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# **Justice Outside the Courtroom: A Saga of Resolving Five Decades Vendetta by the Beniwal Khap Panchayat**

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## **Introduction**

The *Panchayats* and *Khap Panchayats* have become buzzwords. However, there are striking differences between *panchayats* and *khap panchayats* but nowadays it has become fashion to use word *panchayat* as affix or suffix to attract attention and to gain social support as this word carries historical sanctity and judiciousness to adjudicate the disputes at the grassroots level. The *panchayat*, that is why, has been accorded the status of *Panch-parmeshwar*, a body of five persons equal to the God. The word *Khap*, on the other hand, has also signified the values of kingless democracy and consensual jury when studied from etymological perspectives. It as a practice evolved from the pragmatic compulsions of agrarian community when the ephors as five magistrates were selected to settle the disputes of communal bonds, matrimonial alliances, theft of animals and agricultural implements and common affairs at the village level. A peep into semi-scholarly and folk literature reveals that such informal arrangement had Spartan courage to fight with royal kings, feudal forces and British Empire. But, alas, their quintessential motives and working ethos have been faded away and they are vestigial traces in perverted form due to significant influence of prejudiced culture and tradition and parochial motives of the rogues and ringleaders at the helm of their affairs. Due to paucity of space and objectives of this paper, these viewpoints could not be explained but the meaning and abridged traits of community mediated justice system need explanation.

## **Meaning and Dispute Settlement Traits of the Khap Panchayats: An Overview**

The *Khap Panchayats* have been stuff of the Media news and events- both electronic and print- for portraying their role in honour killing, torture, excommunication and coercively imposing traditional codes on the young boys and girls when they wish to marry at their will. They, hence, are termed as the kangaroo courts. They have been active in the areas surrounding the NCR Delhi including Western U.P. and Haryana. According to an estimate by a UGC sponsored

Major Research Project there are 233 Khaps/ Pals whose number was calculated on the basis of referred documents but meaning and definition of the Khaps evade unanimity. Despite it, an attempt has been made to present the definitions of the Khaps.

The Haryanvi Dictionary (1985) defines khap in three different ways. These are:

- i. Part or portion of land or farm;
- ii. The masses of a single gotra residing in numerous villages e.g. 24 villages of Gulia Khap; and
- iii. Regional brotherhood.

Joseph, (2007), however, defines khap into two ways:

- (i) Branch, tribe of a race and
- (ii) Faction or party.

According to Dudee (2006), "A Khap stands for a unit of territory, commonly of 84 villages".

Lohati and Lalas (2006) uses five synonyms for the word "khanp", feminine, such as :

- i. Gotra, vansh (lineage);
- ii. caste, varna, distinction (*bhed*),
- iii. Sword ,
- iv. Branch; and
- v. Sheath (Miyan).

Justice Verma Report (2013) which devoted 18 paragraphs on Khap Panchayat and Honour Killings defines Khap as, "a form of grouping, which may comprise of more than one village. Sometimes these villages comprised of people belonging to the same gotra (clan) or caste or multi-gotra or multi-castes".

Yadav (2014) defines khap as, "Political, geographical and defensive-offensive strategy which emerged in the area surrounding the national capital Delhi." Being a historian on the Haryana affairs, he noted that this area witnessed the revolutionary changes caused by the wars, aggression, strife and conflicts. The people formed the khaps to face these bizarre convolutions and these organizations, most probably originated during the medieval period of history. The dominant gotra's person was selected as the leader of the khap. However, all gotras did not form the khaps. The meetings of various khaps evolved their codes of conduct and norms for



regulating the social intercourse. The word *khap* might have had influence of the local dialect over the Persian origin and the word *kshatrap* signifying the Deputy Governor or subordinate.

The *khap* in the words of Pradhan (1966), whose work is frequently cited for reference, is, "a unit of number of villages organized into political council for the purpose of social control". He, however, illustrates the organic linkages among numerous kinship and area based councils. These included *Khandaan*; a minimal lineage council of families of a common ancestor; *Thok*, a maximal lineage council consisted of *Khandans*; *Patti*, a traditional village based council; *Thamba*, a political unit of *Khap* and *Sarv Khap*, a judicial and legislative body of all castes and communities of the region which assembled after a five year period, or earlier, for deliberating on socio-political issues affecting the unity and solidarity of the society as a whole. The actual implementing agencies were the *Thambas* and the *Khaps*.

