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HONOUR KILLINGS AND FAMILY COMPLICITY: WHY INDIAN CRIMINAL LAW FAILS TO HOLD FAMILIES ACCOUNTABLE

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I. ABSTRACT

Honour killings remain a persistent form of gendered and caste-based violence in India, yet the criminal law struggles to hold accountable the family and community members who order, encourage or conceal them. Official data record only a few dozen such killings each year, a figure that understates the problem because many are registered as ordinary murders or suicides. This paper asks why the law convicts those who carry out the killing more readily than those who orchestrate it. It adopts a doctrinal method, analysing the Bharatiya Nyaya Sanhita, 2023 (BNS) alongside the Indian Penal Code, 1860 (IPC), which continues to govern offences committed before 1 July 2024, together with Supreme Court and High Court judgments, Law Commission reports and comparative material from Pakistan, England and Wales, and Canada. Through Manoj-Babli, Nitish Katara and Shakti Vahini, it shows that the provisions on murder (BNS ss 101 and 103; formerly IPC ss 300 and 302), common intention (BNS s 3(5); formerly IPC s 34), abetment (BNS ss 45–60; formerly IPC ss 107–120) and criminal conspiracy (BNS s 61; formerly IPC ss 120A–120B) can reach orchestrators in principle. The gap is evidential: courts may infer agreement or instigation from conduct, but a public khap decree or a patriarch's diffuse authority rarely yields the proof that such an inference requires. The new group-murder offence in BNS s 103(2) does not reach killings by one or two relatives. The paper argues that Articles 14, 15 and 21 of the Constitution require the State to close this gap. It proposes three reform models and concludes that judicial interpretation of the abetment provisions, supported by a clarificatory amendment on aid and by procedural reform, offers the most feasible path forward.

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II. KEYWORDS

Honour killing; family complicity; abetment; Bharatiya Nyaya Sanhita; gender justice

III. INTRODUCTION

In whose hands does responsibility lie—the one who gives the order or the one who wields the weapon?

Babli's grandfather, the khap panchayat leader, was convicted not of murder but of conspiracy, and sentenced to life imprisonment. The relatives who abducted the couple, strangled Babli's husband Manoj and forced her to drink pesticide were convicted of murder and sentenced to death, sentences later commuted on appeal. Both sets of men were party to the killing of the couple. Yet in Indian law, only one set was adequately punished. On appeal, the grandfather, the khap leader who publicly sanctioned the killings, was acquitted entirely.[1]

This paradox is not accidental. It reveals a fundamental flaw in how Indian criminal law approaches honour killings: the law treats these crimes as individual acts of violence rather than as systemic, family-orchestrated projects. The grandfather in the Manoj-Babli case (2007) used his authority within the khap panchayat to issue a public decree authorizing murder. Yet the law could only describe his role as conspiracy, which the prosecution ultimately could not prove beyond reasonable doubt on appeal. The relatives who carried out that decree were sentenced to death at trial. The grandfather who issued it was acquitted. This inversion of culpability suggests that Indian criminal law fundamentally misunderstands the structure of honour killings.

Nearly five years earlier, a different pattern emerged in the Nitish Katara case (2002). A young man was murdered by his girlfriend's brother because their families disapproved

[1] Judgment of the Additional Sessions Judge, Karnal (March 2010), varied on appeal by the Punjab and Haryana High Court (11 March 2011); see 'Dashing Hopes, Emboldening Khaps: The High Court Verdict on the Manoj Babli Case' (*Newsclick*) <https://www.newsclick.in/dashing-hopes-emboldening-khaps-high-court-verdict-manoj-babli-case> accessed 21 November 2026.

of their intercaste relationship. The brother who wielded the hammer is serving a fixed term of 25 years without remission.[2] But the father whose status and disapproval set the stage, who created the family ideology demanding the killing, was never charged and never investigated. Why? Because criminal law, as applied, offers no settled framework for proving the role of a family patriarch whose authority creates the conditions for murder without explicitly ordering it.

These cases reveal a critical legal gap: Indian criminal law can punish those who physically execute honour killings, but it struggles to hold accountable those who orchestrate, encourage, pressure, and conceal them—almost always family members with pre-existing authority. This gap is not a minor deficiency in sentencing guidelines or prosecutorial strategy. It is a structural defect in how criminal law conceptualizes the crime itself.

The argument of this paper is straightforward: honour killings are family crimes, not individual murders. Yet Indian criminal law treats them as individual acts. This mismatch between the crime's actual structure and the way the law is applied and proved explains why orchestrators escape accountability while executors absorb punishment. The provisions on murder (BNS ss 101 and 103(1); formerly IPC ss 300 and 302), culpable homicide not amounting to murder (BNS ss 100 and 105; formerly IPC ss 299 and 304), common intention (BNS s 3(5); formerly IPC s 34), abetment (BNS ss 45–60; formerly IPC ss 107–120) and criminal conspiracy (BNS s 61; formerly IPC ss 120A–120B) can reach family orchestrators in principle.[3] In practice, they are rarely applied to hierarchies where authority, ideology and pressure operate implicitly. A gender-centred legal framework must recognise family complicity as distinct culpability.

A note on the governing law is necessary. The Bharatiya Nyaya Sanhita, 2023 (BNS) replaced the Indian Penal Code, 1860 (IPC) with effect from 1 July 2024, but the IPC

[2] *Vikas Yadav v State of Uttar Pradesh* (2016) 9 SCC 541.
[3] Bharatiya Nyaya Sanhita 2023, ss 3(5), 45–61, 100, 101, 103 and 105; Indian Penal Code 1860, ss 34, 107–120B, 299, 300, 302 and 304.

continues to govern offences committed before that date.[4] Article 20(1) of the Constitution bars conviction under, or a penalty greater than that prescribed by, a law not in force when the offence was committed, so the BNS cannot apply retrospectively to earlier offences.[5] The leading cases discussed here, including Manoj-Babli and Nitish Katara, were therefore decided under the IPC, and this paper refers to IPC provisions when analysing them. Its conclusions on current prosecutions are stated by reference to the BNS, with IPC equivalents in brackets (see Table 1).

The paper unfolds as follows: after stating its research objectives, research questions and methodology, Section II.A establishes the empirical scope: how widespread is this gap? Section II.B articulates the doctrinal problem. Section III grounds the argument in constitutional law. Section IV identifies existing statutory frameworks (DV Act, BNS 2023, including s 103(2), and comparative jurisdictions) that already operationalize relevant concepts. Section V analyzes criminal law doctrines with operational detail. Section VI examines case law revealing the gap. Section VII proposes detailed reform models. Section VIII engages counterarguments substantively. The conclusion reflects on implications for gender justice broadly.

A. Research Objectives

This paper pursues four objectives:

1. To map the gap in criminal liability for family and community members who instigate, plan, support or conceal honour killings, as distinct from those who carry them out.
2. To test whether the BNS, including the group-murder offence in s 103(2) and the abetment and conspiracy provisions in ss 45–61, adequately reaches these actors.

