



CRYING SHAME : HONOR KILLING IN INDIA

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Abstract - When the ability to choose is crushed in the name of class honour and the person's physical frame is treated with absolute indignity, a chilling effect dominates over the brains and bones of the society at large. It is high time that society must understand that there is no honor in killing. Younger generations have been constantly exposed to liberal ideas through the global media, which has led them to start pondering the rigidly imposed beliefs of past societies. The act of Honor killing undoubtedly overlaps with the ingredients of murder but due its gruesome nature it needs to be addressed separately and specifically. In spite of proposing several bills for legislation the government has failed to comply with the promises. This article outlines the severity of the offence, the curtailed rights of innocent people as well as the need for separate legislation and steps undertaken on national and international levels.

Key Words: Honor killing, Class honour, Indignity, Society, Rigid beliefs

1. INTRODUCTION

A nation's level of development is determined by the ideology of its citizens. To end cruel customs like sati, child marriage, untouchability, infanticide, and others, many people had to make enormous sacrifices. It is astonishing, though, that the concept of honor killing, which takes society centuries back, must endure into the twenty-first century. Honor killing, also known as shame killing, refers to acts of violence, usually involving the murder of a family member, carried out by perpetrator(s) who believe that the victim has brought dishonor to the family. These are the acts of vengeance, usually death, committed by male family members against female family members but it doesn't imply that males aren't susceptible to such murders. Since honour is sanctioned by and situated in a social group, any action to restore it after it has been harmed by young couples of a family often involves traditional authorities of these social groups. This includes Khap panchayats in Northern India and katta panchayats in Tamil Nadu. These panchayats usually put the

responsibility for transgression of marital codes on the family; if the family does not act against such a transgression, the whole family stands the risk of being ostracised or punished for the actions of the individual. A woman can be targeted by individuals within her family for a variety of reasons, including refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce- even from an abusive husband. The mere perception that a woman has behaved in away that 'dishonors' her family is sufficient to trigger an attack on her life.¹ According to the Black's Law Dictionary honour killing is defined as "A crime motivated by a desire to punish a person who the perpetrator believes has injured a person's or group's sense of honour."²

2. CAUSES OF HONOR KILLING

The major triggers for honor killings are Cultural norms and traditions: The majority of the population has a negative notion regarding inter-caste marriages let alone interreligion. Despite the changes in lifestyle and advancement of technology, the attitude towards choosing one's partner from a different caste or religion isn't taken positively. Strong caste social systems are prevalent in some cultures. These systems are based on social stratification. In these societies, it is customary to marry within one's caste, create close relationships solely with members of that caste, and stay away from other castes. When these norms are broken, violence, including honor killings, may ensue and turn the lives of innocent couples upside down.

Secondly, Khap Panchayats: They are found in northern states of India particularly Haryana, western Uttar

¹ Human Rights Watch, Honoring the killers. April 2004, vol.16 No.1(E)

² Bryan A. Garner (ed), Black's Law Dictionary, Ninth edition 2009 P. 428



Pradesh, Rajasthan and Punjab. These Khap Panchayats generally consist of members of the upper caste of the society and elderly people who govern the villages by setting out rules and regulations according to the "Gotras" for the residents of such villages. The apex court pointed out that 3% of honor killings were linked to Gotra and the remaining 97% were due to religion and other reasons. The disputed matters are taken up by the Khap and the majority of people in rural areas tend to follow the orders of such Khaps blindly. Surprisingly, they don't have any legal status and therefore can also be referred to as self-proclaimed governing bodies. The members of the Khap panchayat consider that acts which don't abide by their ancient traditions are taboo to the society and they impose penalties or punishment on those who violate the customs. It has been reported that such Khaps have ordered the killing of couples who have had inter-caste or inter-religion marriages or were in a relationship within the same Gotra.

Thirdly, illiteracy and lack of awareness: Many communities may not have a clear understanding of basic human rights, particularly regarding women's rights. This ignorance can lead to the normalization of violence as a means to enforce social norms. Also, individuals may not be aware of the legal rights and protections available to them which can prevent victims from seeking help or reporting abuse. In areas where education is not readily available, especially for girls, there is a lack of awareness about gender equality and the negative impacts of violence which perpetuate cycles of abuse and ignorance.

Fourth, social stigma or divorce: Honor killings may also occur when a woman seeks divorce or separation without the husband's or the extended family's approval. The women are perceived as subjecting the family to public disgrace by disclosing their marital issues to outsiders. It is sometimes considered as an insult to the men who arranged the marriage in societies where families frequently trade things which reflects the dominant patriarchal status of the society.

Fifth, there is evidence that homosexuality and deviating from the conservative pattern of rules about sexual preferences laid down by society can also lead to honor killings as the members of society consider such acts to be a shame for their community. The United Nations High Commissioner for

Refugees states that "claims made by LGBT persons often reveal exposure to physical and sexual violence, extended periods of detention, medical abuse, the threat of execution and honor killing."³

3. STATISTICS

According to the NCRB(National Crime Records Bureau) data, over 100 honor killings are reported annually, though the actual number is likely higher due to underreporting. As per the latest available published information with the National Crime Records Bureau (NCRB), a total of 28 cases in 2014, 251 cases in 2015 and 77 cases in 2016 were reported with motive as Honour Killing (which includes cases registered under murder (section 302 IPC) & culpable homicide not amounting to murder (section 304 IPC) in the country.⁴ Uttar Pradesh has earned the dubious distinction of reporting the highest number of honour killings and love-affair-related murder cases in 2015. A total of 192 cases of honour killing were reported in the country, and out that 131 were alone committed in UP. The National Crime Records Bureau's report for 2020 states that only 25 cases of honour killing were reported in the preceding year. The years 2017 and 2018, allegedly witnessed only one incident of honour killing in India. This shows that honour crimes are being drastically underreported.