So, the *Khap* on the basis of its historically acquired inherent values and for the purpose of this study, may be defined as, "an informal archaic self-governing instinctive, hierarchically organized practice; manifested in the relationship bonds of kinship, genealogy, residencies at the village and territorial affinities forming its apex body entitled as "*SarvKhap*" to keep the farming folks united for defending nationalism, tradition, convention and sustaining solidarity and cohesiveness of the community."

An analysis of these definitions show that the *Khaps* are the groups or organizations of the people formed to defend, protect, promote and sustain the cultural and traditional belief system in which they have staunch faith. They are guided by gerontocracy, a system of bureaucracy based on compliance to traditions, customs and folks propagated by the eldest living members of the community. These bodies, contrary to state sponsored and mandated constitutional system or formal jurisprudence, employ certain traits and ethos which are described briefly as under:

- Informal self-governing archaic instinct of the elders ;
- Gerrymandering structure based on genealogical and or territorial tiers;
- An organized in built system of the web of relationships;
- *Motto: Lokraj Lokraj se chalta hai*" (people are sovereign authority);
- Adhoc and transparent functioning with temporary leaders;

- Public trust of the judges are judged by credibility of their family and individual character;
- Conscientiousness, rectitude, character and conduct in terms of fairness and established judiciousness act as essential attributes of arbitrators ( Panch) ;
- Time bound justice delivery wherein Vakeel, Daleel, Appeals (Counsel, ossified method of arguments and Appeals are conspicuously remain absent;
- Voluntary management of justice delivery cost by serving refreshments and feasts which the people consider affordable in terms of formal justice system characterizing it as ADALAT( *Aao, Deo, Lada denge and Ghar me tawa nahi chadhne denge*)
- Spontaneously evolved mechanism to resolve the local disputes;
- Informal procedures of business transaction , not imposed but evolved from the pragmatic considerations of the cases;
- Promoting and sustaining the norm of *bhaichara* ;
- Consensual judgments like jury system of the developed countries ;
- Participation by the all locals of the area ;
- Wider acceptability by the rural people;
- Absence of written record but witness testified by local wisdom;
- Reverence and fear towards decisions as a compliance mechanism;
- Transaction of business on the open space, i.e. on the ground with no sofas and no A.C. room.

From above narrated salient features of the Khaps, we may state that this type of informal justice dispensation divorces itself from rigid formalities and outward trappings of the codified procedures and red-tapism and there are many reasons by which the people have faith in this community mediated justice. We have also seen that it has become an integral part of the philosophy and thought pattern of the masses, and they, more often than not, prefer to avoid legal eagles. There are sundry instances, though all are not necessarily democratic and fair, which show that the Khaps are resolving the disputes in consensual ways so that the parties give their assent and approval and it is not easy to investigate all such disputes. So, we have selected a decision taken by such the Beniwal Khap in Haryana as a case study with a view to understand its intricacies and implications.



### **Profile of the Beniwal Khap/ Pal**

Out of 233 total known Khaps, the Beniwal Khap is an influential Khap. However, in the area surrounding Mathura and Agra, it is known as the Beniwal Pal. There are two known Beniwal Khaps. One is known as Sirsa *Chalisa* means an organization of 40 villages nearby Sirsa. Another is Beniwal Mahapanchayat and it is a registered body. The Beniwal *gotra* persons reside in Haryana, Punjab, Rajasthan and U.P. It is also fact that there is no rigidly to decide the matters strictly according to jurisdiction. Everything depends upon the severity and seriousness of the issue. All Pals/ Khaps unite together if any matter affects them collectively. All the Beniwal Khaps assembled together while deciding the instant vendetta adversely affecting the future and survival of the whole Beniwal clan. As discussed previously that Pal is, more or less, identical and same as the Khap. The jurisdiction of Beniwal Pal extends to 13 villages of Chhata Tehsil of Mathura. They include Kamar, Sirthala, Hulwana, Kadona, Pawarpur, Puthari, Ruthari, Khitawata, Sancholi, Bharokar, BathainKhurd, Godhi Barwari and Mehanaki. At the village level the Pal is further divided into *Thoks*, which are known as a social unit for unity, brotherhood, harmony and closed interaction in a particular territory defined on the basis of socially evolved custom or tradition. Their nomenclature is also based on customary practices, economic and geographical need etc. The *Thoks* of village Karab include- 1. *Pachhim wale* 2. *Panchhaiya* 3. *Daihli* 4. *Brahman* 5. *Khotota* 6. *Dhobati*. Thus, the structure of the Khap is founded on kinship and locality and its dynamic force is brotherhood evolved through centuries. The kinship value of the Khap can be ascertained by the saga of events and circumstances leading to a historic rapprochement scripted between two rival families of the village Darban Kalan.