[4] Bharatiya Nyaya Sanhita 2023, s 358.
[5] Constitution of India, art 20(1).

3. To identify what Pakistan, England and Wales, and Canada offer India in prosecuting family-orchestrated violence.
4. To propose reform models, each anchored in a specific statutory provision, that would close the gap.

B. Research Questions

The paper addresses six research questions; each answered in one Part of the analysis:

1. What is the scale of honour killings in India, and why do official counts understate it? (Part II)
2. Do Articles 14, 15 and 21 of the Constitution require the State to reach family and community instigators? (Part III)
3. Do the Protection of Women from Domestic Violence Act, 2005, the BNS and comparative laws already supply tools that reach these actors? (Part IV)
4. Why do the doctrines of common intention, conspiracy and abetment fail, in practice, to convict orchestrators? (Part V)
5. How have Indian courts treated orchestrators in *Shakti Vahini*, Manoj-Babli and Nitish Katara? (Part VI)
6. What legislative, interpretive and procedural reforms would close the gap? (Part VII)

C. Research Methodology

This study is doctrinal. It analyses primary legal sources: the Constitution of India; the BNS and the IPC; the Protection of Women from Domestic Violence Act, 2005; the Protection of Human Rights Act, 1993; judgments of the Supreme Court and the High Courts; Report No 242 of the Law Commission of India; the 246th Report of the Department-related Parliamentary Standing Committee on Home Affairs; and replies of the Ministry of Home Affairs in Parliament based on National Crime Records Bureau (NCRB) data.

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It draws on three comparative jurisdictions, Pakistan, England and Wales, and Canada, because each has either legislated on honour-based or coercive violence or prosecuted family members jointly for honour killings. Secondary literature and civil society reports supplement these sources, and non-official statistics are identified as such. The law is stated as on 1 November 2026. Citations follow OSCOLA (4th edn).

IV. EMPIRICAL SCOPE: HOW WIDESPREAD IS THE FAMILY COMPLICITY GAP?

Before advancing the doctrinal argument, this section establishes the empirical foundation: how prevalent is the family complicity problem in India's honour killing cases?

1. **National Data:** Official figures are low. NCRB data placed before Parliament by the Ministry of Home Affairs record 92 honour killings in 2017, 29 in 2018, 24 in 2019, 25 in 2020 and 33 in 2021, a total of 203 over five years.[6] NCRB data record 18 such cases in 2022 and 38 in 2023.[7][8] non-official estimates are far higher: a widely cited independent study suggested that at least 900 honour killings occur each year in Haryana, Punjab and Uttar Pradesh alone.[9] The gap between these two tiers is itself significant. Honour killings are often recorded as ordinary murders, or passed off as suicides or natural deaths, so official counts understate the problem.[10]

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[6] Ministry of Home Affairs, Rajya Sabha Unstarred Question No 3734 (5 April 2023) annex II; '145 "Honour Killing" Incidents Took Place in India between 2017–2019, Govt Tells Lok Sabha' *ThePrint* (New Delhi, 10 August 2021) <https://theprint.in/india/145-honour-killing-incidents-took-place-in-india-between-2017-2019-govt-tells-lok-sabha/712562> accessed 21 November 2026.

[7] Vidhi Centre for Legal Policy, 'In the Name of "Honour"' (*Vidhi Blog*) <https://vidhilegalpolicy.in/blog/in-the-name-of-honour/> accessed 21 November 2026.

[8] 'Jharkhand Is the Honour Killing Capital of India Now. Haryana Is Second' *ThePrint* (New Delhi) <https://theprint.in/feature/jharkhand-is-the-honour-killing-capital-of-india-now-haryana-is-second/2756629> accessed 21 November 2026.

[9] Human Rights Watch, 'India: Prosecute Rampant "Honor" Killings' (18 July 2010) <https://www.hrw.org/news/2010/07/18/india-prosecute-rampant-honor-killings> accessed 21 November 2026.

[10] Ibid.

2. **Geographic Distribution:** The official state-wise picture also departs from the conventional view that Haryana, Punjab and Uttar Pradesh dominate. Of the 145 honour killings recorded between 2017 and 2019, Jharkhand accounted for 50, Maharashtra for 19 and Uttar Pradesh for 14, roughly a tenth of the total.[11] In 2023, Jharkhand again recorded the highest number (nine), followed by Haryana (six).[12] Non-official counts diverge sharply at the State level: one Tamil Nadu NGO has counted 195 honour killings in that State alone over five years, against very low official figures.[13] This divergence reinforces the paper's central claim: honour killings are systematically under-recorded, and the scale of family-led violence remains hidden. Khap panchayats and similar caste councils, which issue edicts against couples, remain most visible in Haryana, Punjab and Uttar Pradesh.[14]
3. **Family Involvement Pattern:** While comprehensive empirical data on the percentage of honour killings involving family orchestration versus individual perpetration is not centrally compiled, available case law reveals a consistent pattern. In the Manoj-Babli case, family hierarchy structured the crime: the khap panchayat (family/community authority) decreed the killing, younger family members executed it. In Nitish Katara, the father's authority created the conditions without explicit orders. Regional High Court cases from Haryana and Punjab show similar patterns where mothers, fathers, uncles, and grandfathers are either initially charged then acquitted on appeal (Manoj-Babli) or never charged despite evidence of pressure/ideology (Nitish Katara, and numerous unreported cases).
4. **Sentencing Disparities:** Case law analysis reveals a consistent gap: direct perpetrators (executors) receive death sentences (later commuted to life); family orchestrators receive life sentences initially then are acquitted on appeal, or are never charged. This disparity suggests that the law intuitively recognizes a

[11] Ministry of Home Affairs (n 6).
[12] 'Jharkhand Is the Honour Killing Capital of India Now' (n 8).
[13] Vidhi Centre for Legal Policy (n 7).
[14] Human Rights Watch (n 9).

distinction in culpability (orchestrator vs. executor) but lacks doctrinal language to enforce it.

5. **Acquittal Rates:** In the two major published cases (Manoj-Babli, Nitish Katara), family orchestrators either escaped prosecution entirely (D.P. Yadav, never charged) or were acquitted on appeal despite initial conviction (Gangaraj, acquitted in 2011 after High Court review). This pattern—acquittal of orchestrators on appeal—suggests that conspiracy and abetment doctrines, as currently interpreted, cannot sustain convictions against family orchestrators.
6. **Limitations:** This paper is constrained by reliance on published case law. A more comprehensive empirical study would require access to unreported judgments, police FIR data, and conviction statistics disaggregated by role (orchestrator vs. executor). The NCRB began recording honour killing as a separate motive for murder only in 2014, and no national dataset yet distinguishes offenders by role.[15] Nonetheless, available evidence supports the claim that family complicity in honour killings is systematic and that the law's response is inadequate.

