

# COURTING DISASTER

A Report on  
Inter-caste Marriages,  
Society and State.

People's Union for Democratic Rights (PUDR)  
August 2003

## CONTENTS

Preface	1
I. Four Deaths and Five Arrests: An Elopement in Talao <i>an elopement that turned fatal consequences for the dalits</i>	2
II. Two elopements in Narela <i>jaton ki ladki bhagane ki kimat learning from past mistakes: another escape and 'abduction'</i>	5
III. Marriage and Caste	11
IV. State, Caste and Gender	16
V. Conclusion	20
<b>Tables</b>	
1. Price of Love	12
2. Lovers' 'suicides' in Police Custody	<i>back cover</i>
<b>Box</b>	
1. The Law Outlawed	17

2. That charges be registered against family members and panchayat pradhans for their acts of violence against the couple, forcible confinement, and registration of false cases.

In order to protect such couples from family pressure and legal force some changes need to be made to existing procedures. Some of the suggestions exist today, but we find they are not being followed –

1. In case of the registration of a false cases, a couple on the run should be able to record their statement before any court in the country. It should be the responsibility of that court to send such statements to the court/police station where the cases are filed. This would go a long way in preventing families getting control over the couple.
  2. An administrative/judicial body be set up to register testimony of couples who elope and fear harm from their families. Prior checking of such statements be made mandatory before filing of any criminal case against the couple.
  3. Provision for protective custody for women (Nari Niketan) be provided in all areas. Inmates should be permitted to determine which of their visitors they desire to meet. This allows the woman access to women's rights organisations and similar bodies to obtain more long-lasting support, a practice presently disallowed by Nari Niketan authorities. The court that sends women into protective custody should monitor their well-being and release from the custody.
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# Lovers 'Suicides' in Police Custody

*Some Cases Investigated by PUDR*

Date	Place	Boy	Girl	Incident	Alleged crime	Police story	State Action
31.12.95	Azadpur Sabzi Mandi Police Post	Ghulam Md., a Kashmiri selling fruit at mandi. Residing in Delhi.	A married Kashmiri woman. Name not known.	Ghulam Md. eloped with married woman from Kashmir village. Caught by husband's relatives and brought to police post.	Eloping with married woman.	Committed suicide by taking poison in presence of police and her brother-in-law.	Sent woman to remand home. SDM inquiry held. No further action
24.02.96	ISBT Police Post	Ravinder (20), vegetable seller in Modinagar, UP	Allegedly 15 years old. Name not known.	Brought to ISBT Police Post by girl's father who accused him of kidnapping 15 year old daughter	Abduction	Committed suicide by poison within 15 minutes of girl's father's leaving. Girl returned home same day from boy's home	SDM inquiry, viscera analysis. No further action
12.10.00	Mangolpuri PS	Bijender (25) a Labhana Sikh. Clerk in factory.	Reena, a college student from the Jatav community.	Eloped on 25 Sep. when she left home supposedly for college. Charges of abduction filed by girl's family. Married on 8 Oct. Returned home on 11 at his family's advice and surrendered to police.	Abduction	Bijender committed suicide by consuming poison. Four hours later Reena committed suicide by taking poison in PS toilet. Had earlier announced intentions.	ADM inquiry. Crime Branch inquiry into attempt to commit suicide. Vigilance inquiry. SHO transferred

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Instances of marriages against parental diktat commonly called 'love marriages'/ elopements followed by murders, suicides, beatings, forced separations, registration of false criminal cases and arrests have attracted increasing public attention of late. The girl's family usually perpetrates these violent acts that are the visible manifestations of the violation of the individual's freedom to choose a partner. These instances also exemplify the assertion of this freedom by young people. The violence unleashed on couples who reject the community-based rules of marriage, and the complicity of the State in treating elopement as a criminal act, makes the issue a concern of the democratic rights movement. For, it involves a violation of the fundamental rights of life, liberty, and equality, and exposes the huge gap between the rights guaranteed by the Constitution and the lived reality of our society.

PUDR has earlier encountered such incidents while investigating custodial deaths (see *Table: Lovers' 'Suicides'*). In these cases the family was opposed to the relationship, the couple eloped, the family registered cases of abduction, the man and woman were recovered, and then either one or both partners died. Such death(s) (or killings) were often conveniently described as suicide. The worst instance was that of an inter-caste marriage in which the boy as well as the girl committed 'suicide' in custody. In all these cases the police was actively involved in registering love affairs as criminal activity, apprehending the 'offenders' and thus reinforcing the social structures governing marriage. The power to use violence vested with the law enforcing machinery was then directed against the 'offenders' leading to their death. Caste, religious and patriarchal structures in society provided the necessary sanction to these crimes committed by the state. When state commits offences, there is no automatic procedure that forces registration of the crime, on the contrary an entire machinery is set in motion to deny any wrongdoing. Thus proving the existence of state excesses becomes the first, and normally an insurmountable hurdle.

Issues of love marriages, in particular inter-caste marriages, have been taken up by PUDR in the last couple of years. In October 2001 in the case of a love marriage between a jat girl and a dalit boy in Narela, we intervened to stop the harassment of the boy's family at the hands of the police and sent complaints to the police and the SC/ST Commission. The second case was of an elopement and 'suicide' in Jhajjar in June 2002. Our brief investigation was only incidental to a fact-finding into the lynching of five dalits at Dulina in October 2002. In this case we petitioned the NHRC. It was only in the third incident – again of an elopement of a jat girl and a dalit boy in Narela – that PUDR conducted a fact-finding in April-May 2003 and examined violations both by the state and by civil society, as well as explored the interface between the two.

The present report attempts to centrally place the issue of 'love marriages' within the ambit of the democratic rights movement. From this perspective it examines the questions of the rights of women, of dalits, of violations within the family and the community, and of the involvement of the state and its functionaries who share the same biases.

# I. **Four deaths and five arrests** *an elopement in Talao village*

Talao in Jhajjar district of Haryana retains the appearance of a village despite being situated only three kilometres from the district headquarters. The village has a population of about 4000, with 600 households of which 150 are dalit including 70 families of jatavs (chamars), 30 of balmikis (*churhas*), 15 each of lohars, nais and dhanaks, besides 300 jat households. Jhajjar is a reserved Assembly constituency and the present sarpanch, Vijay, belongs to the dhanak caste. The various castes are not clearly segregated spatially into distinctive panas or settlements within the village. Except for a low-lying neglected pana inhabited solely by dalits, houses of jats and dalits are situated adjacent on the same street. Yet the dominance of the jats is amply visible in day-to-day life. A dalit activist who runs a small tailoring shop in the village, attempted to use funds available with the local administration for developmental work in the dalit pana. This was strongly resented and prevented by the jats. Some change is however visible in the economic status of members of different dalit castes. Upward mobility among the jatavs is evident in their pucca houses, some of which at least look as prosperous as the jat households. Some run small shops in the village, others have made use of reservations to secure government jobs, while still others are employed in the army. Many among those working outside still continue to reside in the village and remain vulnerable to the power of the dominant caste.

Codes of behaviour are laid down and enforced through jat panchayats, known as *khap* panchayats, a mechanism whereby the consolidated social power of the jats in rural Haryana is kept alive. The rhetoric and expression of caste and patriarchal sentiments in large, all male gatherings mobilises the whole caste group. When its anger targets those seen as challenging its authority, like the dalits, women or young couples, its power can be awesome and brutal.

It was in this backdrop that in July 2002 Susheela, the 19-year old daughter of Ranbir, a jat who runs a small vegetable shop in the village, eloped with Rajpal, hailing from a dalit household, whose father is a Subedar in the army.

