For a list of Scheduled Tribes, See ‘List of Notified Scheduled Tribes’ n.d., Census of India website http://censusindia.gov.in/Tables_Published/SCST/ST%20Lists.pdf – Accessed 16 April 2012

⁵⁰ The term ‘Scheduled Castes’, used elsewhere in this document, refers to “over 400 sub-castes that have historically been treated as ‘untouchable’ by Hindu society. The term ‘Scheduled’ refers to the government schedule in which they were originally listed as being eligible for affirmative action benefits”. See Chandra, K. 2003, *Why Ethnic Parties Succeed*, Cambridge University Press, New York, p.16

⁵¹ ‘Personal Law’ n.d., National Portal of India website <http://india.gov.in/citizen/lawnorder.php?id=16> – Accessed 14 December 2011

⁵² Reconcants are defined as “those who opted for the local Franco-Indian law at the time of the assimilation of the territory into the Indian Union in 1954”, See Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, p.14 <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁵³ *The Hindu Marriage Act, 1955*, Section 2, Sudhirlaw.com website <http://www.sudhirlaw.com/indianlaw/marriage-divorces/enactments/HMA55.htm> – Accessed 21 March 2012

⁵⁴ ‘Civil Marriage Laws’ 2004, *Manushi*, Issue No. 139, February-March http://www.manushi-india.org/pdfs_issues/PDF%20139/Know%20your%20rights%20pg31.pdf – Accessed 16 April 2008

in the marriage is a non-Hindu, he/she must convert to Hinduism before the marriage ceremony can be performed under this Act”.⁵⁶

The Anand Marriage Act 1909 provides for recognition of Sikh marriages that are performed by *Anandkaraj* religious rites.⁵⁷ However, until, the registration of Sikh marriages were covered by the *Hindu Marriage Act*. In May 2012, the Indian Parliament finally passed the *Anand Marriage Act*; specifically covering registration of intra-Sikh marriages.⁵⁸ According to Article XVIII(b) of the *Rehat Maryada*, a Sikh traditional code of conduct, ‘[a] Sikh’s daughter must be married to a Sikh.’ There is no mention, however, of a male Sikh having the obligation to marry a fellow Sikh.⁵⁹

A 2004 article in *Manushi*, an established Indian journal with a focus on gender issues, stated that Muslim and Parsi personal laws only validated marriages between Muslim and Parsi couples respectively.⁶⁰ A 2010 judgment of the Allahabad High Court declared the marriage of a Muslim man to a Hindu girl, under Muslim personal law, to be void because “the two did not belong to the same religion”. In such cases of Hindu-Muslim unions under Muslim personal law, the Hindu party is first required to convert to Islam.⁶¹ Muslim men may, however, marry women who are “People of the Book” – that is, Christian or Jewish women. Muslim men may not marry women who are of Hindu or another Dharmic faith unless they convert to Islam. Muslim women may not marry non-Muslims, even if they are Christian or Jewish.⁶³

The *Indian Christian Marriage Act 1872* does allow for an inter-religious couple to marry without the non-Christian party having to convert first. According to the Law Commission of India, this Act “provides that every marriage both parties to which are, or either party to

⁵⁵ *The Hindu Marriage Act, 1955*, Sudhirlaw.com website <http://www.sudhirlaw.com/indianlaw/marriage-divorces/enactments/HMA55.htm> – Accessed 21 March 2012

⁵⁶ ‘Getting married in India’ n.d., Australian High Commission in India website <http://www.india.embassy.gov.au/ndli/GmiI.html> – Accessed 12 December 2011

⁵⁷ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, pp.16-17 <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁵⁸ ‘Sikhs welcome passage of Anand Marriage Act’ 2012, *The Times of India*, 23 May <http://articles.timesofindia.indiatimes.com/2012-05-23/india/31826116_1_anand-marriage-act-sikh-organizations-avtar-singh-makkar> Accessed 4 July 2012

⁵⁹ ‘Sikh Rehat Maryada’ n.d., Guru Nanak Darbar website, <http://www.gurunanakdarbar.net/sikhrehatmaryada.pdf> – Accessed 3 December 2010

⁶⁰ ‘Civil Marriage Laws’ 2004, *Manushi*, Issue No. 139, February-March http://www.manushi-india.org/pdfs_issues/PDF%20139/Know%20your%20rights%20pg31.pdf – Accessed 16 April 2008

⁶¹ Devanshi, S 2010, ‘Yes, these Shaadis are legal!’, *The Times of India*, 14 May http://articles.timesofindia.indiatimes.com/2010-05-14/news-interviews/28284213_1_girls-and-muslim-boys-hindu-groom-hindu-muslim – Accessed 13 June 2012

⁶² Although Islamic law does not require a ritual solemnisation of marriage, in India ceremonies tend to be led by religious officials known as *kazi*. The *nikah nama*, or marriage certificates issued by *kazi* are admissible as evidence under Indian law. There are local laws allowing for voluntary registration of Muslim marriages in the following states: West Bengal; Bihar; Jharkhand; Assam; Orissa and Meghalaya. See Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, pp.18–19 <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁶³ ‘Muslim-Hindu Marriage’ n.d., Interfaith Shaadi website http://www.interfaithshaadi.org/index.php?option=com_content&view=section&layout=blog&id=7&Itemid=69 – Accessed 16 April 2012

which is, Christian shall be solemnized in accordance with its provisions”.⁶⁴ The 2003 and 2004 issues of *Manushi* explicitly state that a Hindu-Christian couple may marry under Christian personal law.^{65 66} The Law Commission of India also notes that the *Indian Christian Marriage Act* provides for a “complicated system of registration of marriages...and it suffers from a tremendous lack of uniformity”.⁶⁷

In practice, Bahai and Jewish marriages are solemnised by religious officials. No legislation governing these marriages was located.⁶⁸

Registration

According to *BBC News*, “[m]illions of marriages go unregistered in India every year”. Cabinet has recently approved two bills for parliament’s consideration which, if passed, will make marriage registration compulsory across all religions.⁶⁹ The bills would amend the *Registration of Births and Deaths Act 1969*, and the *Anand Marriage Act 1909*.⁷⁰ Sikh marriages, governed by the *Anand Marriage Act*, may currently be registered under relevant state rules made under the *Hindu Marriage Act 1955*.⁷¹

The bills approved by cabinet follow a 2006 Supreme Court judgment and reports from parliament’s Committee on Empowerment of Women and the Law Commission of India.⁷² For example, whether registering a Hindu marriage is compulsory depends on rules made under the *Hindu Marriage Act*, which may vary from state to state.⁷³

The Law Commission of India explains thus:

The administrative machinery for registration of marriages is not regulated everywhere by one and the same law. In different parts of the country it is regulated either by one of the three central

⁶⁴ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, p.11

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁶⁵ ‘Civil Marriage Laws’ 2004, *Manushi*, Issue No. 139, February-March http://www.manushi-india.org/pdfs_issues/PDF%20139/Know%20your%20rights%20pg31.pdf – Accessed 16 April 2008

⁶⁶ ‘Women And Hindu Marriage Law: Some frequently asked questions’ 2003, Counter Currents website, source: *Manushi*, Issue 136, 3 November <http://www.countercurrents.org/gender-marriage031103.htm> – Accessed 9 June 2009

⁶⁷ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, p.23

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁶⁸ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, p.24

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁶⁹ ‘India clears way for compulsory marriage registration’ 2012, *BBC News*, 12 April

<http://www.bbc.co.uk/news/world-asia-india-17686877> – Accessed 18 April 2012

⁷⁰ ‘Marriage registration to be made compulsory’ 2012, *NDTV*, 12 April

<http://www.ndtv.com/article/india/marriage-registration-to-be-made-compulsory-196844> – Accessed 18 April 2012

⁷¹ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, pp.16-17

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁷² ‘Marriage registration to be made compulsory’ 2012, *NDTV*, 12 April

<http://www.ndtv.com/article/india/marriage-registration-to-be-made-compulsory-196844> – Accessed 18 April 2012

⁷³ Law Commission of India 2008, ‘Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform’, Law Commission of India website, pp.15-16

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

laws – the Births Deaths and Marriages Registration Act, 1886, the Registration Act, 1908 and Registration of Births and Deaths Act, 1969 – or by a local law, or a combination of both. This creates a lot of confusion with registration officials as well as people wanting or required to register their marriages.⁷⁴

According to the National Portal of India website, couples seeking to obtain a marriage certificate may currently register their marriage under either the 1955 *Hindu Marriage Act* or the 1954 *Special Marriage Act*.⁷⁵ The National Capital Territory of Delhi has also made independent efforts towards making marriage registration compulsory – in May 2012, Delhi's cabinet approved a bill which, if passed, will mean that those who fail to register a marriage attract a fine of INR10,000.⁷⁶

Social Attitudes

Intermarriage between Hindus, Sikhs and Jains appears to be more generally accepted than intermarriage between members of these religions and Christians, Jews or Muslims.^{77 78 79} A page on the Indiana University Bloomington website states that intermarriage is often allowed between Sikhs and Hindus in particular, and that Jain communities have sometimes been willing to accept intermarriage with Hindus.⁸⁰

The following comment from a United Nations Development Programme discussion forum is attributed to a professor from Allahabad, Uttar Pradesh, and relates to India generally:

By and large, inter-caste and inter-religious marriages are discouraged, and those who have asserted their free choice along these lines recount their experiences of severe friction in and disruption of intra-family relations on account of it.⁸¹

Dr Lizzy James is a social scientist who has studied and worked as a senior lecturer in Kerala. James' work has focused on family structures.⁸² Writing on Indian family structures, James states that society "seldom approves" of interreligious marriage.⁸³ A professor of Asian

⁷⁴ Law Commission of India 2008, 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', Law Commission of India website, p.6

<http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

⁷⁵ 'Obtain Marriage Certificate' n.d., National Portal of India website

<http://india.gov.in/howdo/howdoi.php?service=3> – Accessed 14 December 2011

⁷⁶ 'Registration of marriages a must' 2012, *Hindustan Times* <<http://www.hindustantimes.com/India-news/NewDelhi/Registration-of-marriages-a-must/Article1-859354.aspx>> Accessed 30 May 2012

⁷⁷ Sajid, T 2010, 'Faith And Marriage', SA Global Affairs website, February

<http://www.saglobalaffairs.com/features/423-faith-and-marriage.html> – Accessed 20 March 2012

⁷⁸ Mehrotra, M 2004, "Triple Outsiders", *Gender and Ethnic Identity Among Asian Indian Immigrants*, PhD dissertation, Virginia Polytechnic Institute and State University, Blacksburg, p.26

<http://vtechworks.lib.vt.edu/bitstream/handle/10919/11117/Dissertation.pdf?sequence=1> – Accessed 15 March 2012

⁷⁹ '38% of Hindus Marry Outside Dharmic Faiths in America' 2009, Interfaith Shaadi website, 5 November <http://www.interfaithshaadi.org/blog/?p=213> – Accessed 19 March 2012

⁸⁰ Indiana University n.d., *Module 2: Present-Day India(2)*

http://www.indiana.edu/~isp/cd_rom/mod_02/rel_text.htm – Accessed 19 March 2012

⁸¹ United Nations Development Programme Regional Centre for Asia Pacific, Colombo Office 2009, *E-Discussion: Gender – Overcoming Power, Unequal Voice*, p.13 http://hdru.aprc.undp.org/ext/HDRU/pdf/e-Discussion_-_24-02-2010.pdf#page=19 – Accessed 21 March 2012