### **Succinct Demographics of the Village**

A village Darban Kalan falls in Sirsa district of Haryana and witnessed the bloody feuds between two dominant families for five decades. But the *bhaichara* panchayat of the Beniwal gained popularity when it was resolved amicably. This village, initially, was settled by the families of Punia and Jyani Gotras about 250 years ago. Earlier it was under the administrative control of Maharaja Ganga Singh, a ruler of Bikaner Estate. Due to egotism, lack of understanding and misfortune, a wide gap developed between two families of a progenitor leading to miseries, sorrows, terrors, fear and breach of trust. The vindictive attitude and



hounding of the own descendants resulted in criminal acts and events. As per the FIRs registered in the Nathu Sari Chopta Police post, more than 50 criminal cross cases have been lodged for murder, kidnapping, firing, threatening the government employees, smuggling, attempt to murder, keeping weapons illegally. It is also fact that these FIRs have not been registered by the involved parties but someone else. The terror was widely prevalent, so, no one became the witness and the accused were exonerated in all such lodged cases which, by and large, pertained. Both groups were fully patronized by the ruling political parties, either by the Congress or by the Indian National Lok Dal.

But certain reputed persons were craving for the peaceful life for the Beniwal clan. They were determined for rapprochement and launched the initiatives in this direction. These trouble shooting efforts, in fact, are still remembered by the people as an extraordinary instance of community reconciliation.

### **Series of constant Efforts by Beniwal Panchayat spearheaded by Dr. Vedpal Beniwal, a good Samaritan**

While recalling the experience, Dr Beniwal narrated the whole event on November 26, 2014. He was committed to rehabilitate the two families of the Beniwals who were on the bloody warpath for 58 years in which 55 persons lost their lives. For resolving this issue many panchayats held at Panipat in which it was decided to float Shri Beniwal Mahapanchayat Haryana in February 1997. He was offered the position of President. Prior to it, Captain Partap Singh of village Mundhal was elected as the president. In third meeting, I was made treasure. Shri Gulab Singh Beniwal of village Nehla (Fatehabad) shared with me the future implications of six decade vendetta between Beniwal families of Darban Kalan. Then, we got stuck into for intervention. In February 1997 a get together the Beniwal including 145 villages Beniwal hailing from Haryana, Punjab and Rajasthan assembled at Jat Dharamshala Jind. I was elected the president and all committee members were anxious to resolve the bloody dispute of Darban's Beniwal. I was reluctant as I was posted at Jind as District Ayurvedic officer. Then, the people of *Pantalisa* (A cluster of 45 villages) at Jind shared the concern and resolved that the next meeting of Beniwal shall be held at Nathusari Chopta, near Darban Kalan. Both families are resourceful, powerful and influential but desolated by internecine strife. Before conveying the meeting of Panchayat at Nathusari Chopta, we met the affected families and invited them to attend the meeting. The



persons who visited Darban for invitation included Mohinder Singh of village kawi(Panipat), myself, Harichand Nambardar, father of Mohinder Singh, Debi Singh from Samalkha- the then aged 85 year, Ram Mehar, Sarpanch of Shekhpura near Ganaur, Ratan Singh fro Samalkha and Captain Partap Singh of village Mundhal. There were two factions of infighting families. One group comprised Ch. Devi Lal, Mrs. Vidya Beniwal (Ex MLA), and Pawan Beniwal. Another group included Girdhari Zaildar, Amar Singh and Bharat Singh (Ex MLA). Both groups arrived in the meeting with arms. The representative of the Panchayat meekly persuaded them to refrain from carrying the arms in the meeting. Both groups agreed. In consequent meetings, they never came with weapons. Ever members present suggested them to forgive and forget the past and live and let live for cause of peace harmony of the Beniwal community. Respectable people from Haryana and Rajasthan were present. Myself and Mohinder, the then Secretary of "Shri Beniwal Maha Panchayat Haryana" prostrated before the leading members of both factions to go for consensus and compromise for the sake of peaceful life. Dr. Balbir Singh Beniwal, Ex CMO helped us strategically by telling the names of the close relatives of the both families, who, if convinced, could exert pressure upon the warring factions for persuasion and adopting the way to compromise. During those days, the terror of both families was widely known and discussed. No one dared to leave the home after evening. My wife was scared and told me to not to opt the risky route but I was firmly determined to rehabilitate both families. My only dream was to renew the friendly relationship between both Beniwal families-the descendants of a common ancestor. We divided the territory inhabited by the Baniwals and Beniwal relatives of both parties. The means of transport and communication were scarce. We personally visited the fixed villages and convinced the people about the indispensability of negotiable compromise. When the discussions were at the peak I initially declined to intervene due to my promotion to the post of Assistant Director for which I had to stay at Chandigarh and our committed efforts could have been received jolt. A committee comprised the following played a constructive role in resolving this bloody dispute. It was constituted at Pitampura, New Delhi on 15/08/1997 in the presence of 2000-2500 members of Beniwal community drawn from various parts of the country. During marathon discussion, it was unanimously resolved that the community is handicapped to go ahead unless Darban issue resolved.