## **An elopement that turned fatal**

On 5 July 2002, Susheela (19) a class eight dropout left home with her 17-year old sister Lalita, a class six dropout, at about 7:45 p.m. and did not return. The next day their father lodged an FIR (No. 298) at Jhajjar police station stating that his daughters had been kidnapped. A case was filed under sections 363, 366 (dealing with abduction and kidnapping), 376 (rape) and 120-B (criminal conspiracy) of the IPC. On the same day residents of Talao including a few dalits went in a group to inform the DC, SP and the DSP that the girls had been abducted from the village.

The DSP, Jhajjar, also a jat and known to be related to the father of the girls, personally led the investigations. The DSP was quick to believe that the girls were actually abducted by the 'dalit boys' as alleged by Ranbir. He immediately returned with Ranbir to Talao and began his investigation. He discovered that a white Maruti van had been spotted in the village on the night of 5 July. Notebooks of the elder girl Susheela revealed that she had written letters to one 'Raja', a code name for someone who turned out to be Bittoo alias Rajpal, a resident of the same village. The police zeroed in on Rajpal, a chamar whose paternal uncle worked in the Maruti factory at Gurgaon. His ancestral house was located in the same neighbourhood as Susheela's

but he stayed there only during weekends since he was at that time living and studying in Gurgaon. Inquiries in the village revealed that Rajpal had indeed come to the village on 5 July and left after picking up his mother. He then went off to attend an army recruitment interview in Agra. But the DSP believes that Rajpal had actually come to take away the girls in a white matador van. Twelve dalits were picked up by the police. Rajpal's chacha and 15-year old brother were among them. Besides, enormous pressure began to be exerted on the dalits of the village by the jats as well as the police. Since the allegation was that the missing jat girls had been forcibly abducted, the jats of the village started threatening the dalit community with reprisal rapes of dalit women. Therefore, on 9 July, 12 dalit men and 3 dalit women submitted a statement to the SP complaining of harassment. However the authorities took no action on this complaint. A version of that statement was published in the *Dainik Jagran* on 10th July and this possibly prompted the girls to return.

On 11 July the girls surfaced in Jhajjar and went to the police station. According to the DSP under sustained pressure built up by the jat community and the police Rajpal had sent the girls back to the village by putting them on to a bus from the ISBT at Delhi with the instruction that they should go straight back to Jhajjar and give a statement to the magistrate. According to him the girls surfaced in Jhajjar and gave an unbelievable and concocted story to the police of how they had got to Delhi.

On 12 July the two girls appeared in the court of the magistrate where Susheela first recorded her statement. According to the advocate for Rajpal and others implicated in the case, Susheela had stated that she left her house with her younger sister on the pretext of going to relieve themselves and went to a place where Rajpal was waiting for them with a vehicle. They first went to Gurgaon and then to Jaipur. When the magistrate asked Susheela if she wanted to say anything more, she said: 'I am married to Bittoo (Rajpal) of my own free will.'

Lalita, the younger sister, gave the following statement: 'My sister wanted to marry Bittoo but she was being forcibly married to someone else.' Lalita also stated that her father beat her for speaking up for Susheela who did not want to marry anyone other than Rajpal. She decided to go with Susheela and Rajpal because she was scared of being beaten again.

The magistrate sent the sisters into the custody of their maternal uncle who took them to Beri village. According to a dalit resident of the village both sisters did not want to go home and sought to go to the Nari Niketan. It is unclear why Susheela was not set at liberty by the court given that she was a major, and in any case why both the sisters were not sent into protective custody given the content of their statements.

The girls returned to Talao on 17 July and were found dead the next morning. They had both died of poisoning in the night. While the family claimed it was 'suicide', women in the neighbourhood told us that they heard the girls cry out for help in the night, arousing a strong suspicion among many people that the girls were forcibly poisoned. The cries were privately confirmed to us by an elderly jat woman who argued that the family had no option but to kill the girls as the two refused to change their statements. The team could not ascertain whether a post mortem was conducted.

According to the DSP, 'unable to bear the ignominy and shame of what had happened to them, [the girls] killed themselves' by consuming rat poison, commonly available in cultivator households. According to him, Susheela had also tried to do so earlier in an apparent suicide pact with Rajpal and poison had been confiscated from her, a story that state functionaries often spin as a post facto justification, which is anyway impossible to verify. The DC, Jhajjar repeated verbatim the DSP's account. He denied the possibility of murder or even abetment to

suicide. His explanation revolved around the girls' inability to withstand the scorn within the family and the community due to the elopement, which led to suicide. No crime was registered and the matter was closed.

Notwithstanding the above story of eloping, 'shame' and 'suicide', and oblivious of the statements recorded by the sisters, the case of abduction and rape against five accused, i.e. Rajpal (Bittoo), and four of his friends – Baljit, Vinod, Rajesh and Jagbir – continues. No statement of either Rajpal or Baljit had been recorded and both were in jail on 14 November. The last three accused have been granted bail. The mere existence of rape and abduction charges in the FIR was sufficient for the judge to keep two accused in prolonged detention considering the 'gravity of the offence'.

According to the lawyer, the enormous social pressure in cases of inter-caste elopements in this region works against the accused in law courts. There have been a few acquittals but the process of law takes a year-and-a-half at the least. Meanwhile Rajpal's house was vandalised with his family having to flee the village.

### **Consequences for the dalits: Two deaths and public humiliation**

Following the discovery that Susheela had eloped with a dalit boy, the jats unleashed their fury on the dalit residents of Talao. One of the first victims was Poonam, a young newly married dalit woman who was a neighbour of the missing girls and was a signatory to the complaint of harassment to the SP, mentioned earlier. She was a friend of Susheela, and perhaps knew Rajpal and had foreknowledge of the elopement. Poonam was therefore a particularly vulnerable target. She was repeatedly interrogated in isolation, also personally by the DSP. Her husband and family were also grilled in custody. The police made imputations of Poonam having been in an illicit relationship with Rajpal and the same were repeated to our team. This insinuation is particularly rewarding: by implying that Rajpal did not love Susheela, it denies the possibility of a love marriage; by implying that Rajpal was of 'loose moral character', it becomes easier to carry through the charge of abduction and rape; and 'loose moral character' is a good reason to scotch any sympathy for the man in jail. Unable to bear the humiliation Poonam committed suicide by hanging on 11 July. (The mother-in-law of Poonam told the NDTV team that she was away cutting grass and so did not know what exactly happened, but perhaps the jats and/or the police scared Poonam as they would come daily and question her.)

The police still took no heed of either the complaint of harassment or of the tense situation in the village. The jat panchayat of Talao was very active throughout the days following the disappearance of the girls. On 11 July, the day after the report on harassment in Talao appeared in the press, the panchayat summoned Rohtas, the dalit activist in the village. He was charged with having brought disrepute upon the village by speaking to the press about the incidents at Talao. The jats were furious with him for having united the dalit villagers and brought their terror tactics in the village to public notice. Rohtas did not accept the charge but considered it expedient to apologize in order to diffuse the tension in the village.

Rohtas was summoned once more on 21 and 22 July, along with Sundar (who works in the local court at Jhajjar according to a report filed by NDTV on October 28, 2002). Emboldened perhaps by their ability to get away with the series of deaths occurring in the village in the elopement case, the community power of the jats was now fully evident. The panchayat severely reprimanded the two. They were fined Rs. 2100 and were publicly beaten with shoes before the jat panchayat. They accepted the punishment, as they feared that Rohtas could be killed. A final Panchayat was held on 29 July at which three elderly dalits were summoned and charged with being complicit in the "abduction" of the girls. A 60-year old man in particular was



accused of having seen the girls go without trying to stop them. His son was also threatened. Both were again summoned before the panchayat the next day. Unable to bear this continuous harassment and fearful of what the morrow might bring, the older dalit (named Hari Singh, according to the NDTV report) committed suicide that same night.