⁸² 'Doctorate Degree Holders' 2012, Rajagiri College of Social Sciences website, 7 March <http://rcss.rajagiri.edu/doctorate-degree-holders> – Accessed 13 June 2012

⁸³ James, L 2010, 'Marriage in India', in G. Thomas (ed), *Introduction to Family Life Education Vol II*, Indira Gandhi National Open University, New Delhi, October, pp.87-88

Studies quoted by the Immigration and Refugee Board of Canada in 2006 stated that societal attitudes towards interreligious couples are generally “not favourable” and that “social attitudes often [cause people to] ostracize and discriminate against such unions”.⁸⁴ A July 2011 article from *The Tribune* contained the observation that “there still exists social anxiety and ill-reception of such alliances”. This quote was made in relation to Hindu-Sikh, Syrian Christian-Hindu and Sikh-Protestant marriages in particular. The article cites parental rejection as one consequence of interreligious marriage.⁸⁵

According to Lizy James, parents selecting potential spouses for their children tend to insist on caste and religious hegemony. However, when the selection of spouse is made by young people themselves, there is a higher incidence of inter-caste and interreligious marriage.⁸⁶

Dr. Gopika Solanki from the Department of Political Science, Carleton University,⁸⁷ author of *Adjudication in Religious Family Laws*, writes that the notion of marriage as an individual choice conflicts with traditional practices of parental approval, caste endogamy, retention of wealth within the family or caste, and prohibition of interreligious marriage.⁸⁸ Some parents may consider the marriage of their children as a duty, and have difficulty in accepting modern marriage patterns such as a child’s wish to choose their own spouse.⁸⁹ According to Hinduwebsite.com, couples engaging in unconventional marriage, including interreligious marriage, are less likely to experience acute social pressure in metropolitan and urban areas, and if their parents are educated.⁹⁰

Other reports comment on attitudes towards inter-religious couples, in particular religious communities and states. A 2003 book entitled *Slum Dwellers: Curse on Development*, which focuses on slums in Lucknow city, Uttar Pradesh, also states that parental views regarding the marriage of daughters are generally more rigid than for sons. However, a majority of parents still disagree with the notion of their sons having an interreligious marriage. Most educated parents surveyed, who had planned for their children to study abroad, do not approve of

<http://egyankosh.ac.in/bitstream/123456789/39129/1/BSWE-004%20Volume-II%20Introduction%20to%20Family%20Education.pdf#page=39> – Accessed 19 March 2012

⁸⁴ Immigration and Refugee Board of Canada 2006, IND100661.EX – *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000-2005)*, 9 January http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=449788&l=e – Accessed 15 December 2011

⁸⁵ ‘Ties of faith’ 2011, *The Tribune*, 30 July <http://www.tribuneindia.com/2011/20110730/saturday/main1.htm> – Accessed 15 December 2011

⁸⁶ James, L 2010, ‘Marriage in India’, in G Thomas (ed), *Introduction to Family Life Education Vol II*, Indira Gandhi National Open University, New Delhi, October, p.25
<http://egyankosh.ac.in/bitstream/123456789/39129/1/BSWE-004%20Volume-II%20Introduction%20to%20Family%20Education.pdf#page=39> – Accessed 19 March 2012

⁸⁷ ‘Gopika Solanki’ n.d., Carleton University website <http://www1.carleton.ca/polisci/people/solanki-gopika> – Accessed 13 June 2012

⁸⁸ Solanki, G 2011, *Adjudication in Religious Family Laws*, Cambridge University Press, New York, Google Books, pp.112–113 <http://books.google.com.au/books?id=tE-peMsrQC&pg=PA111&dq=marriage+accept+India+inter-religious&hl=en&sa=X&ei=M7dqT4TbEqWkiAeAypGFBg&ved=0CDoQ6AEwAA#v=onepage&q=marriage%20accept%20India%20inter-religious&f=false> – Accessed 21 March 2012

⁸⁹ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, pp.104-107 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter-religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeIQePppmOBg&ved=0CFUQ6AEwBjgK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false> – Accessed 21 March 2012

⁹⁰ Jayaram, V n.d., ‘Hinduism and Marriage’, Hinduwebsite.com
http://www.hinduwebsite.com/hinduism/h_marriage.asp – Accessed 19 March 2012

interreligious marriage. Illiterate parents, on the other hand, may approve of an unconventional marriage if the union is likely to increase their social standing.⁹¹

A 2007 commentary on a PhD thesis on unconventional marriage in Jammu city stated that “community members react more strongly when a woman tries to perform an interreligious marriage...when a man tries to do so the reaction is not so strong”. In addition, the religious body losing a member through conversion for marriage is likely to have a stronger reaction than the religious body gaining a member. Jammu and Kashmir state is not subject to the *Special Marriage Act 1955*, meaning that interfaith couples are more likely to need to arrange a conversion in order to legally marry.⁹²

In 2009, BJP members of Maharashtra’s state legislature apparently alleged that young Muslim boys were marrying Hindu college girls as part of a conspiracy to increase the Muslim community. This report was followed by allegations that the state’s criminal investigation department would conduct investigations into such marriages.^{93 94}

In 2007, the *Hindustan Times*, a major English language Indian daily, reported that a Muslim peak body in Madhya Pradesh had publicly urged community members to “stay away from religious marriages that cause embarrassment”, and refused to allow a Sindhi (Hindu) girl to convert to Islam for the purpose of marriage. This report also noted public protests regarding Sindhi-Muslim elopements.⁹⁵ Also in Madhya Pradesh, some Hindu groups have previously called a *bandh* (protest) against inter-religious marriage, and demanded that “the minimum age for such unions be raised to 25”.⁹⁶

A 2004 article highlighted that there is opposition to interreligious marriage in Gujarat state in particular, where relations between Muslims and Hindus became ‘polarised’ after Hindu-instigated violence against Muslims in 2002, in which 2,000 people, mainly of Muslim faith, died.⁹⁷

Minority Rights Group reports that interreligious marriage is a rarity among the Jewish community in particular, “which had attempted to maintain its strictly Jewish identity”.⁹⁸

⁹¹ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, pp .104-107 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter-religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeiQePppmOBg&ved=0CFUQ6AEwBjgK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false> – Accessed 21 March 2012

⁹² The commentary features in a journal published by the Department of Sociology, Guru Nanak Dev University (Punjab). See Subhash, N 2007, ‘A report on the Ph.D Thesis, Gender Religion and Marriage: A Sociological study of Inter-Religious Marriages in Jammu city’, *Guru Nanak Journal of Sociology*, Vol. 28, No. 1&2, p.166

⁹³ Shivadekar, S 2009, ‘Probe into Maharashtra’s Muslim boy-Hindu girl marriages’, *The Times of India*, 3 July <http://timesofindia.indiatimes.com/India/Probe-into-Maharashtras-Muslim-boy-Hindu-girl-marriages/articleshow/4731303.cms> – Accessed 22 July 2009

⁹⁴ ‘Raut rubbishes reports of CID probe into Hindu Muslim marriage’ 2009, Indopia website, (source: *Press Trust of India*), 4 July <http://www.indopia.in/India-usa-uk-news/latest-news/615241/Maharashtra/1/20/1> – Accessed 30 July 2009

⁹⁵ ‘A Muslim body counsels youth on marriage’ 2007, *Hindustan Times*, 16 April.

⁹⁶ Kidwai, R 2007, ‘Mixed marriage row’, *The Telegraph*, 13 April http://www.telegraphindia.com/1070413/asp/nation/sto ry_7640839.asp – Accessed 13 April 2007

⁹⁷ UK Home Office 2008, *Country of origin information report: India*, UK Home Office website, 12 August <http://www.homeoffice.gov.uk/rds/pdfs08/india-210808.doc> – Accessed 22 August 2008

⁹⁸ Minority Rights Group International 2008, *Jews of India*, December

Treatment by non-state actors

Treatment of inter-religious couples may range from passive discrimination or social exclusion to violent attacks. The degree of mistreatment may depend on a couple's location and social levels, and either family members or broader communities may be responsible for such treatment.^{99 100} In May 2011, the Department of Foreign Affairs and Trade (DFAT) advised:

Treatment depends on many factors including the respective religions to which the parties belong and geographic and socio-economic factors. In certain castes, especially in the case of Hindu-Muslim marriages, respective communities and in some rare cases even local politicians become involved.¹⁰¹

Additionally, Freedom House reports that informal caste councils and Muslim religious leaders often issue edicts concerning social matters including marriage and divorce. Whilst on the one hand, "these bodies play a role in relieving the overburdened official courts", on the other hand such edicts may result in violence towards couples who transgress social norms. Freedom House suggests that women and members of lower castes are more susceptible to such incidences of violence.¹⁰² Further information regarding caste councils is included below.

Reports note various forms of mistreatment by family members, including imprisonment in the home, forcing one party to seek an annulment – regardless of the legal status of the marriage,¹⁰³ and killings.¹⁰⁴ A Human Rights Watch report of July 2010 stated that the 30 day waiting period for marriage under the *Special Marriage Act*, which applies to inter-religious marriage, is often misused by families to "track down and kill or forcibly separate couples".¹⁰⁵

A public interest petition filed with the Supreme Court by a non-government organisation (NGO) stated that young couples who were seen to have dishonoured their family were sometimes driven to suicide as a result of harassment and threats. Such couples, according to the NGO, were often subjected to prolonged low-level physical abuse and bullying, including

⁹⁹ Immigration and Refugee Board of Canada 2006, *'India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)'*, 9 January, UNHCR Refworld http://www.unhcr.org/refworld/country_IRB_IND_45f147e319.0.html – Accessed 12 July 2010

¹⁰⁰ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁰¹ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁰² Freedom House 2011, *Freedom in the World 2011 – India*, 5 July

¹⁰³ Solanki, G 2011, *Adjudication in Religious Family Laws*, Cambridge University Press, New York, Google Books, pp.112–113 <http://books.google.com.au/books?id=tE-peMsrQC&pg=PA111&dq=marriage+accept+India+inter-religious&hl=en&sa=X&ei=M7dqT4TbEqWkiAeAypGFBg&ved=0CDoQ6AEwAA#v=onepage&q=marriage%20accept%20India%20inter-religious&f=false> – Accessed 21 March 2012

¹⁰⁴ 'Call in India for stronger stand against honour killings' 2011, *Australian Broadcasting Corporation (ABC): Asia Pacific*, 20 May

¹⁰⁵ Human Rights Watch 2010, *Prosecute rampant 'Honor' killings*, 18 July <http://www.hrw.org/en/news/2010/07/16/india-prosecute-rampant-honor-killings> – Accessed 19 July 2010

“battery, torture, mutilation, rape, forced marriage and imprisonment within the home”. Women may be particularly targeted if their sexual behavior is seen as dishonourable.¹⁰⁶

It is noted that the aforementioned petition did not relate exclusively to inter-religious couples. Indeed some reports regarding the mistreatment of couples by non-state actors comment on both caste and religion.^{107 108} DFAT advice dated May 2011 specifically states that “[c]onservative Hindu communities in northern India not only prohibit inter-religious marriage but are also opposed to inter-caste marriage”.¹⁰⁹ According to the *Indo-Asian News Service*, in 2011 the Punjab and Haryana High Court ordered both states to “provide shelter homes to runaway couples who marry against the wishes of their families, caste or community and asked police to provide them with security”.¹¹⁰ There are also a number of reports which describe mistreatment of young people because they wish to marry outside of their community, or simply because their family does not approve of the relationship, without specifying whether religion or caste in particular is an issue.^{111 112 113 114 115}

This information suggests that family approval is an important factor in determining whether or not a couple engaging in inter-religious or other sorts of mixed marriage are likely to face problems at home, regardless of the legal status of their marriage.