1. Dr. Balbir Singh Beniwal, Bhattu Kaln, Chairperson;
2. Bharat Singh, Jakholi, Member;



3. Dr. Vedpal, Jind;
4. Mohinder Singh, Kawi, Panipat;
5. Guddu Ram Lamberdar Gatoli, Jind;
6. Rattan Singh Bhapra, Panipat;
7. Ram Mehar, Shekhupura, Panipat;
8. Dayachand Verma, Pitampura, Delhi;
9. Laxman, Narwana;
10. Partap, Bandaheri, Hissar;
11. Hawa Singh, Khedi Meham, Rohtak.

The litigation was going on at the time of rapprochement initiatives. On 15-11-1997, some acrimonious words exchanged between both parties and shoot out at court promises also took place. Dr. Balbir singh Beniwal was scared about imminent danger on the ensuing day and rang up me. He suggested me for intervention with the help of panchayat. I woke up early in the morning. My wife was terrified and asked me: Are you going for to be killed? Then I replied, "If I am killed then people shall pay respect for my sacrifice done for the reviving peace for the Beniwal community and if the compromise looks place then both families and rest of the society shall appreciate my efforts. Under both conditions, I shall attain stature of martyr". I reached at Jat Dharmshala Sirsa where none was present. Then I reached local court Sirsa where the hearing of the case was scheduled. The terrific silence was prevailed in the court campus. Nobody was outside. There I witnessed Mr. Pawan Beniwal, the leader of Devilal Party and Mr. Amar Singh, the brother of Bharat Singh Beniwal. First I persuaded Amar Singh and then pacified Pawan. I gave them an affectionate hug and humbly requested to desist from carrying out firing. They acquiesced to my proposal.

On 16-09-1997 an unfortunate event occurred. Two persons- Father -in -law and son-in-law- assassinated. The situation worsened. I met the advocates of both parties and through them convinced the both parties for resumption of rapprochement initiative. The advocates urged the then judge to adjourn the matter for lingering period so that the propitious circumstances are created for negotiation and compromise beyond the court room at i.e. brotherhood level. I kept



my efforts on and met many influential persons of the area and relatives of both parties. Mr. Ripu Daman S/o Sh. Ramdhan and grandson of Girdhari, the key person in the dispute, to persuade the member of his party involved in the body feud.

### **The compromise reached on November 30, 1997**

These efforts bore the fruit on November 30, 1997, the Sunday when both parties agreed to come on the negotiation table at the school of the village. An era of fear and horrible conditions which lasted for five decades came to the end. The terror was also struck into the hearts of the people as both involved families are having the political clout in the state. Even now the person of these families held hold key position in the respective governments. The trinity represented by Dr. Ved Beniwal (Jind), Dr. Balbir Beniwal (Bhattu Kalan) and Sh. Mohionder Kawi (Panipat) played the role of the good Samaritans to whom the affected family members christened as the angles for surviving their present and next generations to live peacefully on this planet, the earth. The news of this historic event appeared in almost all popular newspapers of that time.

### **Conclusion**

This case study has amply shown that the close kinship and community bonds are social capital assets, and may cement the social fabric if nurtured in constructive and progressive direction with assiduity. The unstinting efforts based on missionary zeal and enthusiasms by the leading members of the society have left an indelible imprint which has corroborated the views of Thomas (1776). He said that society is produced by our wants, and government by our wickedness; the former promotes our positively by uniting our affections, the latter negatively by restraining our vices. The one encourages intercourse, the other creates distinctions. The first a patron, the last a punisher. Society in every state is a blessing, but government even in its best state a necessary evil and in its worst states an intolerable one. The Khaps have earned bad name because they have been hijacked by a band of regressive fanatics, who use the Bhaichara to settle their personal and political scores. The inquisitive researchers, thus, should learn nuances of community based informal justice delivery mechanisms of the Khaps.

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