V. THE LEGAL PROBLEM: CRIME STRUCTURE VS. LEGAL DOCTRINE

To understand why Indian law fails honour killing cases, we must distinguish between two questions: (1) Do we have enough criminal statutes? (2) Do our criminal doctrines, as applied and proved, adequately capture the crime's structure? The answer to the first is broadly yes: the BNS provisions on murder, common intention, abetment and conspiracy, and their IPC predecessors, provide prosecutorial tools. The answer to the second is no: these provisions can reach family orchestrators in principle, but the proof they demand is rarely available within family hierarchies.

Honour killings have a distinctive structure. They are not impulsive acts. They are deliberate family projects involving multiple participants in coordinated roles: (1) The

[15] Ministry of Home Affairs, Lok Sabha Unstarred Question No 396 (25 November 2014).

orchestrator (grandfather, father, uncle) who decides the killing is necessary and authorizes it. (2) The executor (son, nephew, cousin) who carries out the murder. (3) The enablers (mother, siblings) who facilitate through logistics, witness intimidation, or post-crime concealment. (4) The ideological supporters who create and reinforce the honour code.

Manoj-Babli illustrates this structure. The khap panchayat issued a public decree—Gangaraj, as khap leader, was the orchestrator. The brothers and cousins who abducted, murdered, and disposed of bodies were the executors. Extended family members constituted the ideological backbone. This was a family project, authorized by family authority structures, executed by family members, concealed by family solidarity. The killing could not have occurred without this entire system.

Yet Indian criminal law applies its provisions, in practice, to visible and provable conduct. The murder provision (BNS s 101; IPC s 300) attaches to the person who causes death. Common intention (BNS s 3(5); IPC s 34) is a rule of joint liability for a criminal act done by several persons in furtherance of a common intention, not a conspiracy provision. That intention may form on the spot, so the rule reaches hired killers and relatives present at the scene, but not an absent patriarch.[16] Instigation, for its part, need not be explicit: it may be inferred from words or conduct.[17] The difficulty is proof. The grandfather did not wield the weapon, but his authority made the killing possible. The mother did not explicitly order it, but her disapproval created pressure. The extended family did not directly participate, but their silence enabled concealment.

This evidential difficulty explains outcomes in Manoj-Babli and Nitish Katara. In Manoj-Babli, the orchestrator was charged with criminal conspiracy (IPC s 120B). The prosecution need not show an express agreement, because conspiracy is usually proved

[16] *Pandurang v State of Hyderabad* AIR 1955 SC 216.
[17] *Chitresh Kumar Chopra v State (Govt of NCT of Delhi)* (2009) 16 SCC 605; *Ramesh Kumar v State of Chhattisgarh* (2001) 9 SCC 618.

by inference from circumstances.[18] But that inference is much harder to draw from a public, ideological khap decree than from private communications between conspirators. On appeal, the High Court acquitted the orchestrator. The executors, convicted of murder, received harsher sentences because the evidence placed them at the scene. In Nitish Katara, the father was never charged: no evidence linked his disapproval and authority to the killing with the specificity that courts require before they infer instigation from conduct.

The core argument: current doctrines do not fail for want of statutory text. Conspiracy and abetment can, in principle, reach family orchestrators. They fail in practice because the evidence from which courts infer agreement or instigation is rarely available where authority, ideology and implicit pressure operate within family systems. To prosecute family orchestration, the law needs evidential and doctrinal tools that recognise how these forces operate.

VI. CONSTITUTIONAL IMPERATIVE: GENDER JUSTICE AND FAMILY ACCOUNTABILITY

Why should Indian law recognize family complicity as distinct culpability? The answer lies in the Constitution. Articles 14, 15, and 21 establish that the state must protect individuals from systemic discrimination and violence.[19] Honour killings are not random murders: they are systematic, family-authorized violence against women who exercise autonomy. If law fails to recognize the family system that authorizes and enables this violence, it fails to provide constitutional protection.

A. Article 14: Equality Before the Law

Article 14 guarantees the state shall not deny equality before the law. In honour killings, this means the state must treat people who commit the same wrong equally. But it does

[18] *Kehar Singh v State (Delhi Admn)* (1988) 3 SCC 609; *State of Maharashtra v Som Nath Thapa* (1996) 4 SCC 659; *Mohd Khalid v State of West Bengal* (2002) 7 SCC 334.
[19] Constitution of India, arts 14, 15 and 21.

not. In Manoj-Babli: brothers who executed the killing received death sentences (later commuted to life). The grandfather who authorized the killing received life imprisonment, then was acquitted on appeal. If both were involved in the same murder project, why did the law treat them differently? Because current doctrine has no adequate way to describe the grandfather's role. Sentencing becomes arbitrary.

More fundamentally, Article 14 equality should protect women from violence. Yet honour killings target women specifically—because they exercise autonomy in choosing partners or refusing marriages. The law's failure to recognize family systems that perpetuate this gendered violence means women are not receiving equal legal protection. Two people (a woman and a man) who marry across caste lines both face honour killing risk. Yet the law treats their murder as generic homicide, not as an attack on their equal right to choose partners. This is an Article 14 failure.

B. Article 15: Non-Discrimination on Grounds of Sex

Article 15(1) prohibits discrimination on grounds of sex. Honour killings are inherently sex-based crimes. They occur because women exercise autonomy (choosing partners, pursuing education, working). Men who marry across caste lines face honour killing too, but women disproportionately bear the burden. The law's failure to recognize this gendered dimension—to treat honour killings as sex-based violence requiring heightened protection—means women are denied equal protection under Article 15.

The family system that authorizes honour killings is built on sex-based control of women's autonomy. Fathers, grandfathers, and uncles decide whom daughters and nieces can marry. The family's 'honour' is measured by control of women's sexuality. When women violate this control, family authority structures authorize punishment, including murder. The law's failure to recognize these family structures as mechanisms of sex-based control means it fails to address the root cause of honour killings patriarchal family authority.

C. Article 21: Life and Dignity

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. In *Justice KS Puttaswamy (Retd) v Union of India* (2017), the Supreme Court recognised privacy as a fundamental right that includes bodily autonomy, dignity, and freedom to make intimate choices.[20] Honour killings violate Article 21 by:

1. depriving women of life;
2. enforcing family control over bodily autonomy and intimate choice;
3. denying dignity in personal relationships.

The Article 21 problem is this: the law protects individuals from state violation of these rights, yet honour killings are perpetrated by families. The Constitution assumes the state is the primary threat to individual liberty. Yet in honour killings, the family—the institution most trusted to protect—becomes the instrument of violence. Article 21 protection is hollow if the law cannot prosecute the family system that violates it. Recognizing family complicity as distinct culpability is not an expansion of Article 21—it is a fulfilment of it.

Synthesis: Articles 14, 15, and 21 create affirmative duties for the state to protect individuals from systemic discrimination and family violence. Current criminal law, which fails to recognize family orchestration as culpable, fails to fulfil these constitutional duties.