According to DFAT, most reported cases of violence against interreligious couples occur in “villages and small towns” in northern and western India. Overall, DFAT did not observe significant media reporting on violence against Hindu-Christian, Muslim-Christian or Sikh-Muslim couples, but also noted that the incidence of such marriages was probably low. The advice does note the following with regard to Hindu-Muslim marriage:

Hindu-Muslim marriages can attract not only the disapproval of the families involved but the collective objection of broader communities. There have been reported cases Hindu-Muslim couples being murdered.¹¹⁶

¹⁰⁶ Rajalakshmi, T K 2010, ‘Death for love’, *Frontline*, 17-30 July

http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

¹⁰⁷ United Nations Development Programme Regional Centre for Asia Pacific, Colombo Office 2009, *E-Discussion: Gender – Overcoming Power, Unequal Voice*, p.13 http://hdru.aprc.undp.org/ext/HDRU/pdf/e-Discussion_-_24-02-2010.pdf#page=19 – Accessed 21 March 2012

¹⁰⁸ ‘Spate of honour killings shakes up Punjab’ 2011, *Indo-Asian News Service*, 14 July

¹⁰⁹ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹¹⁰ ‘Spate of honour killings shakes up Punjab’ 2011, *Indo-Asian News Service*, 14 July

¹¹¹ ‘Two more Indian tribal women ‘forced to walk naked’’ 2010, *BBC News*, 19 August

<http://www.bbc.co.uk/news/world-south-asia-11024303?print=true> – Accessed 20 August 2010

¹¹² ‘Tribal girl stripped over ‘affair’, molested by hundreds in Bengal’ 2010, *The Times of India*, 9 August <http://timesofindia.indiatimes.com/india/Tribal-girl-stripped-over-affair-molested-by-hundreds-in-Bengal/articleshow/6278006.cms> – Accessed 17 August 2010

¹¹³ ‘Couple shot dead in honour killing in Punjab’ 2010, *The Hindu*, 1 April

<http://www.thehindu.com/news/states/other-states/article347134.ece> – Accessed 28 November 2011

¹¹⁴ ‘Father said electrocute couple, mother helped’ 2010, *The Times of India*, 19 June

http://articles.timesofindia.indiatimes.com/2010-06-19/delhi/28307150_1_alert-neighbours-girl-asha-saini – Accessed 27 March 2012

¹¹⁵ Yadav, S. 2011, ‘Runaway’ couple sent to shelter home’, *The Times of India*, 9 December

http://articles.timesofindia.indiatimes.com/2011-12-09/gurgaon/30497364_1_shelter-home-runaway-couple-police-protection – Accessed 3 January 2012

¹¹⁶ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

A 2010 *New York Times* article reports an apparent “resurgence” in honour killings targeting couples who breach Hindu marriage traditions. It alleged that new cases of killings or harassment appear in the Indian news media “almost every week”.¹¹⁷ An April 2011 *BBC News* report states that honour killings relating to inter-religious marriage have occurred in the “deeply conservative and patriarchal” Punjab, Haryana and Uttar Pradesh states.¹¹⁸ In May 2011, India’s Supreme Court reportedly held that honour killings in general had become common in Haryana, western Uttar Pradesh and Rajasthan,¹¹⁹ and a 2012 article in the United Kingdom news publication *The Observer*¹²⁰ suggests that these same three states are the sites for the “vast majority” of honour killings; however, no figures are provided in the article to support this statement.¹²¹

A report dated 14 July 2011, published by the *Indo-Asian News Service*, states that Punjab state has seen a ‘surge’ in the number of honour killings of couples who have married against the will of their families. The report quotes an unnamed senior faculty member in the department of sociology, Punjab University, as stating that the trend is more pronounced in rural areas: “[h]ere we are still living by the preferences of caste, colour, linguistics and religion”.¹²²

Khap Panchayats

Village caste councils (known as *khap panchayats* in northern India and *katta panchayats* in the southern state of Tamil Nadu) are sometimes responsible for mistreating, or ordering the mistreatment of, inter-religious or inter-caste couples. Some khap panchayats have been responsible for decreeing or encouraging honour killings and other forms of mistreatment towards couples of different castes and religion who either have married, or wish to do so.¹²³ Articles in *TIME* and *Daily News and Analysis* reason that khap panchayats are attempting to assert their authority by issuing such rulings at a time when sections of modern society see them as increasingly irrelevant.^{124 125}

Human Rights Watch also reported in July 2010 that there had been an increase in honour killings in the northern Indian states of Haryana, Punjab, and western Uttar Pradesh. There were also cases reported from the National Capital Territory of Delhi. The report states that these incidences of honour killings involved khap panchayat edicts issued against inter-

¹¹⁷ ‘In India, castes, honor and killings intertwine’ 2010, *The New York Times*, 9 July http://www.nytimes.com/2010/07/10/world/asia/10honor.html?pagewanted=1&_r=2&ref=india – Accessed 22 July 2010

¹¹⁸ India court calls for ‘stamping out honour killing’ 2011, *BBC News*, 20 April <http://www.bbc.co.uk/news/world-south-asia-13139482> – Accessed 7 September 2011

¹¹⁹ Rajalakshmi, T K 2011, ‘Law and honour’, *Frontline*, 4-17 June http://www.frontlineonnet.com/fl2812/stories/2011061_7281210500.htm – Accessed 25 August 2011

¹²⁰ *The Observer* is owned by a trust and claims that its central objective is editorial independence. See ‘About Us’ n.d., *The Guardian* <http://www.guardian.co.uk/help/about-us> – Accessed 13 June 2012

¹²¹ Chamberlain, G 2010, ‘Honour killings: Saved from India’s caste system by the Love Commandos’, *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

¹²² ‘Spate of honour killings shakes up Punjab’ 2011, *Indo-Asian News Service*, 14 July

¹²³ ‘India court calls for ‘stamping out honour killing’ 2011, *BBC News*, 20 April <http://www.bbc.co.uk/news/world-south-asia-13139482> – Accessed 7 September 2011

¹²⁴ Singh, M ‘Why Are Hindu Honor Killings Rising in India?’ 2010, *TIME*, 25 May <http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

¹²⁵ Nair, M 2010 ‘Khap panchayats flex muscle as shifting social dynamics threaten their relevance’, *News Day and Analysis*, 18 April http://www.dnaindia.com/india/report_khap-panchayats-flex-muscle-as-shifting-social-dynamics-threaten-their-relevance_1372608 – Accessed 11 August 2011

religious and inter-caste couples. According to the report “some local politicians and officials have been sympathetic to the councils’ edicts, implicitly supporting the violence”.¹²⁶

A September 2010 report from *The Hindu*, a major English language daily, indicates that young couples from “several States” had been subject to mistreatment from khap panchayats for types of marriages which had attracted the disapproval of those councils, including inter-religious marriages.¹²⁷

For example, a June 2009 *BBC News* article indicates that a Muslim-Hindu couple from Phaphunda, Uttar Pradesh had committed suicide after they had been ordered by the local khap panchayat to annul their marriage or face death. Police charged the *panchayat* with abetting suicide. However, the local village chief claimed it was a gathering of elders from the two families, not the *panchayat* per se, which had issued the ultimatum.¹²⁸

Further information in relation to khap panchayats, and in particular khaps that ban same-gotra marriage, is included in [\[Section 3\]](#).

State Protection

Inter-religious couples fearing harm from non-state actors might appeal to the police for assistance, however, there are mixed reports regarding the effectiveness of police protection. The 2008 UK Home Office *Operational Guidance Note – India* explained that the governments of India’s 28 states and seven union territories have primary responsibility for maintaining law and order, with the central government providing guidance and support. Some members of the security forces have reportedly committed human rights abuses, and corruption in the police force exists at all levels. The note states that police have acted with relative impunity, and are rarely held accountable for illegal actions.¹²⁹ Police protection then, may be uneven both across the country and within states. There are reports of police making arrests in relation to the deaths of Hindu-Muslim couples in Fatehabad district, Haryana¹³⁰ and Meerut city, Uttar Pradesh¹³¹ and in relation to the murder of Hindu women who had eloped with Muslim men in Uttar Pradesh.¹³² In 2009, Uttar Pradesh police also charged an entire [khap panchayat](#) with abetting suicide; the khap had ordered a Hindu-Muslim couple to “annul their marriage or face death”.¹³³ A Mumbai couple were reportedly sentenced to life imprisonment for killing their daughter, after she fell in love with a Hindu man.¹³⁴

¹²⁶ Human Rights Watch 2010, *India: Prosecute Rampant ‘Honor’ Killings*, 18 July <http://www.hrw.org/en/news/2010/07/16/india-prosecute-rampant-honor-killings> – Accessed 26 August 2010

¹²⁷ ‘Marriage registration process to be smoother in Delhi’ 2010, *The Hindu*, 14 September <http://www.thehindu.com/news/cities/Delhi/article634246.ece> – Accessed 23 September 2010

¹²⁸ Majumder, S 2009, ‘India’s Romeo and Juliet tragedy’, *BBC News*, 19 June http://news.bbc.co.uk/2/hi/south_asia/8109805.stm – Accessed 22 June 2009

¹²⁹ UK Home Office 2008, *Operational Guidance Note – India*, April, p.8

¹³⁰ Rajalakshmi, T K 2010, ‘Death for love’, *Frontline*, 17-30 July http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

¹³¹ ‘Two lovers from different communities killed by girl’s family’ 2009, *New Kerala*, 10 July <http://www.newkerala.com/nkfullnews-1-71109.html> – Accessed 22 July 2009

¹³² ‘Call in India for stronger stand against honour killings’ 2011, *ABC News*, 20 May http://www.radioaustralia.net.au/asiapac/stories/2_01105/s3222944.htm – Accessed 2 June 2011

¹³³ Majumder, S 2009, ‘India’s Romeo and Juliet tragedy’, *BBC News*, 19 June http://news.bbc.co.uk/2/hi/south_asia/8109805.stm – Accessed 22 June 2009

¹³⁴ ‘Mumbai girl’s parents get life term for killing her’ 2008, *IBN Live*, 11 July <http://ibnlive.in.com/news/mumbai-girls-parents-get-life-term-for-killing-her/68686-3.html> – Accessed 30 July 2009

These reports suggest it is often the woman's family who are arrested in connection with violence against Hindu-Muslim couples. However, in cases of dowry harassment or dowry death in particular, the groom or husband's family are also typically implicated or arrested.^{135 136 137 138 139} Dowry disputes are reportedly a common cause of domestic violence.¹⁴⁰