Strained relations and tension were palpable even four months later. Five boys had been arrested, three were out on bail, and two were still in jail. Rajpal's once modestly prosperous house had been vandalized and lay desolate, the family having fled the village. No case was registered in the case of the death of Hari Singh. Nor were cases filed under the SC/ST Act against the members of the police and the *khap* panchayat for the atrocities perpetrated on the dalits.

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## II. Two elopements in Narela

Located in the North-West district of Delhi, Narela is a village that has in recent years expanded into a kasbah. The process of urbanization and its integration into Delhi has meant changes in land use patterns. Agricultural land is now being acquired for markets, bus depots and government offices. The sale of agricultural land has brought ready money into jat households permitting entry into trade and businesses. Narela has expanded in such a way that the dalit pana is now at the center of Narela, surrounded by commercial areas and jat houses. Segregation is now no longer possible, a fact that is considerably resented by the jats. Public interaction between jats and lower castes has also increased with many jats renting out shop-space to dalits. The lack of segregation is perceived as playing a role in elopements between jat girls and dalit boys. We were told that Babita, a jat girl who escaped from her house with a dalit boy Satish in September 2001, used to meet him on her way to college as he worked in a shop adjoining her house. Neelam's eloping a year later with another dalit boy Satish, henceforth Satish-2, is also attributable to the lack of segregation.

The area has also witnessed an alteration in the exercise of caste power due to both dalits and jats moving away from their traditional occupations. The jats, who were predominantly landowners and cultivators, have moved into businesses and government jobs most visibly in the police and the army. In the two cases discussed here, Bijender Singh, Babita's father, is a head constable with the Delhi police, and Neelam's father, Surender Singh runs a tent house business. The two families are related and together operate eight acres of land.

The dalits have also moved away from their traditional occupations as leather workers and agricultural labourers, some of them benefitting from job reservations. Thus Indraj, father of Satish-2, though traditionally a leather worker, is now employed in government service. Among his brothers, the eldest is a government employee and two others are college students. Similarly in the family of Satish one brother has a government job. Many of the dalits are self-employed, with Satish running a small signboard painting business fetching five-six thousand rupees a month, and Satish-2 singing in marriage bands.

Today local dalits constitute only a small section of the agricultural labour employed by jat landowners; most of the labourers are migrants from Bihar and eastern U.P.. Some of the jats we met said they chose not to employ dalits as they made lazy and poor workers. However the reason could also lie in the dalits moving into more remunerative occupations. The change has meant that the jats no longer enjoy the same economic and social power over the dalits. This was evident from the fact that *khap* panchayats have become almost defunct in the area with

both dalits and jats not attending them. From time to time there has also been some dalit mobilisation in the area that has also led to a greater degree of dalit assertion than in Talao.

Increasing instances of inter-caste elopements/love marriages are a new source of inter-caste tension. According to the current SHO of Narela PS, 14 such cases were reported in the last year alone.

### ***“Jaton ki ladki bhagane ki kimat”***

Babita married Satish at the Arya Samaj Mandir in Jamuna Bazaar on 15 May 2001. Satish, a Balmiki by caste, ran a sign painter's shop in Narela while Babita, a jat, was a student at Aditi Mahavidyalaya, Bawana. The marriage was registered at Tis Hazari courts on 22 May. They escaped from home on 17 September and went to Haridwar, and later to Agra. Apprehending pursuit, the couple sent copies of a letter by Babita to the Police Commissioner, Lieutenant Governor and SHO Narela stating that she was marrying of her own free will and without parental consent. Further, that if any harm befell Satish's family in the future, her family was to be held responsible.

Satish had met Babita when she was in the eighth class and used to walk past his shop on her way to school. They knew each other for six years before getting married. Both the families knew about their friendship and the two lovers had been warned. Satish's family had warned him off on the ground that the jat family would never agree. The girl's father had also threatened Satish. The couple were also aware of other such cases of inter-caste alliances, which had ended in tragedy. Despite all dangers they decided to go ahead.

On 17 September itself, even before an FIR was filed, the Narela police picked up Satish's brother Ashok on the pretext of questioning. He was illegally detained at the Narela PS for several hours, badly beaten up and abused. He was threatened, *“Tum churhe chameron ko jaton ki ladki bhagane ki kimat chukani padegi* (you untouchables will have to pay the price of running away with a daughter of the jats)”. The house of Satish's father Raghubir Singh and houses of his other relatives were raided several times. The continuous harassment forced Satish's family to leave Narela. The police harassment in this case is probably linked to the fact that Babita's father Bijender Singh is a police constable and two of her uncles are also in the Delhi police.

On 20 September Babita's grandfather Pyare Lal filed an FIR (No. 342) at PS Narela alleging that Babita was a minor (aged 17) and that she had been kidnapped by Satish with the connivance of his sisters – Pushpa and Savita, both of whom were Babita's college mates. The same day Satish's brother Ashok Kumar petitioned the Police Commissioner and the SC/ST Commission against misuse of office by SHO Narela, police's collusion with Babita's family and police atrocities. Consequently on 29 September 2001 the case was transferred to the District Investigation Unit (DIU), North-West. An inquiry by the Vigilance Department was also initiated.

Meanwhile, Satish's family approached the police with copies of Babita's class 10 school certificate and the marriage certificate, to apprise them of the truth. Both the documents show her to be above 18 years at the time of marriage, with her date of birth as 4 April 1983. They also submitted the copies of Babita's letter to authorities, mentioned earlier.

The police however went ahead with the investigations. The Addl. DCP North-West told PUDR that it was still essential to produce the girl in court to ascertain that she had not been coerced. The DCP (Vigilance) informed our team that the letter and documents certifying age

could easily have been forged. According to him the only valid proof of age was an ossification (bone density) test, which required the physical presence of the girl. Satish's family meanwhile filed a petition in the High Court for quashing the FIR.

The couple resurfaced after a month, on 22 October, with the intention of making a statement in Tis Hazari court. According to Satish, he was forced to return because he had run through his money, and also due to the harassment his family was facing. Babita was whisked away from the court premises before she could reach the magistrate. Satish was threatened by her father and hounded out of the court. Satish tried to register a FIR with the area police regarding the abduction of his wife from the court premises on 22 October, but the police refused. Satish also sent a complaint to the ACP North West that he feared for Babita's safety and that she be rescued from her family as they were likely to pressurize her. The police took no action.

According to the Status Report submitted to High Court by ACP North West district, Babita was "recovered [by the police] through her parents" on 29 October. She had thus already been under the control of her family for 7 days. On 30 October she was produced before a magistrate by her natal family and the police. Her statement was not recorded that day. She was sent to Nirmal Chhaya, a Nari Niketan for protective custody. On 31 October, Babita was produced in court. In the presence of her family she stated that her marriage was forced, however the magistrate recorded her official statement under Section 164 CrPC in private. There she testified that she had gone with Satish of her own free will and that she had stayed in Haridwar as his wife. That she was under family pressure is apparent. She wished to stay on at Nirmal Chhaya and did not want to meet her family members. She had by then undergone the ossification test in the Hindu Rao hospital in Delhi, which put her age between 18 and 20 years. Now that her adult status was medically verified, she was set at liberty by the magistrate. According to the current SHO of Narela PS, Babita expressed the wish to accompany Satish. But Satish was in hiding fearing arrest and could not be present in the court. She was therefore sent to Nirmal Chhaya. The same day Babita's parents took her away from Nirmal Chhaya. It is not clear how this was brought about. The Director, Social Welfare under whom the Nirmal Chhaya functions claimed that the inmate records were classified and refused to divulge any information. In any case, the connections of Babita's family and community coupled with willing state institutions enabled the family to regain control over the girl and determine the outcome of the case. An apathetic court never questioned how a woman sent by it into protective custody was handed over to those whom she feared.