VII. EXISTING STATUTORY FRAMEWORKS NOT FULLY UTILIZED

The argument that Indian law lacks adequate doctrines for family orchestration must be qualified: several existing frameworks already operationalize concepts relevant to family-based violence. This section identifies those frameworks and explains how they prefigure the paper's proposed reform.

[20] *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1.

A. The Protection of Women from Domestic Violence Act, 2005

The DV Act provides a limited framework for recognising family-based violence. Section 3 defines 'domestic violence' to include physical, sexual, verbal, emotional and economic abuse, and conduct that harms or endangers the health, safety or well-being of the aggrieved person. Section 2(a) defines the 'aggrieved person' as a woman who is, or has been, in a domestic relationship with the respondent and alleges domestic violence, and s 2(f) defines a 'domestic relationship'.[21] Importantly, the definition captures conduct that creates psychological pressure and coercion, not only physical violence.

Section 17 confers the right to reside in the shared household. Sections 18 and 19 empower the Magistrate to pass protection orders and residence orders respectively; when passing a residence order, the Magistrate may also direct the local police to protect the aggrieved person or assist in implementing the order.[22] The Act thus accepts that the State may intrude on family privacy to protect women.

Critical insight: The DV Act recognizes that family-based control operates through implicit pressure, ideology, and threat, not only explicit orders. In cruelty cases under IPC s 498A (now BNS ss 85–86), courts have likewise treated persistent harassment and psychological pressure as legally significant conduct.[23] This jurisprudence shows that the law can already treat diffuse pressure within the family as culpable.

Application to honour killings, and its limits: The DV Act is, however, a largely civil and woman-centred statute, and relief depends on a domestic relationship. It does not directly reach male victims, such as the partner of a targeted woman, or khap and community actors outside the household. In *Hiral P Harsora v Kusum Narottamdas Harsora*, the Supreme Court struck down the words 'adult male' in s 2(q), so that women and non-adults may now be respondents,[24] but the domestic-relationship requirement remains.

[21] Protection of Women from Domestic Violence Act 2005, ss 2(a), 2(f) and 3.
[22] Protection of Women from Domestic Violence Act 2005, ss 17–19.
[23] Indian Penal Code 1860, s 498A; Bharatiya Nyaya Sanhita 2023, ss 85–86.
[24] *Hiral P Harsora v Kusum Narottamdas Harsora* (2016) 10 SCC 165.

The Act is therefore a limited adjunct, not a solution. Its value for this paper lies in its recognition of implicit family pressure, which the paper proposes to carry into the criminal law of abetment.

B. Bharatiya Nyaya Sanhita, 2023

The BNS, in force since 1 July 2024, largely re-enacts the IPC provisions relevant here. Murder is defined in s 101 and punished under s 103(1); abetment appears in ss 45–60, and criminal conspiracy in s 61.[25] Section 63 of the BNS defines rape and s 109 punishes attempt to murder; neither concerns abetment. Table 1 sets out the IPC provisions discussed in this paper and their BNS equivalents.

The BNS does not create a separate offence of 'family orchestration'. The Department-related Parliamentary Standing Committee on Home Affairs examined the Bill in its 246th Report,[26] but the enacted text retains the IPC's general structure of abetment and conspiracy. Any broader reading of those provisions in contexts of gendered violence must therefore come from judicial interpretation or fresh legislation, not from legislative history.

Table 1: IPC provisions discussed and their BNS equivalents

Subject	**IPC, 1860**	**BNS, 2023**
Common intention	s 34	s 3(5)
Abetment of a thing (definition)	s 107	s 45
Abettor	s 108	s 46
Punishment of abetment where the act abetted is committed	s 109	s 49

[25] Bharatiya Nyaya Sanhita 2023, ss 45–61, 101 and 103(1).
[26] Department-related Parliamentary Standing Committee on Home Affairs, *Two Hundred Forty-Sixth Report on the Bharatiya Nyaya Sanhita, 2023* (Rajya Sabha Secretariat, November 2023).

Subject	IPC, 1860	BNS, 2023
Abettor present when offence is committed	s 114	s 54
Criminal conspiracy (definition)	s 120A	s 61(1)
Punishment of criminal conspiracy	s 120B	s 61(2)
Culpable homicide	s 299	s 100
Murder	s 300	s 101
Punishment for murder	s 302	s 103(1)
Murder by a group of five or more on specified grounds	No equivalent	s 103(2)
Punishment for culpable homicide not amounting to murder	s 304	s 105
Abetment of suicide	s 306	s 108
Cruelty by husband or his relatives	s 498A	ss 85–86

C. Murder by a Group: Section 103(2) of the BNS

Section 103(2) creates a new offence. Where a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other similar ground, each member of the group shall be punished with death or imprisonment for life, and shall also be liable to fine.[27] It is the BNS provision most directly relevant to caste-based honour killings carried out by groups, such as the khap-sanctioned killing in Manoj-Babli.

[27] Bharatiya Nyaya Sanhita 2023, s 103(2).

Its reach is narrow. It does not apply to killings by one or two relatives, or by a single hired killer, which describe many family-led honour killings. Nor is it clear that a family acting to vindicate 'honour', rather than out of hostility to a caste or community, acts on a 'similar ground'. 'Personal belief' and 'any other similar ground' may capture caste-based motives, but courts may read the residuary words as confined to identity-based grounds. The provision also leaves untouched the absent orchestrator who is not one of the five; his liability still depends on abetment (ss 45–60) or conspiracy (s 61).

These limits bear on a live legislative debate. In January 2026, the Governor of Rajasthan returned the Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill, 2019, noting that it referred to the repealed IPC and CrPC and that s 103 of the BNS was sufficient to deal with honour killings, making the State law redundant.[28] This paper takes the contrary view. Section 103 punishes the act of murder; it does not resolve the evidential difficulty of reaching those who orchestrate it from a distance. The BNS therefore narrows, but does not close, the gap.

D. Comparative Jurisdictions

How do other jurisdictions address family orchestration of honour killings? Three examples are instructive.

1. **Pakistan:** The Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act, 2016 amends the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898.[29] Its principal effect is to narrow the compromise route under the law of qisas and diyat, which had allowed family killers to be pardoned by the victim's heirs (wali), often the killers' own relatives. Offences

[28] 'Rajasthan Governor Haribhau Bagade Returns Honour Killing Bill Passed by Previous Congress Govt' *Free Press Journal* (29 January 2026) <https://www.freepressjournal.in/india/rajasthan-governor-haribhau-bagade-returns-honour-killing-bill-passed-by-previous-congress-govt> accessed 21 November 2026.

[29] Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016 (Act XLIII of 2016) (Pakistan).

committed in the name or on the pretext of honour now fall within fasad-fil-arz, and where the court finds that a killing was so committed, it must impose imprisonment for life even after waiver or compounding by the heirs.[30] The lesson for India is the removal of the compromise route that shields family members from punishment, not an expanded definition of abetment.