By contrast, Indian law is not always effectively enforced by police officers; the US Department of State (USDOS) reported that in 2010, "due to a lack of sufficiently trained police and elements of corruption, the law was not always enforced rigorously or effectively in some cases pertaining to religiously oriented violence".¹⁴¹ Human Rights Watch has alleged in the past that "[p]olice routinely fail to investigate apparent "honor" killings".¹⁴² A 2011 source stated that Punjab police had been unable to find a solution to an apparent 'surge' in the number of honour killings. The Punjab and Haryana High Court ordered both states to provide police security for runaway couples who marry against family, caste or community.¹⁴³ In one 2007 case, three officers of the Kolkata City Police were among seven persons charged by the Central Bureau of Investigation in relation to the death of a Muslim man who married a Hindu woman.¹⁴⁴

Inter-religious couples may apply for court-ordered police protection. For instance, in November 2011 the Himachal Pradesh High Court reportedly directed superintendents in Bilaspur and Hamirpur to protect the lives and property of a Hindu-Muslim couple who married against the will of their families. In this case, the Hindu woman had converted to Islam prior to marrying; her family filed a police complaint and the couple received death threats.^{145 146 147} In November 2009, the Bombay High Court requested police to provide protection to a Kashmiri Muslim woman who had married a Hindu from Bihar in east India after she alleged that she was being threatened by her brothers for marrying outside the

¹³⁵ Bedi, R 2012, 'Indian dowry deaths on the rise', *The Telegraph*, 27 February <http://www.telegraph.co.uk/news/worldnews/asia/india/9108642/Indian-dowry-deaths-on-the-rise.html> – Accessed 21 May 2012

¹³⁶ 'Bride-burning: Indian society has become sick, says SC' 2010, *United News of India*, 30 October <http://news.webindia123.com/news/articles/India/20101030/1620000.html> – Accessed 26 November 2010

¹³⁷ Page, J 2009, 'Indian women twice as likely to burn to death, Lancet study finds', *The Times*, 3 March <http://www.timesonline.co.uk/tol/news/world/asia/article5832650.ece> – Accessed 23 November 2010

¹³⁸ Mehak, G 2011, 'Punjab bridegroom booked for fraud and demanding dowry from Canada based wife', *Punjab Newslines*, 27 July <http://punjabnewslines.com/content/punjab-bridegroom-booked-fraud-and-demanding-dowry-canada-based-wife/32461> – Accessed 16 August 2011

¹³⁹ Kang, S 2011, 'Four persons booked in dowry case', *Punjab Newslines*, 22 July <<http://punjabnewslines.com/content/four-persons-booked-dowry-case/32377>> Accessed 16 August 2011

¹⁴⁰ Raina, P 2012, 'For Indian women, divorce is still a raw deal', *NDTV*, source: The New York Times India blog, 23 March <http://www.ndtv.com/article/india/for-indian-women-divorce-is-still-a-raw-deal-189116> – Accessed 16 April 2012

¹⁴¹ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December)* – India, 13 September, Section II

¹⁴² Human Rights Watch 2010, *India: Prosecute Rampant 'Honor' Killings*, 18 July <http://www.hrw.org/en/news/2010/07/16/india-prosecute-rampant-honor-killings> – Accessed 26 August 2010

¹⁴³ 'Spate of honour killings shakes up Punjab' 2011, *Indo-Asian News Service*, 14 July

¹⁴⁴ US Department of State 2009, *Country Reports on Human Rights Practices for 2008* – India, 25 February, Section 2

¹⁴⁵ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁴⁶ 'Cops told to protect inter-religion couple' 2011, *The Times of India*, 5 November <http://timesofindia.indiatimes.com/India/Cops-told-to-protect-inter-religion-couple/articleshow/10614359.cms> – Accessed 8 November 2012

¹⁴⁷ 'HC directs Police to protect couple' 2011, *UNI (United News of India)*, 4 November

religion.¹⁴⁸ In May 2009, the Supreme Court ordered the family of a Jammu and Kashmir-based Hindu girl married to a Muslim boy to stop troubling the couple, and asked the state police to provide the couple with security. The couple had claimed that the girl's family was harassing them in collusion with some local Shiv Sena leaders.^{149 150}

However, DFAT has advised that court-ordered police protection "is only temporary and not easily available unless there is a strong case against the harassers".¹⁵¹

It is also possible that families with high social status or financial means might influence the judicial process.¹⁵² Dr. Gopika Solanki, author of *Adjudication in Religious Family Laws*, writes that judges use considerable discretion in marriage validity cases involving conversion, particularly where one of the parties claim that the marriage was forced. The outcome of such cases is therefore unpredictable.¹⁵³

However, Dr. Solanki also writes that "the court often protects the individual right of the parties in the face of familial attempts to override individual choices and re-establishes the state's intent to allow interreligious marriage".¹⁵⁴ According to a December 2006 report in *The Hindustan Times*, six of the 21 marriages performed by courts in New Delhi in that year were inter-religious.¹⁵⁵

India's Supreme Court has been vocal in protecting inter-religious marriage. In July 2006, the Supreme Court had found that the honour killings of inter-caste and interreligious couples who marry of their own free will were "barbaric and shameful acts of murder" which deserved "harsh punishment". It held that acts of violence, threats or harassment against such couples at the behest of khap panchayats are "wholly illegal and has to be ruthlessly stamped out". It stated that the "maximum" that the parents of a person who enters such a marriage could do was "cut off social relations with the son or the daughter, but they cannot harass the person". The Supreme Court also ordered police across India "to take stern action against those resorting to violence" against couples who entered into inter-caste and interreligious marriage.¹⁵⁶ In June 2010, the Supreme Court issued a notice to eight state governments,

¹⁴⁸ 'High Court asks police to protect Hindu-Muslim couple' 2009, *The Press Trust of India Limited*, 7 November

¹⁴⁹ For some brief background on Shiv Sena, see: Hunt, S J 2011, 'Conservative Hindu reactions to non-heterosexual rights in India', *International Journal of Sociology and Anthropology* Vol. 3, No. 9, September, p.324

¹⁵⁰ 'Apex court comes to rescue of interfaith couple' 2009, *Indo-Asian News Service*, 21 May

¹⁵¹ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁵² Senftleben, Martin 2004, Email to RRT Country Information: 'Re: assistance', 16 January

¹⁵³ Solanki, G 2011, *Adjudication in Religious Family Laws*, Cambridge University Press, New York, Google Books, pp.112 – 113 <http://books.google.com.au/books?id=tE-peMsgrQC&pg=PA111&dq=marriage+accept+India+inter-religious&hl=en&sa=X&ei=M7dqT4TbEqWkiAeAypGFBg&ved=0CDoQ6AEwAA#v=onepage&q=marriage%20accept%20India%20inter-religious&f=false> – Accessed 21 March 2012

¹⁵⁴ Solanki, G 2011, *Adjudication in Religious Family Laws*, Cambridge University Press, New York, Google Books, pp.112 – 113 <http://books.google.com.au/books?id=tE-peMsgrQC&pg=PA111&dq=marriage+accept+India+inter-religious&hl=en&sa=X&ei=M7dqT4TbEqWkiAeAypGFBg&ved=0CDoQ6AEwAA#v=onepage&q=marriage%20accept%20India%20inter-religious&f=false> – Accessed 21 March 2012

¹⁵⁵ Srivastava, A 2006, 'Love transcends religious barriers', *The Hindustan Times*, 22 December

¹⁵⁶ "'Honour killings': what needs to be done' 2010, *The Hindu*, 26 April <http://www.thehindu.com/opinion/Readers-Editor/article409862.ece> – Accessed 19 December 2011

seeking action plans to combat honour killings. The eight states were Haryana, Punjab, Bihar, Uttar Pradesh, Jharkhand, Himachal Pradesh, Rajasthan and Madhya Pradesh.¹⁵⁷

In May 2011, India's Supreme Court ruled that the perpetrators of honour killings should be given the death penalty.¹⁵⁸ Khap panchayat leaders in Haryana reportedly "reacted strongly" to this recommendation, stating that a separate law for honour killings was not necessary as murder was already punishable under the Indian Judicial system.¹⁵⁹ The Law Commission of India and Ministry of Justice have drafted *The Endangerment of Life and Liberty (Protection, Prosecution and other measures) Act, 2011*, to outlaw honour killing.¹⁶⁰

In relation to khap panchayats in particular, Human Rights Watch has reported that some local politicians and officials have sometimes been sympathetic to edicts against inter-religious and inter-caste couples, thus implicitly supporting violence resulting from these edicts.¹⁶¹ On a more subtle point regarding state complicity, Karnataka state's Mangalore University has recently censored a controversial prescribed text – a novel which includes a plot about a Brahmin-Muslim marriage – by removing 175 of the total 365 pages.^{162 163}

If a marriage involves members of religious minorities, or if police fail to take action to protect a couple, the couple could potentially make a complaint to the National Human Rights Commission (NHRC). The NHRC and the Ministry for Minority Affairs are responsible for investigating allegations of religious discrimination. "Police administration" and "failure in taking action" are areas where the NHRC has apparently received complaints in the past.¹⁶⁴ The NHRC's recommendations are not binding, however according to the US Department of State (USDOS), both central and local authorities reportedly generally follow them".¹⁶⁵ However, no specific examples of the NHRC intervening in cases of inter-religious or inter-caste marriage were located.

Relocation

Sources suggest that relocation to urban areas may be an option for some rural couples. DFAT advice from May 2011 states that "[m]any inter-faith couples from rural areas relocate

¹⁵⁷ Rajalakshmi, T K 2010, 'Death for love', *Frontline*, 17-30 July
http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

¹⁵⁸ 'Call in India for stronger stand against honour killings' 2011, *ABC News*, 20 May
http://www.radioaustralia.net.au/asiapac/stories/2_01105/s3222944.htm – Accessed 2 June 2011

¹⁵⁹ Rajalakshmi, T K 2011, 'Law and honour', *Frontline*, 4-17 June
http://www.frontlineonnet.com/fl2812/stories/2011061_7281210500.htm – Accessed 25 August 2011

¹⁶⁰ Chowdhury, S 2011, 'Arranged marriages in India encourages the culture of honor violence', *Women News Network*, 26 October

¹⁶¹ Human Rights Watch 2010, *India: Prosecute Rampant 'Honor' Killings*, 18 July
<http://www.hrw.org/en/news/2010/07/16/india-prosecute-rampant-honor-killings> – Accessed 26 August 2010

¹⁶² 'Ghandi Banda is nothing compared to vulgar words of Bhyrappa: Nagaveni' 2012, *Coastal Digest*, 7 January
http://www.coastaldigest.com/index.php?option=com_content&view=article&id=34773:gandhi-banda-is-nothing-compared-to-vulgar-words-of-bhyrappa-nagaveni&catid=57:news-stories&Itemid=18 – Accessed 27 March 2012

¹⁶³ Shenoy, J 2012, 'Teachers want further cuts in 'Gandhi Banda'', *The Times of India*, 20 March
http://articles.timesofindia.indiatimes.com/2012-03-20/mangalore/31214569_1_syndicate-meeting-novel-gandhi-banda – Accessed 27 March 2012

¹⁶⁴ 'What are the kinds of issues on which complaints have been received?' n.d., National Human Rights Commission website <http://nhrc.nic.in/faq.htm> – Accessed 1 April 2012