On 7 December 2001 Babita was produced in the High Court following a Habeas Corpus petition moved by Satish. By now she had changed her statement. She refused to go with Satish saying that she did not want to live with him. The court instructed that she would have to move the civil court for divorce. Babita's family had already filed a case for annulment of marriage on 1 December, on the ground that this marriage had been brought about through fraudulent means. On 25 February 2002 Satish filed a civil case asking for the restitution of conjugal rights.

On 20 May 2002 the High Court in its orders on both petitions filed by Satish's family in criminal cases, quashed the FIR alleging kidnapping. But it also ruled that the prosecution in the other cases for annulment of marriage and restitution of conjugal rights would continue "uninfluenced by the fact that criminal proceedings have been quashed".

Currently the two cases for annulment and restitution of conjugal rights are before the family court. While Satish's advocate has presented his case the other side has yet to do so. The

matter keeps getting deferred as the girl's family has been asking for more time. Meanwhile Babita continues to be in the custody of her parents and is seldom seen outside by the neighbours. Babita's mother told our team that she never allowed her daughter to step outside the house after her 12 standard education. This was clearly a bid to deny the incident as she had just told us that college education was at the root of girls' eloping and marrying outside their caste.

Meanwhile, taking cognizance of the complaint filed on 20 September 2001, the DCP Vigilance was asked to appear before the SC & ST Commission in March 2002. In this period the SHO, Narela was transferred. On 25 July 2002 the Commission urged the DCP (NW) to register an FIR against SHO and others and to submit a report on the matter within 15 days. In a reply on 6 September 2002 DCP (NW) stated that the inquiry by the Vigilance Branch could not substantiate the allegations against the SHO Narela and no further action was called for. The report also accused Satish of falsely trying to implicate Bijender Singh and his family using the provisions of the SC/ST Act.

Following the quashing of the FIR Satish and his family have been trying to get a case registered against Pyarelal, Bijender Singh and Babita's uncle Azad Singh under the SC & ST (Prevention of Atrocities) Act for filing a false FIR against his family. The process began on 24 June 2002 by petitioning the police, the Lt. Governor and Chairman SC/ST Commission. On 23 September 2002 Satish Kumar petitioned the National Human Rights Commission. On 11 December the NHRC ordered the DCP, North West District to submit a report within four weeks. Last known, no report had been submitted till February 2003.

## **Learning from past mistakes – Another escape and 'abduction'**

On 14 November 2002, 27 year old Satish-2, a resident of Narela and jatav by caste, left home for work at 11 am. He works as a singer in marriage bands and occasionally as a sign painter. When Satish-2 did not return home that night his family was not unduly worried as the nature of his work often kept him away overnight. To date there is no further news of Satish. On the same day, 20 year old Neelam, a resident of Narela studying at Aditi College and jat by caste, left home for the fields at 11 am. It was only when she did not return home till late in the evening that her family started searching for her. Since then Neelam has been missing. Neelam is Babita's paternal aunt. Her father Surinder Singh and Babita's grandfather Pyarelal are real brothers, a fact that has significant bearing on this case.

Satish-2's neighbours are of the opinion that this is a case of elopement. It was well known that the two had been in a relationship for the last 6-7 years and both families were opposed to the marriage. The SHO Narela too believes this to be true on the basis of the police investigation.

On 29 November Neelam's father Surendra Singh filed a complaint before the Metropolitan Magistrate alleging that Neelam was abducted, raped and ransom demanded by Satish-2 and ten others (Satish-2's parents, 3 brothers, his sister and her husband, the driver of the vehicle, Babita's husband Satish and Satish's brother Jaiprakash). In the complaint he stated that Neelam left home at 11.00 am on the morning of 14 November. When she did not return till late in the evening the family began to search for her. In the course of the search he was "informed by the Accused No.2 Indraj [Satish-2's father] that Miss Neelam was abducted by his son in collusion with other accused". In the complaint it appears that Indraj also gave them the number of the vehicle used for abduction but did not specify the driver's name. It is strange to say the least why Indraj would make a voluntary confession that would implicate his entire



family in extremely serious charges.

Neelam's family alleged that soon after discovering that she was missing they approached the police who refused to take action on the grounds that the girl was a major. The SHO Narela however denies that the family approached him. As per the complaint, on 20 November Surrender Singh received a call from Satish's brother Jaiprakash at 7.00 pm demanding a ransom of Rs. 5 lakhs. Jaiprakash claimed to have abducted Neelam "to take revenge for the adverse statement" made by Babita against his brother Satish. Then Satish came on the line offering that if Babita were handed over to him he would release Neelam. Surrender Singh along with some of his relatives then went to Jaiprakash's house at Panchkuian Road to convince him and Satish to release Neelam. They heard Neelam crying inside. They again approached the police but allegedly did not receive any help. On 24 November Surrender claims to have received a call at 10 pm from Patiala. Neelam was on the line. She informed him that she was being repeatedly raped by Satish-2, his three brothers, his brother-in-law and Satish. She also said that Satish-2 was forcing her to marry him "so that in the garb of marriage he can earn money" and take revenge from Neelam's uncle Pyarelal.

Surrender Singh claims to have then gone to Patiala on 26 November. On reaching there at 6.00 pm he heard Neelam crying loudly. She again repeated that she was being raped and was shouting that she was being coerced to marry Satish-2. He was informed by Satish-2 that he had married Neelam and she would never be released unless Jaiprakash was paid 5 lakhs. According to Surrender Singh, Indraj had initially helped him, but under pressure from the accused he was concealing their whereabouts.

The magistrate ordered a police investigation under S.156(3) CrPC [power of magistrate to order police to investigate a cognizable offence]. On 2 December an FIR (No. 520) was lodged at Narela PS against the eleven people. They were accused of rape (S.176), kidnapping for ransom (S.364a), abducting a woman to compel her marriage (S.366), wrongful confinement (S.344), criminal conspiracy with common intention (S.120B and 34) under the IPC.

Satish-2's family denies any involvement. According to his mother the first inkling that they got that Satish-2's non-appearance on 14th night might be related to Neelam was when an acquaintance who worked in Neelam's family's fields approached her on 15th morning. The woman informed them that Neelam had been missing since the previous day and inquired about Satish-2's whereabouts.

Satish-2's mother told us that on 15 November at the jat family's insistence she and her husband Indraj met Neelam's family at the house of the common acquaintance. Neelam's family informed them that the jats would not do anything provided Neelam and Satish-2 returned home soon. They would quietly marry off Neelam within the jat community while Satish-2 could be sent away from Narela. Neelam's family requested them to keep the matter secret as "*unki izzat ka sawaal tha* (it was a question of their dignity)". For this reason the family had not approached the police to register a missing persons report.

Indraj helped in the search for the couple, which lasted about 15 days to no avail. He also supplied Neelam's family with the addresses of his relatives. One of the houses visited was that of Satish-2's sister in village Gorakhpur, Patiala. Only on 6 December 2002 did Satish-2's family learn that Neelam's family had filed an FIR against them. Indraj and one of his sons were taken to the Narela PS for questioning. Since then the family members have been called to the Police Lines several times and have been detained there from morning till 6 pm. Though they approached the SHO he said that the legal procedures would have to take their course.

The SHO, Narela believes this to be a clear case of elopement. He told our team that such elopements are not infrequent in Narela as inter-caste relationships are not accepted by either community. This is true not only of jat-balmiki or jat-jatav alliances but also of balmiki-jatav relationships. He denied that Neelam's family had approached the police. He attributed it to his image as a non-partisan officer that Neelam's family chose not to involve him and approached the courts straight off. According to him police has raided the houses of Satish-2's relatives in Agra, Panipat and Patiala, which Surendra Singh claimed to have visited following a phone call from Neelam on 24 November. However the police has turned up with no clues. Nor have they discovered anything linking the accused to the disappearance of the girl. Therefore he was not arresting Satish-2's family members or Jaiprakash and Satish as there wasn't a shred of evidence against them.