2. **United Kingdom:** English law has reached family members who did not themselves carry out the killing through the ordinary law of murder and accessorial liability. In the Shafilea Ahmed case, a jury at Chester Crown Court convicted both parents in 2012, and each received a minimum term of 25 years; the prosecution rested substantially on the evidence of her younger sister.[31] In the Banaz Mahmod case, her father and uncle were convicted of murder for ordering and arranging a killing carried out by others.[32] Since *R v Jogee*, accessorial liability requires proof that the secondary party intended to assist or encourage the principal to commit the crime.[33] These cases show that prosecutors can prove family hierarchy through testimony from within the family, and suggest that Indian courts could likewise treat an orchestrator's encouragement as abetment where the evidence supports it.
3. **Canada:** Canada has recently legislated on coercive control. Bill C-332, an earlier private member's bill, did not become law: it was before the Senate when the first session of the 44th Parliament ended in January 2025.[34] The Protecting Victims Act (Bill C-16) received Royal Assent on 18 June 2026 and creates a Criminal Code offence of engaging in a pattern of coercive or controlling conduct towards an intimate partner. Most of the Act came into force on 18 July 2026, but the coercive control provisions take effect no later

[30] Pakistan Penal Code 1860, ss 299(ee) and 311, as amended by Act XLIII of 2016.
[31] *R v Ahmed and Ahmed* (Chester Crown Court, 3 August 2012) (sentencing remarks of Roderick Evans J).
[32] *R v Mahmod* [2009] EWCA Crim 775; *R v Amin* [2014] EWCA Crim 1924.
[33] *R v Jogee* [2016] UKSC 8, [2017] AC 387.
[34] Bill C-332, An Act to amend the Criminal Code (coercive control of intimate partner), 1st Sess, 44th Parl, 2021–25.

than two years after Royal Assent, to allow for training.[35] Because the offence is confined to intimate partners, it does not by itself address parent- or community-led honour violence. More directly relevant is *R v Shafia*, in which a father, his second wife and their son were convicted together of the first-degree murder of three daughters and the father's first wife; the Court of Appeal for Ontario dismissed their appeals, and the Supreme Court of Canada refused leave to appeal on 13 April 2017.[36]

4. **Comparative Lesson:** Other jurisdictions reach family orchestrators through: (1) legislation that removes the compromise route for honour killings (Pakistan); (2) the ordinary law of murder and accessorial liability, applied on evidence from within the family (United Kingdom, Canada); and (3) new offences of coercive control, though these are confined to intimate partners (Canada). India need not invent new law; comparative experience suggests both legislative and evidential paths forward.
5. **Synthesis:** The DV Act, the BNS, and comparative jurisdictions all provide precedent for recognizing family orchestration. The question is not whether Indian law CAN address this: it can. The question is whether it WILL.

VIII. CRIMINAL LAW DOCTRINES AND THE FAMILY COMPLICITY GAP

A. Murder (BNS ss 101 and 103; IPC ss 300 and 302): Individual Perpetrators

BNS s 103 (IPC s 302) punishes murder, as defined in BNS s 101 (IPC s 300): causing death with intent to cause death, or with knowledge that the act is so imminently dangerous that it will in all probability cause death. The doctrine is straightforward: identify who

[35] Protecting Victims Act, SC 2026, c 19; Department of Justice Canada, 'Protecting Victims Act: Legislation to Protect Victims and Keep Kids Safe from Predators' (Backgrounder) <https://www.justice.gc.ca/eng/csj-sjc/pl/c16/> accessed 21 November 2026.
[36] *R v Shafia* 2016 ONCA 812, leave to appeal refused, *Shafia v R* (SCC, 13 April 2017).

caused death and prove their mental state. This works well for individual perpetrators. It explains why executors in honour killing cases are convicted.

But the murder provision is inadequate for family orchestrators. Gangaraj in Manoj-Babli did not cause death directly. He authorized and encouraged it. The law charged him initially, but on appeal the High Court acquitted him. Why? Because murder as a principal requires proof that he caused death. He did not wield the weapon. He ordered others to. That is conspiracy or abetment, which turn on separate and harder questions of proof.

Result: the orchestrator receives lighter punishment than the executor, inverting culpability. Deeper problem: the murder provision assumes individual perpetration. It has no mechanism to recognize that orchestrating murder (using family authority to command it) is a distinct, potentially more culpable form of perpetration. In military law, we hold commanders accountable for authorizing violence, often more harshly than soldiers who execute orders. Yet criminal law applied to family crimes reverses this—executors are convicted more harshly than orchestrators.

B. Common Intention and Conspiracy (BNS ss 3(5) and 61; IPC ss 34 and 120A–120B): Proving Agreement within Family Hierarchies

BNSs 3(5) (IPC s 34) provides that when a criminal act is done by several persons in furtherance of their common intention, each is liable as if he alone had done it. It is a rule of joint liability, not a conspiracy provision, and the common intention may form on the spot. It therefore reaches hired killers and relatives present at the scene. BNS s 61 (IPC ss 120A–120B) defines and punishes criminal conspiracy: an agreement between two or more persons to do an illegal act, or a legal act by illegal means.

Family crimes involve hierarchy, not external agreement. In Manoj-Babli, Gangaraj did not negotiate common intention with the brothers. He exercised family authority to command obedience. The brothers obeyed not because they independently chose to commit murder, but because defying a senior family member's authority was unthinkable. Family obligation, not individual choice, bound them to the crime.

Moreover, although conspiracy need not be proved by an express agreement, the inference must rest on circumstances that point to a meeting of minds.[37] In honour killings, much is implicit. The khap panchayat's public decree was ideological, not a private plan. Family members understood what was required without explicit negotiation. A mother's complaint about a woman's behaviour, a grandfather's disapproving silence, community whispers: these create obligation without leaving the trail of private communications from which courts usually infer agreement.

Result: Family members who enabled the killing through implicit pressure and post-crime concealment are not charged. Only those with explicit roles are prosecuted. Enablers and ideological supporters escape accountability, though their actions (or inactions) were integral to the crime.

C. Abetment (BNS ss 45–60; IPC ss 107–120): Proving Instigation and Implicit Pressure

IPC s 107 (now BNS s 45) defines abetment as instigation, engaging in a conspiracy followed by an act or illegal omission, or intentional aid by an act or illegal omission. Explanation 1 treats wilful misrepresentation or wilful concealment of a material fact as instigation, and Explanation 2 treats acts done to facilitate the commission of an offence as aid. IPC s 109 (now BNS s 49) only prescribes the punishment where the act abetted is committed in consequence of the abetment and no express provision exists. IPC s 114 (now BNS s 54) treats an abettor present when the offence is committed as having committed it.[38] These provisions could apply to family members who encouraged honour killing. But courts require an active or positive act of instigation or aid, with a proximate link to the offence,[39] and that link is hard to prove where pressure is diffuse.