¹⁶⁵ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – India*, 13 September, Section II

to the more liberal cities for protection”.¹⁶⁶ In 2009, *BBC News* quoted a village chief in relation to an Uttar Pradesh case, where police charged a khap panchayat with abetting suicide of a Hindu-Muslim couple. The chief reportedly stated that the couple should have “stayed away and lived in the city”.¹⁶⁷

In October 2010, the Bombay High Court allowed a Muslim-Hindu couple who had married against their parents’ wishes to stay in Mumbai. The court also restrained the Jammu and Kashmir police from taking coercive action against the couple; the woman’s father had filed a police complaint alleging kidnapping, apparently because he wanted “to get her married to a person of Muslim faith”.¹⁶⁸ This information is in line with sources cited in [Section 1], which suggest that inter-religious marriages are more common in urban settings.¹⁶⁹

A December 2011 report in *The Times of India* stated that a couple from a Rajasthan village relocated to Gurgaon city, Haryana, approached the court system, and were provided with police protection and a place in a shelter house. The article does not state how common this provision of shelter is, or indeed whether the objection to their union was due to caste, religion or other matters. However, the article does state both that the couple’s families threatened them with “dire consequences” if they married, and that the woman’s parents were able to follow the couple to Gurgaon.¹⁷⁰

Regarding relocation more generally, Indian law provides for freedom of movement within the country, and the government generally respects this in practice.¹⁷¹ According to the UK Home Office, there are no checks by authorities on newcomers arriving from another part of India; local police “have neither the resources nor the language abilities to undertake background checks on individuals relocating within India”. Furthermore, there is no registration system for citizens. It is common for a person not to carry an identity card, although identity cards can be easily forged.¹⁷²

Each of India’s 28 states and seven union territories supervises its own police force. Additionally, there are centralised police organisations such as the Central Bureau of Investigation, Bureau of Police Research, and the Intelligence Bureau.¹⁷³ The 2008 UK Home *Operational Guidance Note – India* advised that internal relocation was feasible where an applicant’s fear was of local police and where a person is not of interest to the central authorities. However, relocation was not considered feasible where the applicant’s fear of ill treatment concerned with the central authorities.¹⁷⁴

¹⁶⁶ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁶⁷ Majumder, S 2009, ‘India’s Romeo and Juliet tragedy’, *BBC News*, 19 June http://news.bbc.co.uk/2/hi/south_asia/8109805.stm – Accessed 22 June 2012

¹⁶⁸ ‘HC allows J-K couple to stay in Mumbai’ 2010, *The Press Trust of India Limited*, 6 October

¹⁶⁹ Immigration and Refugee Board of Canada 2006, *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, IND100661.EX, 9 January

¹⁷⁰ Yadav, S 2011, ‘“Runaway” couple sent to shelter home’, *The Times of India*, 9 December http://articles.timesofindia.indiatimes.com/2011-12-09/gurgaon/30497364_1_shelter-home-runaway-couple-police-protection – Accessed 3 January 2012

¹⁷¹ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – India*, 13 September, Section I

¹⁷² UK Home Office 2010, *Country of Origin Information Report – India*, 21 September, p.95

¹⁷³ UK Home Office 2011, *Country of Origin Information Report – India*, 26 August, p.35; 38

¹⁷⁴ UK Home Office 2008, *Operational Guidance Note – India*, April, p.6

In late 2010, the government repealed the requirement for nationals to apply for special permits to travel to Manipur, Mizoram and Nagaland. Such permits, however, are still required to travel to Jammu and Kashmir,¹⁷⁵ where Muslims form a majority.¹⁷⁶

On the point of considering religious demography, should a couple wish to relocate to an area where one or both of their religious communities are represented by a majority, or at least with significant numbers:

- Muslims also form a majority in Lakshadweep, and there are large concentrations of Muslims in Maharashtra, Uttar Pradesh, Bihar, West Bengal, Andhra Pradesh, Karnataka, and Kerala.
- Christian populations are found across India, but in greater concentrations in Nagaland, Mizoram and Meghalaya states where Christians form majorities, as well as in Kerala, Tamil Nadu, Goa and the northeast generally.
- Sikhs form a majority in Punjab, and there are significant Sikh communities in Chandigarh, Haryana, Delhi, Uttaranchal and Jammu and Kashmir.
- The largest Buddhist communities are in Maharashtra, Karnataka, Uttar Pradesh, West Bengal and Madhya Pradesh.
- Significant Jain populations are reportedly found in Maharashtra, Rajasthan, Madhya Pradesh, Gujarat, Karnataka, Uttar Pradesh and Delhi. Hindus form a majority in all states except for the following: Manipur, Arunachal Pradesh, Mizoram, Lakshadweep, Nagaland, Meghalaya, Jammu and Kashmir and Punjab.^{177 178}

Language may be an issue to consider in respect of relocation Map A, below, provides a simple breakdown of majority languages by state. The map is undated but the source suggests that it was created circa 2002.¹⁷⁹

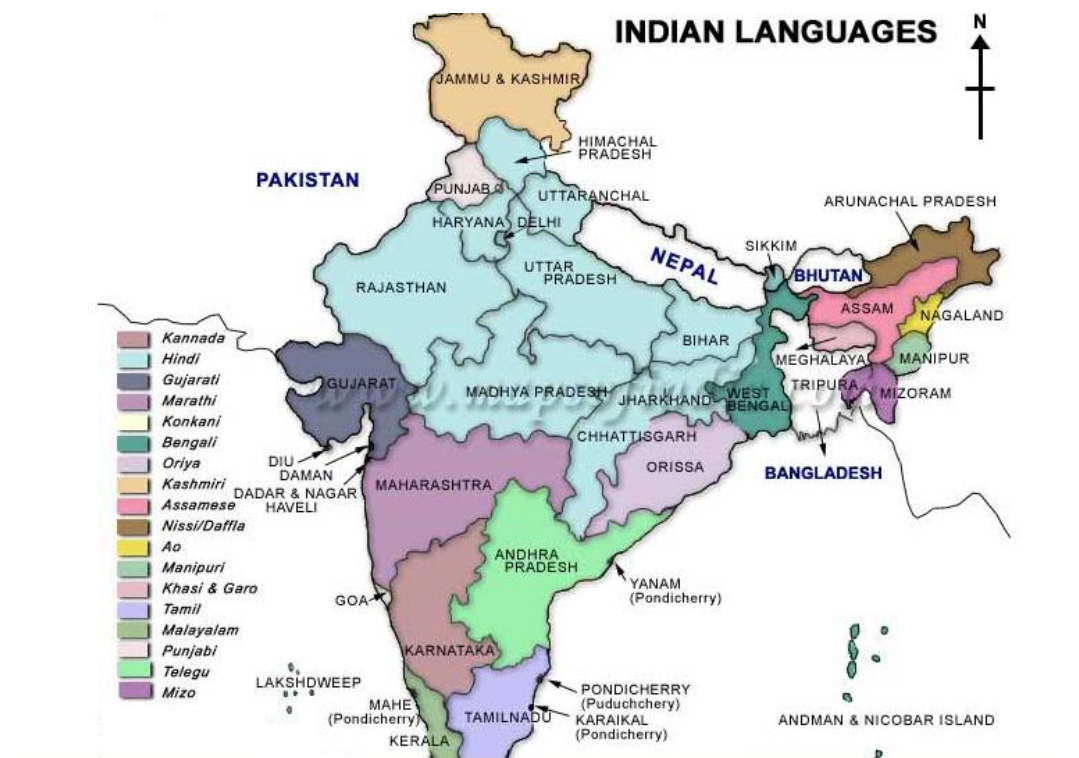
¹⁷⁵ US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – India*, April, Section II

¹⁷⁶ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – India*, 13 September, Section I

¹⁷⁷ US Department of State 2011, *International Religious Freedom Report for 2010 (July-December) – India*, 13 September, Section I

¹⁷⁸ 'Census and You – Religion' n.d., Ministry of Home Affairs, Government of India website http://censusindia.gov.in/Census_And_You/religion.aspx – Accessed 2 April 2012

¹⁷⁹ 'Indian Languages' n.d., Maps of India website <http://www.mapsofindia.com/maps/india/indianlanguages.htm#> – Accessed 4 October 2011



Generally recognised as a national language, Hindi is understood by around 40 per cent of the population, with the exception of some southern states.¹⁸⁰ Hindi is spoken as a first language by approximately 425 million people across India, and as a second language by an additional 120 million.¹⁸¹ Additionally, English is recognised as an “associate” official language to Hindi, and is used predominantly by educated and professional groups, the media, and in administrative contexts.¹⁸² Minority Rights Group has reported that most Muslims in the north or India speak Urdu.¹⁸³

Section 3 – Inter-caste marriages

Introduction to the Caste System

The Indian caste system is a social hierarchy, which traditionally divides people into four main categories, based on a descending order of Hindu ritual purity. Caste is inherited from birth, and it is not possible to move between castes.¹⁸⁴ However, village heads and local administrators have traditionally had the power to excommunicate individuals from the caste

¹⁸⁰ ‘Languages of India’ n.d., Online Computer Library Center website

<http://www.oclc.org/languagesets/educational/languages/india.htm> – Accessed 7 February 2008

¹⁸¹ ‘Hindi language’ n.d., Encyclopedia Britannica Online website

<http://www.britannica.com/EBchecked/topic/266241/Hindi-language> – Accessed 4 October 2011

¹⁸² ‘Languages of India’ n.d., Online Computer Library Center website

<http://www.oclc.org/languagesets/educational/languages/india.htm> – Accessed 7 February 2008

¹⁸³ Minority Rights Group International 2008, ‘India – Muslims’, Minority Rights Group International website, December <http://www.minorityrights.org/5653/india/muslims.html> – Accessed 12 August 2011

¹⁸⁴ Chamberlain, G 2010, ‘Honour killings – saved from India’s caste system by the Love Commandos’, *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

system for serious transgressions. In the case of inter-caste marriage, a child traditionally inherits their caste from the father.¹⁸⁵

The four major caste categories, or *Varna*, are as follows:

- *Brahmin* – priests and teachers.
- *Kshatriya* – rulers, warriors, and often landlords.
- *Vaishya* – merchants and bankers.
- *Shudra* – artisans.^{186 187}

This is a general description, as within each *Varna* there are thousands of groups known as *jati*. *Jati* are “endogamous groups that are further divided along occupational, sectarian, regional and linguistic lines”.¹⁸⁸

Below the *Varna*, there are a number of groups which the government defines as ‘other backward castes’. Considered lowest of all are the ‘scheduled castes’, or ‘Dalits’ (terms which have replaced the derogatory ‘untouchable’). Scheduled castes are further divided into sub-castes.^{189 190}

¹⁸⁵ Jayaram, V n.d., ‘The Hindu Caste System’, Hinduwebsite.com

http://www.hinduwebsite.com/hinduism/h_caste.asp – Accessed 12 June 2012

¹⁸⁶ Sisson, R 1972, *Congress Party in Rajasthan: Political Integration and Institution Building in an Indian State*, University of California Press, Google Books, p.33

http://books.google.com.au/books?id=YNn0L9BmCQcC&pg=PA327&dq=Jat+caste+Rajasthan+Vaishya+OR+Shudra+OR+Harijan&hl=en&ei=BXvoTaCsHYu2vOOZl_HXDw&sa=X&oi=book_result&ct=result&resnum=1&ved=0CCsQ6AEwAA#v=onepage&q=Jat%20caste%20Rajasthan%20Vaishya%20OR%20Shudra%20OR%20Harijan&f=false – Accessed 3 June 2011

¹⁸⁷ Human Rights Watch 1999, *Broken People, Caste Violence Against India's “Untouchables”*, Human Rights Watch, United States, pp.24-25 (MRT-RRT Library)

¹⁸⁸ Human Rights Watch 1999, *Broken People, Caste Violence Against India's “Untouchables”*, Human Rights Watch, United States, pp.24-25 (MRT-RRT Library)

¹⁸⁹ Chamberlain, G 2010, ‘Honour killings – saved from India's caste system by the Love Commandos’, *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

¹⁹⁰ Human Rights Watch 1999, *Broken People, Caste Violence Against India's “Untouchables”*, Human Rights Watch, United States, pp. xii; 24-25 (MRT-RRT Library)

Inter-Caste Marriage – Attitudes and Treatment

As mentioned in [Section 2], some sources which speak to inter-religious marriage also address caste issues, in terms of societal disapproval and treatment by non-state actors.^{191 192 193}

According to aforementioned social scientist Dr Lizy James, whose work has an emphasis on examining family structures, inter-caste marriage can be understood as including both marriages between major castes, such as a marriage between a Brahmin and Kshatriya, and marriages between sub-castes within a major caste group, such as a marriage between people of different Brahmin sub-castes. According to this publication, a higher social or educational status may increase the possibility that an inter-caste marriage will be accepted:

...studies conducted on inter-caste marriages show three features.