Neelam's family is not satisfied with the police intervention. By April, a jat elders delegation had already approached the Police Commissioner to shift the investigation to the Crime Branch. The Commissioner reportedly refused saying that the case was being handled by DCP North West. Neelam's family then filed a case in the High Court alleging that the police were not conducting the investigation properly. On 27 May 2003 a "hue and cry" notice carrying Neelam's photograph was issued by the Narela police in the Hindustan Times and the Dainik Jagran. It stated that she had been abducted and asked for news of her whereabouts. On 28 May the High Court passed an order for the case to be shifted to the Crime Branch.

Satish-2's family feel harassed and frightened both for themselves and their son. Satish-2 has not contacted them since he left. He did not have any money with him. They fear for the lives of Neelam and Satish-2 as Neelam's family has threatened to kill them both when found. Satish-2's family believes that the experience of Babita and Satish is behind the couple's prolonged absence.

From the content of their complaint, Neelam's family appears to have learnt from past experience as well. The charges this time are far more serious, implicating the entire family. Continuous court interventions by Neelam's family have led to an incessant pressure on the police to recover Neelam. If this is achieved pressure can be brought to bear on the girl to make her endorse the family's will – in this case the implicating of the 11 accused. If not, at the very least the harassment and intimidation of the accused is ensured.

The above is most clear in the implication of Satish and Jaiprakash, who do not belong to Satish-2's family. For Neelam's (and Babita's) family it serves many ends. They can at one go avenge themselves for the disgrace inflicted on the family not only by this elopement but the previous one as well. Jaiprakash, the person who was instrumental in foiling their attempts to do so earlier, and is pursuing legal and other proceedings is targeted. His status as a government employee makes him especially vulnerable since a day's jail can lead to suspension. By this one move Satish's family can be pressurized to accept the annulment of marriage, withdraw proceedings for 'restitution of conjugal rights' and stop attempts to launch cases against Babita's father and others under the SC/ST Act.

Meanwhile Jaiprakash's petition for anticipatory bail has been turned down by the High Court. Satish's shop in Narela is shut and he takes on sporadic sign painting jobs to earn his livelihood.

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### III.

## Marriage and Caste

In rural Haryana (as also in large parts of western Uttar Pradesh, eastern Rajasthan, Punjab and rural areas of Delhi) most of the agricultural land is owned by jat families. Even though most jat families are small and middle peasants operating 1-2 acres of land, their numerical strength coupled with the fact that virtually all large landowners come from the jats, make this caste-community the main employers of labour. The numerical strength of the community, ownership of land, and the capacity to employ provides to this caste-group an unassailable dominant position in the economic hierarchy. State institutions have furthered this power and the kinship connections have a reach from the local constable to the state and central ministers. This power in society provides to the jats as a caste-group, more than to any other, the capacity to improve their position, and restrain the aspirations or attempts of other groups wishing to climb the economic, political and social ladder.

Practices, codified or otherwise, that determine the membership to the group and specify those to be excluded enable and ensure continuance of a dominant position. Marriage is one such practice and it is only logical that any dominant caste would restrict marriage to within the caste-group (endogamy) to maintain a distinct identity. Kinship relations, integral to the maintenance of material possessions and exercise of power, are also determined through marriage. Both Talao and Narela are situated in the jat belt where marriage among the jats at present is predominantly governed by endogamy within the caste group and taboos concerning the set of *gotras* (clans) that are excluded for persons belonging to a particular *gotra*. In most places marriage within a village is also taboo. In general, while there is an absolute taboo on a higher caste woman marrying a lower caste man, for most hindu communities the reverse is more permissible. The same is true for the jats.

On the flip side, the violation of endogamy on any significant scale affects firstly the property relations within the caste group through inheritance of property due to which the movement of property ownership becomes indeterminate. This can have serious repercussions for the economic status of the caste as a whole. At the level of the family too the impact is most striking in the case where the woman belongs to the more dominant community as in all the three cases investigated. For, the woman can demand her share of the property, given the present-day inheritance laws that provide an equal share to the progeny independent of sex. However, within the caste community, women are as a rule denied their share in the ancestral property and attempts by women to gain their share are virtually non-existent. In an inter-caste marriage such social norms may not be followed and result in the fear that the woman or her progeny would demand their share.

Secondly, inter-caste marriages affect the exclusivity of membership to the caste group. In an inter-caste marriage, the caste of the marital partner, or of the children, is not clearly determined. While social practices determine it to be the caste of the male, judicial pronouncements are not so consistent. In any case, if inter-caste marriages become everyday occurrences, the membership to the caste group necessarily becomes fuzzy. It is therefore not a coincidence that opposition is so marked from the family members of the woman and there too when the woman belongs to a dominant caste group. The cases investigated by us and the box provided stand testimony (see *Table on next page: The price of love*).

It is most natural in such circumstances that the social practice is one where marriages are arranged by the family. Apart from ensuring smooth reproduction of the caste group, this practice additionally provides control over children in the hands of the male elders. This patriarchal

control, which serves as the guiding principle on which family life is based, is wholly in consonance with the requirements of the structures of caste. Both patriarchy and caste feed into each other when the issue at stake is an inter-caste marriage. For such marriages willy-nilly challenge both these structures. So, when a boy and girl take a personal decision to choose their spouse and marry, they may be conscious of the opposition they would face. Yet their decision is neither intended to overthrow nor to challenge patriarchy and caste. In virtually every case the intention of the couple has been to hide for long enough that the ire of the family has abated and then to hope for an acceptance. That this hope has been belied, is probably the reason for the continued absence of Neelam and Satish-2.

<b>Price of Love</b>					
<b>Date</b>	<b>Place</b>	<b>Girl's Caste</b>	<b>Boy's Caste</b>	<b>Fate of Couple</b>	<b>Action Taken</b>
10.99	Isrnaila Village, Rohtak, Haryana	Jat	Lohar	Killed by girl's family. Joined by the Lohars.	
-	Rohtak	Balmiki (Post-Graduate)	Jogi	Eloped to Sonipat to marry in court. CM informed girl's parents. Couple's lawyer forced to withdraw application. Threatened with case of abduction.	
11.1999	Chandigarh, Punjab. (Hailed from Jandiala Village, near Amritsar.)	Jat Sikh	Balmiki Sikh	Boy shot dead by girl's brother & girl swallowed poison.	Girl's brother arrested.
05.2000	Hardoi dist., UP	Upper caste.	Dalit	Girl's family killed four members of boy's family.	
03.2001	Muzzafarnagar, UP	Kureishi (doctor)	Pathan	Girl hacked to death & boy shot dead by girl's brother.	Girl's brother surrendered.
04.2001	Tarn-Taran, Amritsar, Punjab	Jat Sikh	Dalit	Couple committed suicide by swallowing poison.	
06.2001	Bharatpur, Rajasthan	Gumbar	Jat	Suicide by swallowing poison	
08.2001	Alinagar Village, Muzzafarnagar, UP.	Jat	Brahmin	Hanged to death by both families.	7 arrested
07.2002	Talao Village, Jhajjar, Haryana	Jat	Dalit	Girl committed suicide. Boy in jail on rape charges.	Magisterial inquiry declared suicide.
02.2003	Hasanpur Osti Village, Vaishali, Bihar	Lower caste (tailor)	Sheikh	Boy severely tortured- beaten, slashed with razor blades, tied to motorcycle and dragged.	Police denied any knowledge of incident.