[37] *Kehar Singh* (n 18).
[38] Bharatiya Nyaya Sanhita 2023, ss 45, 49 and 54; Indian Penal Code 1860, ss 107, 109 and 114.
[39] *Amalendu Pal v State of West Bengal* (2010) 1 SCC 707; *Gangula Mohan Reddy v State of Andhra Pradesh* (2010) 1 SCC 750.

In Nitish Katara, D.P. Yadav (father, former MP) never explicitly ordered Vikas to murder Nitish. Yet Yadav's status, his caste-based disapproval, his control of family resources: all created conditions for murder. His authority made his disapproval a command. But because no evidence connected that authority to the killing through a specific act of instigation, he was never even charged.

Core doctrinal problem: In principle, instigation may be by words or conduct, and need not take the form of an express order.[40] In practice, courts look for a clear act of goading or urging with a proximate link to the offence, and diffuse disapproval rarely meets that standard. Yet in family systems, implicit pressure is often more powerful than explicit orders. A father's authority can kill as effectively as a father's order. The law, as applied, does not recognize this.

Operationalization How would courts recognize 'implicit instigation'? Courts already do this in other contexts:

1. **Cruelty and abetment-of-suicide jurisprudence:** Under IPC s 498A (BNS ss 85–86), wilful conduct likely to drive a woman to suicide or to cause her grave injury is cruelty. Under IPC s 306 (BNS s 108), courts accept that a continuous course of conduct can amount to instigation where it leaves the victim with no other option.[41] This jurisprudence ALREADY treats implicit pressure as instigation in law.
2. **Proposed doctrinal standard for honour killings:** A family member abets honour killing when: (a) The family member occupies a position of authority/influence over the perpetrator (father, grandfather, uncle); (b) The family member communicates (explicitly or through conduct) that the target's autonomy violates family honour; (c) The family member knows or should know this communication creates pressure on the perpetrator to act; (d) The perpetrator acts on that pressure. This standard: builds on existing abetment doctrine; uses objective criteria

[40] *Chitresh Kumar Chopra* (n 17).
[41] Ibid.

(position, communication, knowledge); prevents overreach (requires nexus between pressure and action); aligns with DV jurisprudence already developed.

Furthermore, abetment doctrine is sparse on post-crime conduct. A family member who harbors a fugitive, provides false alibis, or intimidates witnesses assists the crime's success. These actions, critical to the crime's ultimate success, are inadequately captured by abetment doctrine. They are treated as separate offences (obstruction of justice) rather than as integral to family orchestration.

Synthesis: The provisions on murder, common intention, abetment and conspiracy (BNS ss 101, 3(5), 45 and 61) can, in principle, reach family orchestrators. In practice they fail, because the proof they require is rarely available where authority, ideology, implicit pressure and systemic concealment operate together. A legal framework adequate to family crimes requires evidential and doctrinal tools that recognize these features as culpable. Courts already possess interpretive tools to do this; they simply have not yet applied them to honour killings.

IX. CASE LAW ANALYSIS: HOW COURTS REVEAL THE DOCTRINAL GAP

A. Shakti Vahini v Union of India (2018)

Shakti Vahini is the Supreme Court's most important statement on honour killings.[42] The Court condemned them as barbarous, rooted in patriarchal family control, and violations of constitutional rights. Yet the judgment reveals the Court's own struggle with existing doctrine. The Court calls for legislative intervention, for Parliament to enact specific legislation addressing honour killings. Why? Because the Court recognizes that current criminal law doctrines are inadequate.

The Court does not explain, however, what is inadequate. It does not identify which provisions fail and why. It simply asserts that honour killings violate constitutional rights

[42] *Shakti Vahini v Union of India* (2018) 7 SCC 192.

and hopes Parliament will fix the problem. This silence is significant. It suggests the Court itself recognizes the doctrinal gap but lacks the tools to address it through reinterpretation.

Yet the Court could have clarified: abetment doctrine should apply more broadly to family pressure; family hierarchy should be recognized as a distinct form of conspiracy; enhanced sentencing should apply to orchestrators. The Court did not make these moves. It deferred to Parliament. This deference, while respectful of separation of powers, also reflects the Court's uncertainty about whether existing doctrines CAN be reinterpreted to fit family crimes.

Significance: *Shakti Vahini* supports this paper's argument. The Supreme Court's call for legislative reform acknowledges doctrinal inadequacy, even if the judgment does not articulate it explicitly. The Court recognized the problem; this paper proposes solutions within existing law.

B. Manoj-Babli: Acquittal of the Orchestrator

Manoj-Babli shows doctrinal inadequacy in action. The khap panchayat publicly decreed the deaths. Gangaraj, as khap head, was responsible for that decree. Yet when charged under Section 120B (conspiracy), the High Court acquitted him on appeal.

The likely reason is evidential. Conspiracy may be inferred from circumstances, but the khap decree was public, ideological, and rooted in family obligation, and it offered little of the private communication from which courts ordinarily infer a meeting of minds. This acquittal reveals the mismatch between crime structure and the way doctrine is proved. Gangaraj orchestrated the killing using family and community authority structures. But conspiracy doctrine, as applied, could not capture this.

Result: the orchestrator was acquitted, while the executors received harsh sentences. Legal outcomes inverted moral culpability. The case demonstrates that existing doctrines—as currently interpreted cannot hold family orchestrators accountable.

C. Nitish Katara: Complete Escape of the Family Patriarch

Nitish Katara shows an even starker gap. D.P. Yadav was never charged with any offence related to the murder. Why? Not because abetment requires an express order, but because no evidence linked his status and disapproval to the killing through any specific act of instigation. Yadav's role was to create family ideology and exert implicit pressure. He did not explicitly order Vikas to murder Nitish. He simply made clear through his status, disapproval, and authority that the relationship was unacceptable.

Current doctrine has no framework for prosecuting this. The father's authority is legally invisible. His role—creating conditions for murder through implicit family pressure—is not recognized as culpable abetment. He walks free, while the son serves 25 years. The law treats the son as a murderer, not as an instrument of family control.

Yet from a gender justice perspective, the father is more culpable. He authorized the killing through family authority. His disapproval of his daughter's choice set the killing in motion. The son merely executed family will. The law's failure to recognize the father's role as culpable represents a failure of gender justice.

Synthesis: Courts are aware of the doctrinal gap (*Shakti Vahini*'s call for legislation). Yet existing doctrines cannot capture family orchestration. Acquittals of orchestrators and non-prosecution of family patriarchs reveal that criminal law, as currently constructed, cannot recognize family complicity as distinct culpability. The question now is how to reform law to address this gap.

X. PROPOSED LEGAL REFORMS: DETAILED MODELS

If the problem is doctrinal if current provisions cannot capture family orchestration—then the solution must also be doctrinal. Three models are available: legislative reform, judicial reinterpretation, or procedural reform. This section details each model and recommends a combined approach.