- 1) When a person outside the caste is wealthy and had a social prestige, there has been a general approval.
- 2) Persons with higher education and who are older marry outside the caste.
- 3) Even today, the large number of marriages are within the caste and these are marriages arranged by parents. The only significant change is with respect to the restriction against sub-castes which has now been practically eliminated at least in the urban areas among the educated persons.¹⁹⁴

The same source states that marriage between sub-castes is thought to be increasing.¹⁹⁵ Singh and Goli, in their 2011 paper presented to the Population Association of America, state that there are more women marrying outside of their caste in urban areas, amongst Christians, and amongst those with higher education or economic status.¹⁹⁶ Anupurna Rathor is a graduate of the School of Social Sciences Bangalore who has a particular interest in slums. A 2003 book by Rathor stated that that inter-caste and inter-religious marriage was “gaining ground in the urban areas”.¹⁹⁷

¹⁹¹ United Nations Development Programme Regional Centre for Asia Pacific, Colombo Office 2009, *E-Discussion: Gender – Overcoming Power, Unequal Voice*, p.13 http://hdru.aprc.undp.org/ext/HDRU/pdf/e-Discussion_-_24-02-2010.pdf#page=19 – Accessed 21 March 2012

¹⁹² ‘Spate of honour killings shakes up Punjab’ 2011, *Indo-Asian News Service*, 14 July

¹⁹³ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

¹⁹⁴ James, L 2010 ‘Marriage in India’, in G. Thomas (ed), *Introduction to Family Life Education Vol. II*, Indira Gandhi National Open University, New Delhi, eGyanKosh website, pp. 44-45 <http://egyankosh.ac.in/bitstream/123456789/39129/1/BSWE-004%20Volume-II%20Introduction%20to%20Family%20Education.pdf#page=39> – Accessed 19 March 2012

¹⁹⁵ James, L 2010 ‘Marriage in India’, in G. Thomas (ed), *Introduction to Family Life Education Vol. II*, Indira Gandhi National Open University, New Delhi, eGyanKosh website, pp. 44-45 <http://egyankosh.ac.in/bitstream/123456789/39129/1/BSWE-004%20Volume-II%20Introduction%20to%20Family%20Education.pdf#page=39> – Accessed 19 March 2012

¹⁹⁶ Singh, D & Goli, S 2011, ‘Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey’, *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.6 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

¹⁹⁷ Rathor, A 2003, *Slum Dwellers: Curse on Development*, Sarup and Sons, New Delhi, Google Books, pp.104-107 <http://books.google.com.au/books?id=BpdzgOTyifUC&pg=PA106&dq=inter->

However, the majority of Hindu couples continue to marry within their castes, with a 2006 survey cited by the United Nations stating that 76% of respondents deemed inter-caste marriage “unacceptable”. It is not clear whether respondents were basing this judgement of “unacceptable” on religious factors, prejudice, other reasoning or a combination of factors.¹⁹⁸ According to Singh and Goli, in their paper presented to the Population Association of America, the highest percentage of women report that their husband is from a different caste to themselves in Punjab (twelve per cent), West Bengal (nine per cent) and Gujarat (eight per cent) states. The national average is five per cent. The lowest amount of reported inter-caste marriages is in Rajasthan (two per cent).¹⁹⁹

According to a 2010 article in United Kingdom newspaper *The Observer*, discrimination on the grounds of caste persists in arranged marriages.²⁰⁰ The Immigration and Refugee Board of Canada (IRB) has reported societal disapproval for inter-caste marriages in both rural and urban areas, and across socioeconomic groups; according to the IRB, upper class families “routinely” take caste into consideration when arranging marriages.²⁰¹ According to an article in *The Observer*, “[t]he obsession with caste and status is nowhere better demonstrated than in the matrimonials section of India’s national papers. Brahmins are much sought after by parents seeking a suitable match for their offspring. Rajputs, too”. The two groups listed in this passage are higher castes, indicating that it is less objectionable to marry a person from a higher caste than from a lower caste.²⁰²

There are some reports regarding social attitudes in specific areas. DFAT advice notes that “[c]onservative Hindu communities in northern India not only prohibit inter-religious marriage but are also opposed to inter-caste marriage”.²⁰³

Stephen Jacobs, Senior Lecturer in Media, Culture and Religion at the University of Wolverhampton in the United Kingdom,²⁰⁴ writes that inter-caste marriages are “frowned upon, if not forbidden” amongst the Indian diaspora in the United Kingdom. Jacobs continues:

Overall, although there is some acceptance of inter-caste marriage, endogamy tends to be preferred, and there is some anecdotal evidence of caste discrimination.²⁰⁵

[religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeiQePppmOBg&ved=0CFUQ6AEwBigK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false](http://www.google.com/search?q=religious+marriage+attitudes+India&hl=en&sa=X&ei=Ia1qT4nkHZCeiQePppmOBg&ved=0CFUQ6AEwBigK#v=onepage&q=inter-religious%20marriage%20attitudes%20India&f=false) – Accessed 21 March 2012

¹⁹⁸ ‘In India, castes, honor and killings intertwine’ 2010, *The New York Times*, 9 July

¹⁹⁹ Singh, D & Goli, S 2011, ‘Exploring the Concept of Mixed Marriages in Indian and selected states: First Time Evidences from Large Scale Survey’, *Population Association of America 2011 Annual Meeting Program*, Princeton University website, p.3 <http://paa2011.princeton.edu/download.aspx?submissionId=111966> – Accessed 19 March 2012

²⁰⁰ Chamberlain, G 2010, ‘Honour killings – saved from India’s caste system by the Love Commandos’, *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

²⁰¹ Immigration and Refugee Board of Canada 2006, IND100661.EX India: *The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, 9 January

²⁰² Honour killings: Saved from India’s caste system by the Love Commandos’ 2010, *The Observer*

²⁰³ Department of Foreign Affairs and Trade 2011, *DFAT Report No. 1285 – India: RRT Information Request: IND38682*, 30 May

²⁰⁴ Jacobs, S 2007, ‘Virtually Sacred: The Performance of Asynchronous Cyber-Rituals in Online Spaces’, *Journal of Computer-Mediated Communication*, Vol.12, No.3, Indiana University <http://jcmc.indiana.edu/vol12/issue3/jacobs.html> – Accessed 13 June 2012

²⁰⁵ Jacobs, S 2010, *Hinduism Today*, Continuum International Publishing Group, London, Google Books, pp.117, 119

However, in a February 2012 article published by the major English language news source *The Times of India*, a priest from the southern city of Chennai, named A M Parameswaran, claimed to have helped at least 25 couples from different castes to marry over the preceding ten years. Parameswaran approaches parents in an attempt to persuade them to accept the marriage before conducting any ceremony. According to the article, most parents eventually agree, although at least one parent hired people to attack Parameswaran. The priest stated “society’s mindset is changing. Parents are coming around and agreeing to inter-caste marriages. So now, I don’t have much work”.²⁰⁶

There are some reports of inter-caste couples being harmed by family, and at the direction of [khap panchayats](#).^{207 208} According to a May 2010 article in *TIME*, dozens of men and women are victims of honour killings each year due to caste transgressions. Many of these honour crimes occur in northern India, where there is a strong historical relationship between caste status and land ownership. That is to say, perpetrators of honour crimes may seek to preserve caste and ownership hierarchies by eliminating unacceptable unions:

The majority of these killings take place in the agrarian states of Punjab, Haryana, Uttar Pradesh and Rajasthan, where land ownership and caste go hand in hand and honour culture thrives by maintaining caste and gender hierarchies.

The situation is aggravated by modernity, as more and more young people want to marry for love instead of family or caste considerations. Khaps violently oppose both marriages between upper-caste women and lower-caste men and those within sub-castes and villages deemed to share kinship ties. The khap itself, long a locus of power for the land-owning Jat community, is being rendered irrelevant by economic change, increasingly egalitarian democratic politics and population movement... “[d]ue to their declining status, they are trying to assert their existence by taking the law in their own hands,” explains Prem Chowdhry, senior academic fellow at the New Delhi-based Indian Council of Historical Research.²⁰⁹

A December 2011 article in *The Times of India* reported that many victims of honour crimes are people who marry outside of their caste, or within their gotra. The article states that India’s Supreme Court has criticised khap panchayats for endorsing or encouraging such incidences:

“We have heard of khap panchayats which often decree or encourage honour killings or other atrocities in an institutionalised way on boys and girls of different castes and religion, who wish

http://books.google.com.au/books?id=a5732hIV03kC&pg=PA117&dq=marriage+accept+India+inter-religious&hl=en&sa=X&ei=PLlqT-CcAqO3iQfo_4X8BQ&ved=0CE4Q6AEwBDiCAQ#v=onepage&q=marriage%20accept%20India%20inter-religious&f=false – Accessed 21 March 2012

²⁰⁶ ‘Meet Parameswaran, Chennai’s ‘Valentine priest’ 2010, *The Times of India*, 14 February http://articles.timesofindia.indiatimes.com/2012-02-14/chennai/31058777_1_inter-caste-marriages-intercaste-marriages-couples – Accessed 22 March 2012

²⁰⁷ Singh, M ‘Why Are Hindu Honor Killings Rising in India?’ 2010, *TIME*, 25 May <http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

²⁰⁸ Yadav, S 2011, “‘Runaway’ couple sent to shelter home’, *The Times of India*, 9 December http://articles.timesofindia.indiatimes.com/2011-12-09/gurgaon/30497364_1_shelter-home-runaway-couple-police-protection – Accessed 3 January 2012

²⁰⁹ Singh, M 2010, ‘Why Are Hindu Honor Killings Rising in India?’, *TIME*, 25 May <http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

to get married or have been married, or interfere with the personal lives of people,” they [judges Markandeya Katju and Gyan Sudha Mishra] said.²¹⁰