**Note:** Data provided above is prepared from newspaper internet editions and is not comprehensive.



The reaction of the family is one of loss of face/honour in society at large and within the caste community in particular. It is at the same time an expression of shock at the overthrowing of parental authority. Both the above find easy sympathy in society, across castes. Satish-2's family, when asked for their reaction in case their daughter eloped, retaliated by saying that daughters of dalit households do not elope. This reaction seems to be both the hurling of an insult to the communities where women have eloped as well as a self-reassuring statement that women were well under control in their community. In any case instances of serious intent by an upper caste male to marry a dalit woman are rare. More widespread are issues of sexual exploitation of dalit women by upper castes.

The question of insult faced by the family is far from being an individual reaction. An entire ideological construct of izzat is built around it. This issue of izzat or honour is integral to the issue of jat-dalit marriages. The ideology of purity of blood (and impurity of other's blood) and izzat are used by the jats to enforce marital codes. Since izzat is maintained through those practices which strengthen the economic and political status of the community within the caste order, and lost through those which weaken it, its basis in the economic and political interests of the caste are apparent. Inter-caste marriages fall in the latter category.

Women become the repositories of honour as it is through their exchange in marriage that the purity of lineage is ensured and the social status of the family and the economic power of the community maintained. After Neelam's elopement Surender Singh's and Pyarelal's families have lost face in the community and been subjected to taunts by the jat community as not one but two of their daughters have eloped. As they told Indraaj, "*unki izzat ka sawaal tha* (it was a matter of their honour)". At stake in elopements and intercaste marriages is the izzat not only of the particular family but of the community as a whole. In Talao when the story of the Susheela- Rajpal elopement was reported in the Dainik Jagran, Rohtas was accused in the panchayat with "*gaon ki badnami kar di*" (you have brought disrepute to the village). Correspondingly the greatest threat to izzat comes from its women. Through her shameful conduct she dishonours her family, clan, caste and community.

Surveillance and control of the mobility and sexuality of its women is therefore essential to protecting the izzat of the community. According to Babita's and Neelam's women relatives the increase in elopements/abductions was to be attributed to girls attending college, a practice that ought to be checked by marrying girls off at the age of 13-14 years. When upper caste women do make personal choices as in the three incidents investigated by us the attempt by the family and the community as a whole is to represent such happenings as the outcome of force or fraud so that they no longer appear to constitute a blow to the izzat of the community. Kartar Singh an influential local jat of Narela informed us that Satish-2 and Neelam had met as he worked in a "music band" shop near her house and she studied in a college in Bawana. According to him Satish-2 "*ladki ko phusla kar le gaya*" (sweet-talked the girl into consent). According to him girls of under 25 were easily susceptible to such influence, the implication being that girls under 25 were governed solely by their sexuality and not in a position to make choices. The explanation went further: "the same 'gang' of dalit boys took her that had taken the 'other' girl a year and a half ago". The notion of an irresponsible female sexuality coupled with the threat of abduction by males provides a double rationale for the family's control of women's marital choices.

It is this same ideology of honour that gives legitimacy to the perpetration of violence against those, i.e. dalits and women, who engage in inter-caste marriages. Infringements against marital and sexual taboos are sought to be controlled through appeals to honour and enforced

through the power of caste, patriarchy, and the state. Violation of these codes can mean separation, humiliation and at worst death to the couple.

In the three cases investigated by PUDR the worst targets of such violence were women. The worst fate was Susheela's whose refusal to change her statement resulted in her death. As Susheela (and Lalita) refused to say that they had been lured by Rajpal and Susheela and insisted on maintaining that she was married to the dalit boy therefore, according to an elderly jat woman, "they *had* to be killed". For her, it was most logical that the girls had to be sacrificed in the interests of reclaiming lost honour of the community. In the Talao incident it was noticeable that not only Susheela but Lalita and Poonam also lost their lives. Even those women who had tangentially infringed caste codes governing marriage were to be taught a lesson. The punishments were clearly aimed at reasserting the authority of the upper caste male elders of the village. Babita might have suffered the same fate but she changed her statement. The reasons behind the recantation in such cases can only be imagined, as once the girl is recovered access to her is strictly regulated by the family. These could range from physical and emotional pressures brought to bear inside the family, to the general societal opposition to intercaste marriages, to an individual realization of the continuing difficulties that such a marriage entails.

The attack on the lower caste boy can be equally vicious; the form and its source, however may be different. For one, the dominant public projection and perception is of the lower caste male as the seducer/deceiver. Therefore the attack is public beating, torture or murder, carried out by male members of the girl's family and caste community. Satish-2 was roughed up in this manner by Neelam's brothers to dissuade him from the relationship. It is therefore not surprising that such relationships are kept secret and the couple should go into hiding. Secondly, use of police to complement societal violence is primarily aimed at the lower caste male. The seducer/deceiver becomes the abductor/rapist; the naive/seduced girl is claimed to be a minor to fit criminal provisions. Beatings in police custody, arrests, jail terms both for the male and his family members are the common forms and can often lead to deaths (see *Table: Lovers Suicides in Police Custody*). These perceptions are apt to change and a romantic liaison of a dalit girl with an upper caste male can end in the projection of the girl as seducer. In a strategic reversal of the same, we found Satish-2's family attempting to resist the projection of their son as seducer by shifting responsibility for the elopement onto the upper caste girl.

The opposition to inter-caste marriages is not limited to the higher or dominant castes. Dalits too are opposed to intercaste marriages. The SHO Narela informed us of a balmiki-jatav marriage where the girl's parents have also filed a case of abduction. Satish and Satish-2's parents were both unhappy with the romantic liaisons of their sons. Maintenance of izzat for them too demanded that children should obtain their spouses within their own caste through parental choice. The families found themselves powerless to force their will. In both cases the children were males who were not financially dependent on the family. The family owned little property: neither could it tempt nor could its denial serve as a threat for the children. Moreover, their urgent concern was fear for the son's (and their own) well-being given the reaction from the jats.

The intensity of the opposition and the ability to enforce its will through the use of violence is far greater in the case of the dominant castes. These castes also have a far greater stake in maintaining the existing hierarchy. This violence is perpetrated and sanctioned both through the use of state power and through social institutions like the *khap* panchayats in the case of jats. The ability to perpetrate violence is in direct proportion to the numerical strength of the

caste, its reach within state institutions, its importance in electoral politics. The closeness to the state ensures that criminal proceeding can be easily evaded when the family and community break the law whether through the filing of false cases or through beatings and murders.

What also emerged in the course of our fact-findings were attempts by both the jats and the dalits to avenge perceived slights to their honour by attacking the honour of the women of the other caste group. In Talao the immediate reaction of the jats to the rumour that the girls had been abducted by a dalit boy was to threaten reprisal rapes of dalit women. These were averted but insinuations were made of the newly married dalit girl Poonam's having been in an adulterous relationship with Rajpal. In the case of the dalits assaults on the honour of jat women were confined to the verbal with jat women being suggested to be morally inferior to dalit women. Satish-2's family asserted that though jat girls were known to elope with dalit boys, dalit girls did not dishonour their community in this manner. Dalit women have clearly been made into the repositories of the izzat of their communities and their right to choose a partner made subject to a caste based patriarchal order.

The issue of izzat is part of the caste contradictions between the jats and the dalits. The conflicts have become sharper due to dalits moving beyond their traditional occupations: some benefiting from reservations while others specialising in crafts required by a changing society. Many jats too are forced to look for employment outside of agriculture, which leads to a competition for the same jobs, particularly in the state sector. In such a context of social strife inter-caste marriages are perceived as another form of dalit assertion. Therefore these marriages become the arena for avenging and reasserting the dominance that is being eroded by the emergence of the lower caste groups. Retribution is thus visited not only on the perpetrators but on the lower caste as a whole. It is entirely in keeping with this that especially targeted are those like Rohtas, Poonam, and Jaiprakash who take recourse to an alternative structure of authority i.e. the civil administration and institutions of democracy.