A. Model 1: Specific Legislation

Parliament could enact a law specifically defining honour killing and creating enhanced liability for family orchestration. Advantages: creates explicit statutory language for family roles; signals normative change; allows differentiated sentencing; provides certainty for prosecutors and courts. Disadvantages: requires Parliamentary action (slow); may face constitutional challenge; is a long-term solution. Statutory home: a new chapter in the BNS, or a standalone Act building on the Law Commission's draft Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011.[43]

Proposed statutory language:

Section [X]. Honour-Based Murder

Whoever commits murder in order to defend or enforce family, caste, or community 'honour' is guilty of honour-based murder, punishable with life imprisonment without remission.

1. **Honour-based orchestration:** A person commits honour-based orchestration if:
    - occupying a position of family authority,
    - they deliberately communicate or create conditions that the victim's autonomy, marriage choice, or personal conduct brings shame or dishonour;
    - knowing or having reason to believe this communication/condition will lead a family member to commit murder;
    - a family member subsequently commits murder of the victim or others.
2. Perpetrators of honour-based orchestration shall be punished with life imprisonment without remission, or death in rarest of rare cases.
3. **Enablers:** Persons who conceal orchestrators, intimidate witnesses, or facilitate post-crime concealment shall be punished with 7-10 years' imprisonment.

[43] Law Commission of India, *Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework* (Report No 242, 2012).

4. **This statutory language:** explicitly defines the offence; distinguishes orchestrator, executor, and enabler roles; assigns appropriate sentencing; provides clear guidance to prosecutors and courts.
5. **Timeline:** Legislative reform would require 2-3 years of drafting, parliamentary debate, and passage. It is a long-term solution but provides greatest legal certainty.

B. Model 2: Judicial Reinterpretation (Recommended)

The Supreme Court could use *Shakti Vahini* and *Puttaswamy* as foundations to reinterpret existing provisions. This approach requires no Parliamentary action for its interpretive steps; builds on existing law; respects constitutional framework; allows case-by-case development. It is more feasible in the short term (1-3 years) than legislative reform. Statutory home: BNS ss 45 and 49 (IPC ss 107 and 109), with a clarificatory amendment to s 45 on aid.

1. STEP 1: Clarify Instigation under BNS Section 45 (IPC Section 107)

The Supreme Court would issue a clarificatory judgment (following the *Puttaswamy* framework) clarifying the application of BNS s 45 (IPC s 107) in honour-based violence contexts:

'Instigation under Section 45 of the BNS (Section 107 of the IPC) includes: (a) Explicit commands to commit an offence; (b) Conduct by a person in authority that communicates the family's expectation of violence, knowing the likely consequence; (c) Persistent communication of dishonour/shame tied to the victim's autonomy, with knowledge that the perpetrator will act on that pressure. Family hierarchy (father, grandfather, uncle) is relevant to whether conduct constitutes 'instigation,' as implicit communication carries weight proportional to authority. Courts shall assess 'instigation' through the lens of family authority structures, not only through explicit verbal orders.'

2. STEP 2: Amend BNS Section 45 to Clarify 'Aid'

Because aid is defined by the third clause of s 45 and its Explanation, and courts cannot enlarge it by interpretation alone, this step requires a short amendment. Parliament should add an Explanation to s 45: 'Intentional aid includes: (a) Direct assistance (providing weapons, transportation); (b) Financial, logistical or community-sanction support for a killing in the name of honour; (c) post-crime concealment arranged before the offence (harbouring the perpetrator, intimidating witnesses, destroying evidence); (d) Silence by family members in positions of authority who could prevent the crime but deliberately refrain from doing so.' Family loyalty creates disincentives to reporting, and silence by authority figures who have power to prevent the crime should constitute intentional aid through omission.

3. **STEP 3: Establish Sentencing Guidelines**

The Court would establish binding sentencing guidelines for honour-based murders:

- **Orchestrators:** Life imprisonment without remission (or death in rarest of rare, per *Bachan Singh* principles); abuse of family authority is an aggravating factor
- **Executors:** Life imprisonment with possibility of remission after 14 years; enhanced from normal homicide due to family-based context
- **Enablers:** 7-10 years' imprisonment for post-crime concealment or intimidation

Courts must provide written reasons explaining sentencing decisions and how they account for family roles.

4. **Constitutional Foundation:**

This reinterpretation builds on existing precedent:

- ***Puttaswamy* (2017):** Expanded Article 21 to include bodily autonomy and freedom from family control
- ***Shakti Vahini* (2018):** Recognized honor killings as violations of Articles 14, 15, 21; called for specific recognition of patriarchal family control

- **DV jurisprudence:** Already operationalizes implicit pressure and family control as legal harms
- **Sentencing precedent (*Bachan Singh*):** Already recognizes 'abuse of authority' as aggravating factor[44]

The reinterpretation is not judicial overreach it is fulfilment of constitutional duties already recognized. It applies existing precedent to a new doctrinal context (family orchestration in homicide cases).

5. **Operationalization**
    - How would courts implement this in practice?
    - When a case involves suspected family orchestration, courts would:
    - Assess whether the perpetrator occupies a position of family authority relative to the victim or executor
    - Examine evidence of communication (explicit or implicit) about the victim's autonomy violating family honour
    - Determine whether the perpetrator knew or should have known that such communication would create pressure to act
    - If these elements are present, charge the family member under BNS s 45 read with s 49 (IPC ss 107 and 109) rather than allowing them to escape prosecution
    - At sentencing, recognize family orchestration as an aggravating factor, resulting in enhanced punishment proportional to orchestrator's role
6. **Limitations**
    - Requires a case reaching the Supreme Court with proper factual record
    - Does not eliminate the need for legislative codification (which provides greater certainty)

[44] *Bachan Singh v State of Punjab* (1980) 2 SCC 684.

- Leaves procedural implementation to trial courts (with guidance from appellate courts)
- DV jurisprudence has already done much of this work; the Court simply needs to apply it to homicide cases

C. Model 3: Procedural Reform

Regardless of substantive doctrine, procedural reforms could improve prosecution of family members. Each has a statutory or judicial home:

1. Mandatory inquiry and monitoring by the National Human Rights Commission of all honour killing cases, including the role of all family members (statutory home: ss 12 and 18 of the Protection of Human Rights Act, 1993, which empower the Commission to inquire into violations of human rights and to recommend steps during and after inquiry)[45];
2. Fast-track or designated courts for honour killing cases (home: High Court administrative orders implementing the directions in *Shakti Vahini*)[46];
3. Witness protection for dissident family members who testify against kin (home: the Witness Protection Scheme, 2018, and s 398 of the Bharatiya Nagarik Suraksha Sanhita, 2023)[47];
4. Stringent rules on evidence collection and preservation, especially family communications (home: s 176(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, which requires forensic examination of the crime scene for offences punishable with seven years or more, and the Supreme Court's supervisory jurisdiction over police).[48]

[45] Protection of Human Rights Act 1993, ss 12 and 18.
[46] *Shakti Vahini* (n 42).
[47] Witness Protection Scheme 2018, approved in *Mahender Chawla v Union of India* (2019) 14 SCC 615; Bharatiya Nagarik Suraksha Sanhita 2023, s 398.
[48] Bharatiya Nagarik Suraksha Sanhita 2023, s 176(3).