In May 2010, a New Delhi-based journalist was allegedly killed by her family because they did not approve of her relationship with a man from a lower caste. According to TIME, this case made headlines because it occurred in “urban, educated, middle-class India”. Other cases tend to occur in northern and northwestern India, and gain less media attention.²¹¹ A dated yet pertinent report from *The Hindu* reiterates this point:

The murders of young women and men, who have married by choice or across caste barriers, often go unnoticed. There are no names, not even statistics. Many are not investigated because the community closes ranks, apparently making it impossible to find out what really happened.²¹²

Examples of threats or harm towards inter-caste couples are contained in news reports. For instance:

- In May 2012, a newlywed couple from Gurgaon, Haryana approached police for protection from their respective families, after relatives allegedly assaulted and threatened to kill them due to the inter-caste nature of their marriage.²¹³
- In March 2012, the Madras high court passed a restraining order on a woman’s family in order to allow her to live with her husband, who was of a different caste. The woman’s father had reportedly imprisoned her within the family home as he objected to the relationship. Police also allegedly pressured the woman’s father to register a false complaint against the woman’s husband.²¹⁴
- In January 2012, a man from Ghaziabad, Uttar Pradesh allegedly strangled his sister because he disapproved of her inter-caste marriage.²¹⁵
- In June 2011, family members of a girl from Fatehabad, Haryana allegedly attempted to kill the parents and three other family members of the boy she had eloped with, who was from a different caste.²¹⁶
- In July 2010, a woman originally from rural Koderma district, Jharkhand province, who had been engaged to a man of a lower caste was found dead after returning home

²¹⁰ “‘Honour killings’: what needs to be done’ 2010, *The Hindu*, 26 April

<http://www.thehindu.com/opinion/Readers-Editor/article409862.ece> – Accessed 19 December 2011

²¹¹ Singh, M 2010, ‘Why Are Hindu Honor Killings Rising in India?’, *TIME*, 25 May

<http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

²¹² Mody, A 2003, ‘When love spells death’, *The Hindu*, 2 November

<http://www.hinduonnet.com/thehindu/mag/2003/11/02/stories/2003110200140200.htm> – Accessed 6 October 2006

²¹³ ‘Newly-wed couple faces threat from family, seeks protection’ 2012, *The Times of India*, 6 May

http://articles.timesofindia.indiatimes.com/2012-05-06/gurgaon/31597007_1_police-protection-inter-caste-marriage-family-members – Accessed 13 June 2012

²¹⁴ ‘Runaway Chennai couple find solace in HC’ 2012, *The Times of India*, 1 March

http://articles.timesofindia.indiatimes.com/2012-03-01/chennai/31112951_1_intercaste-marriages-inter-caste-police-inspector – Accessed 13 June 2012

²¹⁵ ‘Honour killing – Man murders newly married sister’ 2012, *The Times of India*, 2 January

http://articles.timesofindia.indiatimes.com/2012-01-02/delhi/30580811_1_man-murders-inter-caste-marriage-honour – Accessed 13 June 2012

²¹⁶ Manav, S 2011, ‘Inter-caste Marriage Bid to kill boy’s kin for ‘honour’’, *The Tribune*, 19 June

<http://www.tribuneindia.com/2011/20110620/haryana.htm#1> – Accessed 12 June 2012

from New Delhi for a visit. Her mother was arrested on suspicion of her murder.²¹⁷ The girl's family reportedly insisted it was suicide. However, according to Aali, an Uttar Pradesh-based legal aid organisation, suicide can often be murder by other means, because "the line between having nowhere to run to and 'choosing' death is very thin".²¹⁸ Village supporters of the girl's family reportedly rallied for her mother's release, while friends of the murdered girl held candlelight vigils in New Delhi.²¹⁹

- In June 2010, a teenager and her boyfriend were reportedly beaten, electrocuted and killed by family members who disapproved the inter-caste relationship.^{220 221}
- In June 2010, a girl was killed by her cousin for marrying out of caste in Wazripur village, near Delhi.²²²
- In June 2010, an inter-caste couple from Dheera village²²³ reportedly committed suicide after facing resistance to their relationship.²²⁴
- In May 2010, an Andhra Pradesh inter-caste couple were stoned to death. Six people, including the bride's parents, were charged with murder the following day.²²⁵
- *The Observer* reports on the case of a young woman from Uttar Pradesh, whose family subjected her to physical assault and imprisonment within the home, and sold her on three separate occasions, as retribution for her relationship with a young man from a lower caste.²²⁶

²¹⁷ 'In India, castes, honor and killings intertwine' 2010, *The New York Times*, 9 July http://www.nytimes.com/2010/07/10/world/asia/10honor.html?pagewanted=1&_r=2&ref=india – Accessed 22 July 2012

²¹⁸ Mody, A 2003, 'When love spells death', *The Hindu*, 2 November <http://www.hinduonnet.com/thehindu/mag/2003/11/02/stories/2003110200140200.htm> – Accessed 6 October 2006

²¹⁹ 'In India, castes, honor and killings intertwine' 2010, *The New York Times*, 9 July http://www.nytimes.com/2010/07/10/world/asia/10honor.html?pagewanted=1&_r=2&ref=india – Accessed 22 July 2012

²²⁰ 'Delhi police make arrests after 'honour killing'' 2010, *BBC News*, 15 June http://news.bbc.co.uk/2/hi/world/south_asia/10316249.stm – Accessed 16 June 2010

²²¹ Buncombe, A 2010, 'Indian couple electrocuted for daring to marry outside caste' 2010, *The Independent*, 16 June <http://www.independent.co.uk/news/world/asia/indian-couple-electrocuted-for-daring-to-marry-outside-caste-2001570.html> – Accessed 14 March 2012

²²² Rajalakshmi, T K 2010, 'Death for love', *Frontline*, 17-30 July http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

²²³ The report does not specify in which state the Dheera village referred to is located.

²²⁴ Rajalakshmi, T K 2010, 'Death for love', *Frontline*, 17-30 July http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

²²⁵ 'Andhra Couple stoned to death for "honour"' 2010, *The Times of India*, 28 May <http://timesofindia.indiatimes.com/india/Andhra-couple-stoned-to-death-for-honour/articleshow/5982576.cms> – Accessed 28 May 2010

²²⁶ 'Honour killings: Saved from India's caste system by the Love Commandos' 2010, *The Observer* <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

Same-Gotra Marriage

In addition to the caste system, there is the complex Hindu *gotra* lineage system. Lineage is based on a shared mythical common ancestor. Whereas people of the same caste may marry, people of the same gotra may not, according to certain caste councils (*khap panchayat*).²²⁷²²⁸

According to Human Rights Watch, khaps in Haryana, Punjab and Uttar Pradesh states have censured same-gotra marriages, reasoning that they are incestuous due to an alleged biological connection through ancestors.²²⁹ Khap panchayats in Haryana have publicly stated that the *Hindu Marriage Act* should be amended to ban same-gotra marriage:

At Kurukshetra, the khap panchayats also demanded that the Hindu Marriages Act should be amended to ban ‘same village’ marriages and disallow the recognition given by the Arya Samaj to the weddings of “eloping couples” conducted in temples. True to form, they charged the media with “conspiring to destroy the social fabric in rural areas.”²³⁰

Daily News and Analysis highlights what a disapproval of inter-gotra marriage might mean for young Haryana males:

If you are an eligible jat bachelor living in a Haryana village, landing a suitable bride could be a nightmarish experience. As traditions go, you could not marry another woman from the same village because some time in remote history her ancestors and yours may have been siblings. You cannot hunt for brides in villages that border yours or even distant ones where other clans living in your village have bhaichara [brotherhood]. Break the rules and you are guilty of ‘incest’.²³¹

There are examples of same-gotra couples being harmed on the basis of their relationships. For example:

- In March 2011, the Punjab and Haryana High Court ordered disciplinary action against police officers in charge of providing protection to a same-gotra couple who were abducted and killed on khap panchayat orders in 2007.²³²
- In October 2009, a same-gotra couple from a village near Sonapat, Haryana “had to face the community’s ire”. The man was allegedly killed and his wife raped after being lured to a place in Delhi.²³³

State Protection

²²⁷ Chamberlain, G 2010, ‘Honour killings – saved from India’s caste system by the Love Commandos’, *The Observer*, 10 October <http://www.guardian.co.uk/world/2010/oct/10/honour-killings-caste-love-commandos> – Accessed 1 December 2011

²²⁸ ‘gotra’ n.d., Encyclopaedia Britannica online <http://www.britannica.com/EBchecked/topic/239834/gotra> – Accessed 2 April 2012

²²⁹ Human Rights Watch 2011, *India – World Report*, 31 January

²³⁰ “Honour killings’: what needs to be done’ 2010, *The Hindu*, 26 April

<http://www.thehindu.com/opinion/Readers-Editor/article409862.ece> – Accessed 19 December 2011

²³¹ Nair, M 2010, ‘Khap panchayats flex muscle as shifting social dynamics threaten their relevance’, *News Day and Analysis*, 18 April http://www.dnaindia.com/india/report_khap-panchayats-flex-muscle-as-shifting-social-dynamics-threaten-their-relevance_1372608 – Accessed 11 August 2011

²³² Sharma, V 2011, “‘Honour killing’: court raps police, orders disciplinary action’, *The Hindu*, 13 March <http://www.thehindu.com/news/national/article1532485.ece> – Accessed 28 November 2011

²³³ Rajalakshmi, T K 2010, ‘Death for love’, *Frontline*, 17-30 July http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

Reports indicate both that the Indian state attempts to provide legal protections for inter-caste and same-gotra couples, and that subversive elements sometimes undermine these protections.

Inter-caste marriages are protected under Indian law,²³⁴ being recognised under the *Arya Marriage Validation Act 1937*.²³⁵ Additionally, a 2006 report from the Immigration and Refugee Board of Canada (IRB) stated that the Indian government offered financial incentives to promote inter-caste marriage.²³⁶

A 2003 article stated that, at the time, the High Court in Delhi heard between 15 and 20 new cases alleging rape or abduction per month, where the women involved claimed to have actually married by choice. A reading of the article supports the assessment that these figures are largely related to inter-caste unions where families disapproved (thus filing charges), and stated that most cases were decided in favour of the women. The public prosecutor, however, admitted that a woman's safety could not be guaranteed outside the court: "[m]ost couples invariably have to return to live surrounded by a hostile community and police force, that instead of protecting them will continue to harass them".²³⁷

A 2011 article from the *Indo-Asian News Service* stated that police in Punjab state had been unable to find a solution to an apparent 'surge' in the number of honour killings. The Punjab and Haryana High Court ordered both states to "provide shelter homes to runaway couples who marry against the wishes of their families, caste or community and asked police to provide them with security".²³⁸

In early 2010, a Haryana court sentenced five people to death for killing a same-gotra couple who had married against the wishes of the bride's family. The couple relocated to a nearby city after the village khap panchayat urged villagers to turn against them. The couple were killed two months later, again on an order from the khap. A police investigation apparently found that officers assigned to protect the couple had passed information on to the assailants.²³⁹

In response to this sentencing, Haryana khap panchayats launched protests, demanding that the government amend Hindu marriage law to ban inter-gotra marriage. *TIME* reported that, "[a]stonishingly, prominent politicians from both the ruling Congress party and the opposition have come out in support of the khaps' demand. With city and village elections due shortly, political parties see this as an easy ploy to lure votes, caste being a handy