In Talao the dalit community as a whole was threatened and harassed. Examples were made of those like the old man who was suspected to have a hand in the incident and those like Rohtas and Sundar who had brought dishonour to the jats by bringing the incident to public notice. In the *khap*-panchayat Rohtas was also accused of helping and uniting the dalits. Its possible that the extreme violence and humiliation to which the dalits were subjected in this case were in direct proportion to the jats threat perception of dalit solidarity. In Narela while retribution did not extend to the entire community, family members of both Satish and Satish-2 including the women have been implicated in the charges. Following Neelam's elopement the pressures have become even greater as now it has become a question of the entire jat community's honour with the dalits having dared to eye their girls. If jat dominance is to be reasserted teaching the dalits a lesson has become absolutely imperative after Neelam's elopement.

The forms of reprisal and the agencies through which retribution is meted, as apparent from the examples of Talao and Narela, vary depending on regional differences and the status of the girl's family. The Talao incident suggests that inspite of the proximity to the town, villages in rural Haryana retain the structure of self enclosed village communities with the primary agent of authority remaining the *khap*-panchayat. We were also informed of another case from Jhajjar where in spite of having been married for a year and having a child that a boy and a girl were separated and made to declare that they were brother and sister by the *khap* panchayat.

In the Talao incident it became evident that while the employment of dalits in towns and the greater mobility between the town and the village on the one hand gives dalits like Rohtas

greater opportunities for independent action as in this case via the media and the administration, it also makes for greater vulnerability as they continue to reside in villages and be governed by local structures. Despite the nearness of a civil administration, the near complete political and economic dominance enjoyed by jats in the region ensures that the administration at worst only strengthens such power through acts of commission or at best maintains a studied passivity.

Comparatively in Narela, which is fully integrated into urban Delhi, *khap*-panchayats have lost their authority. The fact that jat concerns are relatively less important in Delhi politics has also ensured that the community cannot exercise its will with impunity and in complete disregard of the law. The same is reinforced by the proximity of appellate bodies like NHRC, the SC/ST Commission and others, the possibility of approaching which can be used to counter jat strong-arm tactics. It is then hardly surprising that in Narela it is through the very use of the law and the state machinery that the jats enforce caste codes in marriage. According to the SHO Mahipal Singh the opposition to inter-caste alliances, elopement by the young couples and registering of FIRs alleging abduction by the girl's family is typical of Narela today. He mentioned other cases, where the girls' families have filed charges of abduction that are currently under investigation.

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## IV. State, Caste and Gender

In the issue of inter-caste marriages, the social power structures of caste and patriarchy have played a role as was expected. Their ultimate aim, that of maintaining a status quo, is put into practice primarily through restraining individuals who consciously or unconsciously challenge these structures. Depending on the acuteness of the threat perceived, the unwillingness of the 'recalcitrant' individuals to repent, and the ability of these structures to use force, the outcome for these individuals and those close to them ranges from threats and humiliation to torture and death.

But the state is duty-bound by the Constitution and the laws to protect the rights of individuals. Implicit among these is the right to choose a spouse without fear of coercion, threat or assault. The state is also enjoined upon by the Constitution to promote the welfare of people by securing and protecting a social order in which justice, social, economic and political, shall inform all the institutions of national life (Article 38). This, in particular, demands a social order free of patriarchy, gender discrimination and caste. The experience of the role of the state-institutions in the context of inter-caste marriages and elopements is shocking. It is not only the scene of crime – from dire threats to real murders, casteist abuse to hounding out – that brings into focus the institutions of the state through their acts of wilful oversight and dereliction of duty. These institutions are also themselves so mired in casteist and patriarchal values that they become active agents in opposing and preventing love marriages.

Concerning love marriages and elopements, the state is expected to play a role in a variety of ways: providing a means for couples to get married against parental wishes; protecting such couples from malicious prosecution; providing protection to such couples from their families and communities in case of threats; prosecution of members of the family/community in case they indulge in offences against the couple.

In two of the cases investigated, the couples were married under the Hindu Marriage Act, 1955. The Act permits marriages between different castes and sub-castes but not across reli-



## The Law Outlawed

Babita and Satish, before marrying, had contacted a lawyer in Tis Hazari known to specialise in getting runaway couples married. The advocate assured them that he had helped several such couples, now living happily together. He had been told of the caste factor and the opposition from family members. He suggested a few precautionary measures so as to avoid any legal entanglements, which were faithfully followed. At his advice the couple got married in an Arya Samaj mandir according to Hindu rites, and were issued a certificate of marriage by the temple authorities. After a lapse of six days they had the marriage registered before a magistrate in Tis Hazari court. The registration was an added precaution to make the marriage doubly 'legal and binding' in a court of law.

The couple then waited for three months to pass before escaping as, in the lawyer's opinion, the marriage could not be dissolved after this period. It was under the advocate's instructions that Babita submitted a written statement to the authorities accompanied by proof of age, stating that she was being forced by her parents to marry against her consent, that she had voluntarily married Satish, that no action be taken if her family members registered a fake case against Satish and his family. Significantly none of these legal precautions, neither the certification of marriage issued by the temple authorities and valid proof under the Hindu Marriage Act, nor the registration of the marriage in court, nor Babita's written statement finally prevented the enforced separation of the couple and the ensuing annulment proceedings.

In the Mandir as well as the marriage registrar's office the couple was made to pay much more than the stipulated amount. The advocate asked Satish to give Rs. 5,000 for the Arya Samaj wedding whereas the actual fee is Rs. 1,500. In the registrar's office they paid Rs 12,000. Such 'love marriages', made prominent by the complete absence of family members, clearly form easy pickings for in-between 'helpers' or touts abetted by an apathetic if not corrupt administration. These 'overhead' charges cut heavily into the Babita and Satish's finances forcing them to return much earlier than planned. The financial costs of a runaway marriage thus can become so high as to cost the marriage itself.

The lawyer too was made to pay the price. He was later roughed up by the Jat family and made to apologise for helping the couple to get married. In the face of caste power, social corruption, administrative collusion and judicial apathy, the law and its practitioners proved to be a bogus ally in young people's attempts to exercise the freedom to choose their partners.

gions. While earlier a provision for parent/guardian consent was included, the same was deleted in 1978 when the minimum age for marriage was raised to 18 years for women and 21 years for men. The Act makes the organising of under-age marriages punishable. Yet once such a marriage is performed, lack of the boy's or girl's consent is no reason for declaring it void. In effect the parents, if they so wish, can conduct an under-age marriage, despite the child's dissent. On the other hand, if a child was to marry of his/her choice against family wishes, the lack of parental consent would render the marriage void. The law thus permits of the use of force in marriage. It is only logical that Babita's family's initial claim was that she was under-age.

In every area of the country a magistrate is empowered to register marriages. The magistrate may conduct the marriage under the Special Marriage Act, 1954 or else register and certify marriages already conducted under religious laws. In each case the magistrate is supposed to verify the age of the couple and that the marriage is voluntary before issuing the

certificate. The certificate is then supposed to serve as proof of the marriage for all legal purposes. Its lack of sanctity was most clearly visible in case of the marriage of Babita and Satish, whose marriage was registered under the Hindu Marriage Act, when the family filed criminal charges against the boy. More of that later, but what is most apparent is that the law is powerless even as a proof before another magistrate that the couple is married (*see Box: The Law Outlawed*). This disbelief applies to the proof of age as well.

In all the three incidents investigated the response of the girls' families has been to file charges of abduction and in two also of rape. It is surprising, the ease with which these charges were filed. It would be only natural that the police after registering the FIR, in its capacity as the investigating authority should check whether the two adult persons have eloped voluntarily. That the charges filed are fraudulent is apparent from the High Court decision to quash the FIR. But that was many months later when the malicious prosecution had already succeeded in its intent and the court decision was merely academic. The cumulative effect of such prosecution has led to an end to these relationships, with Rajpal in jail, Susheela dead, Satish caught up in cases for restitution of conjugal rights and annulment of marriage and Babita confined within her parental home. In Neelam and Satish's case similar processes have been set in motion.