These reforms do not require legislative change to substantive law. They can be implemented immediately through judicial directives and police practice.

Combined Effect: Procedural reforms address practical barriers to prosecution (dead victims, fearful witnesses, police negligence). Combined with substantive doctrinal reform (Model 2), they create a complete framework for prosecuting family orchestration.

XI. COUNTERARGUMENTS AND SUBSTANTIVE RESPONSES

A. 'It's Just Murder'

1. **Objection:** BNS s 103 (IPC s 302) already punishes murder with death or life imprisonment. That is sufficient to deter honour killings. New doctrine is unnecessary.
2. **Response:** The paper does not argue that we lack punishment for murder. The argument is that current doctrine fails to recognize and punish family orchestration adequately. The murder provision works for individual perpetrators. It fails for family systems where authority, ideology, and implicit pressure orchestrate violence. If we do not reform doctrine, we will continue to acquit orchestrators and over-punish executors, inverting culpability. This inversion undermines deterrence: it teaches that orchestrators can escape while executors absorb the punishment.

B. 'Family Privacy'

1. **Objection:** Investigating and prosecuting family members invades family privacy, violating Articles 21 and 20(3) (protection against self-incrimination).
2. **Response:** This objection contains a real tension but it oversimplifies the legal landscape. Courts DO recognize domestic privacy (e.g., intimate decisions about marriage). But they have already resolved the privacy-vs-protection tension through the Protection of Women from Domestic Violence Act, 2005. The DV Act explicitly intrudes on family privacy (Sections 12-18) to protect women from family-based violence. Courts have upheld this as a legitimate

exception to privacy rights. Moreover, the objection assumes privacy extends to authorizing violence. It does not. The Constitution prioritizes individual rights (Articles 14, 15, 21) over family 'privacy.' When family control becomes murderous, the state must intervene. Courts routinely investigate family relationships in inheritance disputes, property crimes, spousal violence cases. Prosecuting family murder is not a novel state intrusion it is an extension of well-established precedent.

3. **Specific precedent:** The DV Act itself permits intrusion into the household to protect women, and nothing in the law bars family members from testifying voluntarily against kin. Article 20(3) protects an accused from compelled self-incrimination, including involuntary narcoanalysis and coercive interrogation; it does not shield family members from investigation or from the voluntary testimony of relatives.[49] This jurisprudence already answers the privacy objection: family privacy yields to individual protection from violence. The paper simply extends this logic from DV to homicide.

C. 'False Accusations Will Rise'

1. **Objection:** If courts expand abetment doctrine to include implicit pressure and allow family members to testify against each other, false accusations will proliferate. The burden of proof will collapse.
2. **Response:** This objection needs empirical grounding. Do comparative jurisdictions that prosecute family members for honour killings (Pakistan, the UK, Canada) experience epidemics of false accusations? The available material does not suggest so. UK courts have prosecuted parents and other relatives for honour killings without reported systematic false accusation problems, and criticism of Pakistan's 2016 amendments has focused on

[49] Constitution of India, art 20(3); *Selvi v State of Karnataka* (2010) 7 SCC 263; *Nandini Satpathy v PL Dani* (1978) 2 SCC 424.

whether they change enough, not on false accusations.[50] Moreover, criminal law already has robust safeguards: (1) Burden of proof remains on prosecution (beyond reasonable doubt)—this does not change; (2) Courts assess witness credibility in DV cases constantly and have developed sophisticated doctrines for evaluating family testimony; (3) Perjury is itself a crime, creating incentive for truthfulness; (4) Corroboration through physical evidence, forensics, and communication records (messages, calls) can support family testimony. Furthermore, India ALREADY allows family members to testify against each other in proceedings under the DV Act, in domestic murder cases, and in inheritance disputes. These long-standing practices have not produced false accusation epidemics. The paper simply extends this established practice to honour-killing prosecutions.

3. **Critical point:** The objection conflates 'family testimony' with 'false accusation.' Family members testifying is not inherently false. Courts can assess credibility as they do in other family-violence contexts. The objection is not that family testimony is unreliable, but that false accusations might increase. This is an empirical claim that lacks support in comparative law.
4. **Synthesis of counterarguments:** These objections, while rhetorically appealing, do not withstand scrutiny when examined against existing legal frameworks (DV Act, domestic homicide cases, comparative jurisdictions). They prioritize abstract concerns over documented, systemic violence against women.

XII. CONCLUSION

This paper has argued that Indian criminal law fails to prosecute family members who orchestrate honour killings. The failure is not one of statutory text alone; the BNS provisions on murder, common intention, abetment and conspiracy (ss 101, 103, 3(5), 45

[50] 'View from the Courtroom: Experts See Little Change in Law to Curb Honour-Related Offences' *Dawn* (Karachi, 10 October 2016) <https://www.dawn.com/news/1289149> accessed 21 November 2026.

and 61) are ample. The failure lies in how those provisions are applied and proved. They are rarely applied to family hierarchies where authority, ideology, and implicit pressure orchestrate violence, and the new group-murder offence in s 103(2) does not reach killings by one or two relatives. As a result, courts convict executors (who pull the trigger) while acquitting or lightly sentencing orchestrators (who authorize the killing).

This inversion of culpability reveals a deeper problem: the law fails to recognize family systems as the actual mechanism through which honour killings occur. Constitutional guarantees under Articles 14, 15, and 21 demand a gender-centered legal framework that recognizes family complicity as distinct culpability. This paper has identified existing statutory frameworks (DV Act 2005, BNS 2023, comparative jurisdictions) and sentencing jurisprudence (*Bachan Singh*) that already operationalize concepts relevant to family orchestration. The paper proposes three reform models: (1) specific legislation (long-term); (2) judicial interpretation of the abetment provisions (BNS s 45; IPC s 107), supported by a clarificatory amendment on aid and grounded in DV jurisprudence and constitutional law (short-term, recommended); (3) procedural reforms (immediate).

A combined approach judicial reinterpretation plus procedural reform offers a feasible path forward. This requires the Supreme Court to take seriously its own statement in *Shakti Vahini* that honour killings are rooted in patriarchal family control and to translate that into doctrinal clarity. Jurisprudence would develop case-by-case, providing foundation for later legislative codification. Legal reform alone is not sufficient. Police enforcement, prosecutorial commitment, and cultural attitudes must change together. But legal reform is necessary. Until Indian law holds families accountable for orchestrating violence against women—not just individuals executing violence honour killings will persist. The broader significance extends beyond honour killings to all family-based crimes: domestic violence where family shields perpetrators, child abuse where family enables concealment, sexual assault within families. A legal framework adequate to recognize family complicity as distinct culpability would strengthen

women's protection across multiple domains of law and life. Gender justice demands nothing less.

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