²³⁴ 'In India, castes, honor and killings intertwine' 2010, *The New York Times*, 9 July http://www.nytimes.com/2010/07/10/world/asia/10honor.html?pagewanted=1&_r=2&ref=india - Accessed 22 July 2010

²³⁵ Law Commission of India 2008, 'Laws on Registration of Marriage and Divorce – A Proposal for Consolidation and Reform', Law Commission of India website, p. 11 <http://lawcommissionofindia.nic.in/reports/report211.pdf> – Accessed 21 March 2012

²³⁶ Immigration and Refugee Board of Canada 2006, *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, IND100661.EX, 9 January

²³⁷ Mody, A 2003, 'When love spells death', *The Hindu*, 2 November <http://www.hinduonnet.com/thehindu/mag/2003/11/02/stories/2003110200140200.htm> – Accessed 6 October 2006

²³⁸ 'Spate of honour killings shakes up Punjab' 2011, *Indo-Asian News Service*, 14 July

²³⁹ Singh, M 'Why Are Hindu Honor Killings Rising in India?' 2010, *TIME*, 25 May <http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

instrument of statecraft”.²⁴⁰ In June 2010, the Delhi High Court dismissed a petition calling for a ban on same-gotra marriages, with the judges asking the petitioner to demonstrate which Hindu text banned such unions.²⁴¹

According to an article in Indian national magazine *Frontline*, which includes examples of crimes against inter-caste couples, honour killings are “committed more often in States that have skewed child sex ratios²⁴² and a high rate of crime against women and children, and where distributive justice in both economic and social terms is very low”.²⁴³

In terms of protection from non-state actors, an October 2010 article from United Kingdom-based news source *The Observer* reported on a Delhi-based volunteer group known as the ‘Love Commandos’, who assist inter-caste couples who fear retribution from family members or khap panchayats. The Love Commandos provide a helpline, and rescue missions/emergency accommodation for those who believe their lives to be endangered. Established in July 2010 in response to a spate of honour killings in northern India, the Love Commandos claimed to have 2,000 volunteers nationally and to have assisted “hundreds” of couples at the time of writing.²⁴⁴

Relocation

In addition to information included in [Section 2] regarding relocation for inter-religious couples, a 2006 IRB report includes advice that inter-caste couples may not be identified in the course of interaction with government authorities:

[it is] hard to generalize about government authorities, and it is possible that one could have interactions with a government authority without an intercaste marriage becoming obvious to them. An authority might assume from the family name that the husband’s caste is the caste of the whole family, for example.²⁴⁵

²⁴⁰ Singh, M ‘Why Are Hindu Honor Killings Rising in India?’ 2010, *TIME*, 25 May
<http://www.time.com/time/world/article/0,8599,1991195,00.html> – Accessed 21 March 2012

²⁴¹ Rajalakshmi, T K 2010, ‘Death for love’, *Frontline*, 17-30 July
http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

²⁴² India’s 2011 census reportedly showed a sex ratio of 940 females per 1,000 males. The ratio is more skewed in cities than rural areas, and is generally understood to be a result of practices such as female infanticide and sex selective abortion. See Carvalho, N 2011, ‘Eight arrests after selective female abortion racket uncovered’, *AsiaNews.it*, 14 December <http://www.asianews.it/news-en/Eight-arrests-after-selective-female-abortion-racket-uncovered-23442.html> – Accessed 1 June 2012

²⁴³ Rajalakshmi, T K 2010, ‘Death for love’, *Frontline*, 17-30 July
http://www.frontlineonnet.com/fl2715/stories/2010073_0271503700.htm – Accessed 26 August 2011

²⁴⁴ ‘Honour killings: Saved from India’s caste system by the Love Commandos’ 2010, *The Observer*

²⁴⁵ Immigration and Refugee Board of Canada 2006, *India: The situation of couples in inter-caste and inter-religious marriages, including societal attitudes, treatment by government authorities and the situation of children resulting from such marriages (2000 – 2005)*, IND100661.EX, 9 January

Section 4 – Marriages involving foreign nationals

Legislative Framework

A marriage between an Indian national and a foreigner is governed under the *Foreign Marriage Act*, which was last revised in 1969. The Act “established that a marriage may be solemnized in a foreign country between an Indian and a foreigner as well as two Indians, regardless of their religion or personal laws.” This Act allows a marriage to be solemnised in a foreign nation under any law, including that nation’s local law, and registered under the *Foreign Marriage Act*. The marriage is valid, provided that neither party has a living spouse, neither is of unsound mind, the bride is a minimum of 18 years of age and the groom 21 years of age, and provided that the marriage does not lie within the Act’s definition of a prohibited relationship (i.e. a marriage between first cousins).²⁴⁶

According to the Indidivorce website, there is a sense of prestige and affluence associated with marrying a member of the Indian diaspora (or non-resident Indians/NRI). The website states that “[m]ost of the Indian females are crazy about getting married to NRIs. Their parents also want to marry off their daughters to foreign based Indians who can provide a better quality of life and home”. This trend is particularly prevalent in Punjab state.²⁴⁷

Please refer to [\[Section 2\]](#) for further details as to how marriages are solemnized and registered under the *Special Marriage Act*.

Entry (X) Visas

Foreign nationals who are married to Indian citizens are eligible to apply for an Entry (X) visa, which is a multiple entry visa granted for up to one year but is renewable in India.²⁴⁸ The website of the Indian Embassy in Jakarta states that the Entry (X) visa is granted to the foreign spouses of Indian nationals, “particularly those who want to live in India.”²⁴⁹ According to the Indian Visa Application Centre in Sri Lanka website, the Indian national’s spouse must provide the following to apply for an Entry (X) visa:

“the application form, a copy of the Indian passport of his/her spouse with the applicant’s name duly endorsed in the Indian passport, along with a copy of the marriage certificate. Original marriage certificate should be shown at the time of visa application”.²⁵⁰

The Embassy of India in Jakarta website states that, in addition to the above, applicants must provide a return ticket or printed itinerary for a return journey to India, and a sponsorship letter from the applicant’s Indian spouse.²⁵¹

²⁴⁶ ‘Legal requirements to solemnize marriage with a foreigner’ 2010, Law is Greek website, 17 March

²⁴⁷ ‘Laws related to NRI divorce’ n.d., Indidivorce website <http://www.indidivorce.com/nri-divorce.html> – Accessed 16 April 2012

²⁴⁸ ‘Visa Information’ n.d., Embassy of India, Ireland website http://indianembassy.ie/app/opencms/indian_embassy/visa-services.htm – Accessed 14 December 2011; ‘Types of Visas’ n.d., Embassy of India Jakarta website http://indianembassyjakarta.com/visa_types.html – Accessed 14 December 2011

²⁴⁹ ‘Types of Visas’ n.d., Embassy of India Jakarta website http://indianembassyjakarta.com/visa_types.html – Accessed 14 December 2011

²⁵⁰ ‘Specific Requirements for Each Visa Category’ n.d., Indian Visa Application Centre in Sri Lanka website <http://www.vfs-in-lk.com/documents.aspx> – Accessed 15 March 2012

The Entry (X) visa can be renewed in India through the Foreign Regional Registration Offices (FRROs) or District Superintendents of Police (FROs) by submitting the relevant application form and supporting documentation.²⁵²

Person of Indian Origin (PIO) Cards

A person who is the spouse of an Indian citizen for more than one year is considered to be a Person of Indian Origin (PIO) and is eligible to apply for a PIO card. The PIO card allows holders to enter India without a visa, and access education and employment without separate visas. However, PIO card holders are obliged to register with the Indian authorities if they visit India for longer than 180 days. A PIO card is valid for fifteen years, subject to the card holder's passport remaining valid.²⁵³

However, certain designated groups of persons are ineligible to receive this card, regardless of whether they have an Indian citizen spouse. Those ineligible to receive PIO cards include “[n]ationals of Afghanistan, Bangladesh, Bhutan, China, Nepal, Pakistan and Sri Lanka or any stateless person, or any person who had been a national of any of these countries or either of whose parents, grandparents or great grand parents had been nationals of these countries at any time.”²⁵⁴

In 2011, Prime Minister Singh announced that the PIO card scheme would be merged with the Overseas Citizen of India (OCI) card scheme. According to *The Economic Times*, as of 11 March 2012 details of the merged scheme had not been released, and the scheme had not yet been implemented. OCI cards currently effectively provides persons of Indian origin, who hold citizenship of another country that allows dual citizenship, to a lifelong multiple entry visa for visiting India. OCI card holders are exempt from registering long stays in India with the police. Unlike the POI scheme, however, OCI applicants cannot qualify as ‘persons of Indian origin’ on the basis of having a spouse who is an Indian national.^{255 256}

Applying for Indian citizenship

Section 5(1)(c) of the *Citizenship Act, 1955* states that a person who is married to a citizen of India and who has been ordinarily resident in India for seven years, but not as an “illegal migrant” is eligible to apply for Indian citizenship.²⁵⁷

²⁵¹ ‘Types of Visas’ n.d., Embassy of India Jakarta website http://indianembassyjakarta.com/visa_types.html – Accessed 14 December 2011

²⁵² A list of documentation required in order to apply for an Entry (X) visa extension is available on the Bureau of Immigration, India website. See: ‘Information to Foreigners possessing Entry(X) Visa’ n.d., Bureau of Immigration, India website <http://www.immigrationindia.nic.in/entry Visa2.htm> – Accessed 12 December 2011

²⁵³ ‘Persons of Indian Origin (PIO)’ n.d., VFS Global website <http://www.vfs-in-au.net/personsofindianorigin.html> – Accessed 12 December 2011

²⁵⁴ ‘Persons of Indian Origin (PIO)’ n.d., VFS Global website <http://www.vfs-in-au.net/personsofindianorigin.html> – Accessed 12 December 2011

²⁵⁵ Duttagupta, I 2012, ‘PIO and OCI cards provide relief to NRIs from visa hassles’, *The Economic Times*, 11 March http://articles.economicstimes.indiatimes.com/2012-03-11/news/31143355_1_oci-pio-card-overseas-citizen – Accessed 1 June 2012

²⁵⁶ ‘PIO Card vs. OCI Card’ n.d., immihelp.com website <http://www.immihelp.com/nri/pio-vs-oci.html> – Accessed 1 June 2012

²⁵⁷ ‘Foreigners Division: Acquisition of Indian Citizenship (IC)’ n.d., Indian Citizenship Online website <http://indiancitizenshiponline.nic.in/acquisition1.htm> – Accessed 12 December 2011

The relevant form requires the applicant to provide full details of their marriage to an Indian citizen and their residence in India, plus their passport and visa particulars. The applicant is also required to declare their intention to make India their permanent home and renounce their other citizenship. They are also asked to sign an oath of allegiance. A citizenship application can be made to the Deputy Commissioner or District Magistrate within whose jurisdiction the applicant is ordinarily resident. The application is then forwarded to the Central Government via the applicable State Government or Union territory administration.²⁵⁸

²⁵⁸ 'Form II: Application for Registration as a citizen of India under Section 5(1)(c) of the Act made by a person who is/has been married to a citizen of India' n.d., Indian Citizenship Online website http://mha.nic.in/pdfs/citi_form-2.pdf – Accessed 12 December 2011

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