But improper investigation turned out to be just a mild indicator of what was to follow. Investigation implied police custody, torture and casteist abuse for Satish's relatives, and harassment and police custody for a number of dalits of Talao. Police consistently refused to believe any documentary or other evidence to the effect that the disappearance of the girl was voluntary. The aim of the investigation was little other than to procure the girl and to teach the dalits a lesson.

The next rung of the criminal justice system proved no better. The courts were to prevent unnecessary incarceration by setting at liberty those arrested; respecting the decision of the couple and providing them protection; and in the least chastising the police for shoddy investigation, if not charging them for malicious prosecution. The actions taken were its complete opposite. Rajpal was in jail when our team visited Talao. Satish continued to be charged for eight months. Charges against Satish-2 and his family continue for the last eight months. Once the Talao couple surfaced, despite Susheela's pleas to the court for protection from her family, she was handed over to her family. Babita and Satish appeared in court but her family forcibly whisked Babita away from its precincts of the court and threatened Satish. That a court compound was the site of public show of brute power did not lead the court to even record the facts of such incident. Even when the court sent Babita into protective custody, her abduction from there into family custody did not bother the court. The Nari Niketan authorities protect the actions of their staff by claiming secrecy of inmate records. The question of reprimanding the investigation, if it occurred to the judicial mind, was probably outweighed by other considerations even when it was apparent that the entire case was false. Worse still, when Satish's family sought atonement for casteist abuse by the police and launching of false cases by the family of the girl, even the registering of an FIR was refused, notwithstanding recommendations of ST & ST Commission. The DCP and the Vigilance Branch reconstructed the facts in a manner that obliterated their role in the story that started with a love marriage and ended with a confinement. The historical misdemeanours and crimes, if any, were once again merely academic.

Prosecution is immediately called for in case the family/community commits a crime against the couple. In Talao, the police investigation was conducted by a DSP who was related to the

girl's family, the same family which is suspected of abetment to suicide if not murder. It was only natural that it concluded that Susheela committed suicide, that too without compulsion or instigation.

Two aspects stand out most starkly. The first relates to the charge of rape. Allegations of grave crimes have the immediate effect of permitting harsh police action against the accused and others connected to him. In the case of rape charges, it is accepted practice for any defence lawyer to argue consent of the woman to refute this charge. Its success in court is responsible for its continued popularity among defence lawyers. In the case of an alleged elopement/love marriage, the very same argument would have greater acceptability. Moreso when the woman has testified before the judge that she had voluntarily married the accused. Yet Rajpal continues to be charged with rape and continues in jail. Continuation of rape charges only exhibits the opinion of the police and the courts that women lack the right to choose a sexual partner, or else their choice is immature and irresponsible. The family then supplements the same belief through filing for annulment of marriage on the grounds that the marriage was conducted through fraudulent means.

Second aspect is the charge of abduction. The filing of this charge against the boy has been the hallmark of each of the three cases. Police investigations in none of the cases concluded that the charge was false. In Babita's case the accused challenged the charges in the High Court which led to quashing of the FIR. But the lower courts continued with the charge despite Babita's statement to the contrary. A police officer stated that the force works according to a rule of the thumb: if a young woman goes missing, register an abduction charge, for others a 'missing person report' would suffice. What this means in practice is that an adult woman is not permitted to take decisions against parental diktat; that state machinery would be called in the assistance of the family and force her production before the court and her family. The raising the age of marriage is therefore rendered futile as far as the question of the woman's choice of spouse is concerned. (Incidentally, raising the age of marriage was not intended to ensure consent of the couple, it was brought in to lower the population growth rates!)

The antagonism of the state, its institutions and their functionaries to love marriages is clearly not decided by the arbitrary whims of an official in power. It exhibits both a pattern and an intention. Its alliance with the wishes of the caste and patriarchy is aptly seen in its actions. The same was intended.

Despite laws governing marriage allowing for freedom in matrimony, state functionaries too believe in and endorse caste and customary practices like endogamy, both violative of these laws. The current SHO Narela informed us that he believed that inter-caste marriages upset the social balance. He also shared in the concept of izzat believing that the honour of the community is vested in its women. He acknowledged that filing of false FIRs by girls' families was a common practice in Narela in the case of inter-caste elopements but excused it in terms of izzat.

In Susheela and Babita's cases there was direct evidence of police complicity based on ties of kinship as well as caste. Babita's father Bijender Singh is a constable in the police and Susheela's family is related to the DSP Jhajjar, Narender Singh who investigated the case. In both cases caste and kinship connections with state functionaries were successfully used to harass the boy's family, and in Talao the entire dalit community, and pressurising the couple into returning. To this end casteist abuse, continuous raids, interrogation and beating were deployed.

In Neelam's case the attempt has again been to use connections within the state to enforce

caste dominance and marital practices. Media reports, intervention by a number of social organisations and pending complaints before various authorities made it difficult for the police to follow the normal course in this case. The seemingly non-partisan attitude of the local police has not gone down well with the Jat community. The grudge expressed by Neelam's aunt and sisters-in-law that the police response was inadequate given that Neelam's first cousin Bijender Singh is a sub-inspector stands testimony. Since the SHO belongs to the jat community, this was seen as a betrayal of caste solidarity. For them police was expected to act along caste and kinship lines and any legal or state proceedings that did not uphold the community codes were subject to criticism. Failing at the level of the police station, they appealed to the Commissioner to transfer the case to the Crime Branch. It is an indication of the reach of the Jat community within the state and does not auger well for Satish-2's family.

Given that the bias is apparent and undeniable, police officers were willing to go into any lengths of specious arguments. The DCP North West informed our team that a high percentage of policemen being jats especially in the local police station it was to be expected that they shared the caste biases of their milieu. But he did not consider it a police department responsibility to address such biases to ensure proper cognisance and investigation of crimes. If socio-economic realities could only be redressed through social change, would the state stop charging thieves till a more equitable society is established!

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## V. Conclusion

Inter-caste marriages clearly have serious consequences for the status and rights of women and various caste groups in our country. The virulent opposition to such marriages, a direct outcome of a patriarchal caste structure, is a clear indicator of the political implications of these marriages. The relegation of marriage to the sphere of the personal however allows for such violations to be ignored with ease. It is thus noticeable that while caste is an important issue for various political streams and ideologies, the violent opposition to inter-caste marriages finds little expression in the action and pronouncements in our polity. This is hardly surprising as marriage is an issue on which communities brook little interference, making any intervention in support of inter-caste marriages a risky business politically.

The control of the family and caste community over marriage is apparently enough to also make the state lay down its arms. The police and the courts shift the responsibility for their collusion and apathy in cases of inter-caste marriages onto the social milieu and its traditions, of which caste based marriage practices are a fundamental component. The crimes committed by the families are overlooked. The state functionaries exhibit apathy and collusion along caste biases and linkages. The state also exhibits a clearly paternalistic bias in its handling of these cases. Primacy is given to the family, and blatant apathy exhibited towards the testimony and will of the woman resulting in the violation of women's constitutional rights to liberty, equality and dignity. These acts of omission and commission, which in themselves constitute illegalities and crimes, go unpunished. So much so that they come to characterize the very functioning of the police and courts in cases of inter-caste elopements and marriages. In effect, the society, polity and state collude to keep the caste structure intact.

In this context PUDR reiterates the need for the enforcement of existing law –

1. That criminal charges be registered against state functionaries ranging from dereliction of duty, malicious prosecution, beating, torture and confinement, and flouting of court orders.