Interventions were done by Dalit Human Rights Defenders(DHRD) in 7 states of India. Tamil Nadu DHRDs reported five major cases of honour crimes. These were reported from Madurai, Tirupur, Karur, a village in Thoothukudi district, and Dindigul. The cases are from the years 2016 to 2021. The DHRD from Madhya Pradesh recorded two cases of honour crimes, one each from Chhatarpur district and Damoh. In Maharashtra, two cases of honour crimes (2019 and 2020) were covered by DHRDs. In Uttar Pradesh, only one case was reported by the activists, and this was in a village in Gorakhpur. In Rajasthan, three cases from

³ UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity, II, B. para 14 Archived 7 December 2016 at the Wayback Machine. United Nations High Commission for Refugees.org (21 November 2008). Retrieved 1 October 2011.

⁴<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1540824>



Dausa (2021) and Jaipur (2021, 2016) were reported. Three cases from Bihar as recently as 2021 and are from Muzzafarpur, Dhaka and Rohtas. Four cases of honour crimes were reported in this report from Haryana in 2016, 2017, 2018 and 2020 from Fatehabad, Hisar, Kharkhoda and Rohtak.⁵

3. IMPACT AND PROPOSED LEGISLATIONS :

The acts of violence undermines the integrity of institutions such as the police and judiciary. It hampers the notion of national integration, solidarity and cooperation. It leads to social and economic boycotts while leveling hefty fines on the families of victims and their supporters. It leads to public humiliation and externment from the village, constituted with threats and harassment to the victims which cannot be dealt with by invoking section 302 of the Indian Penal Code alone.

India has no dedicated legislation for honour-based crimes. Currently, these crimes fall under existing provisions of the Indian Penal Code— Section 300 for murder and/or the SC/ST (Prevention of Atrocities) Act and, in non-SC/ST cases under, Section 302 of IPC. In 2012, the Law Commission of India recommended that a separate law be enacted specifically for honour-based crimes. As a part of the report, a bill titled “The Prohibition of Interference with the Freedom of Matrimonial Alliances Bill” was drafted. It contains definitions and punishments specific to honour crimes—for example, criminalising intimidation of a couple. Nothing has yet been materialised out of this report as no MP presented this bill in Parliament. In 2019, the State Government of Rajasthan introduced a bill in the State Legislature modelled on the 2012 Law Commission Report. It was passed in the Rajasthan Assembly in August 2019. This Bill is the only such attempt by a state government to address crimes based on honour, though it is very limited in approach. It still is not an Act, not having been signed off by the Governor.

4. LEGAL FRAMEWORK IN INDIA :

The Indian Constitution has several clauses that support and enable a person to do as and what they

⁵ <https://www.dhrdnet.org/wp-content/uploads/2023/01/Crimes-in-the-Name-of-Honour-A-National-Shame.pdf>

choose as long as they do not infringe upon the rights of others. Certain civic liberties and fundamental rights have been interpreted broadly to allow citizens of India to make decisions for themselves. However, fundamental rights and directive principles of state policy do not always deal with issues and freedoms directly but have to be interpreted in a fashion to allow for the implementation of these liberties and freedoms into ever pervading spheres of life.⁶

Honour Killings are cases of homicide and murder which are grave crimes under the IPC (“Indian Penal Code”). Under the provisions of 299 & 301 of the IPC, culpable homicide not amounting to murder and murder are both made punishable offences. The offence of honour crimes falls within the parameters of sections 299 and 301 because families kill either with the intention to kill or not for the breach of family honour. The punishment for the offence of honour killings or any killings whatsoever for that fact is contained under section 302 of the Indian Penal Code. In past instances, the courts of India have also held the Khap Panchayats and the families as well as the local communities responsible for the offence of honour killings under section 302 of the IPC.⁷

Such murders are violative of Articles 14, 15 (1) & (3), 17, 18, 19 and 21 of the Constitution of India. By the force of Article 14, India puts forth the rule of law which means that everyone is equal before the eyes of law and that no one is above the law., Articles 19 and 21 of the Indian Constitution, which have always been interpreted broadly to safeguard Indian people's lives and way of life, are violated by all such killings. Consequently, any coercive and supportive actions by the offenders, their families, communities, villages, or Khap panchayat violate Articles 19 and 21 and they are punishable under Sections 299 and 300 of the Indian Penal Code.

The Indian Parliament approved the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 to forbid discrimination against India's scheduled castes and scheduled tribes. It also forbids honor killings that are justified by variations in caste.

⁶ <https://www.ijres.org/papers/Volume-11/Issue-5/1105224229.pdf>

⁷ The Indian Penal Code, 1860. Sections 299, 301 and 302



Although this includes the prohibition of formal unions between individuals of other religions, it's against the law as well.

Similarly, the Protection of Human Rights (Amendment) Act, of 2006 establishes the legal framework to shield Indian citizens from numerous activities and situations that might otherwise deprive them of their fundamental rights. Following legal provisions, the National Human Rights Commission and State Human Rights Commission have been established to facilitate access and application of human rights.

5. INTERNATIONAL LEGAL FRAMEWORK :

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. India is a signatory to the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW 1979) and has also ratified the convention. The provisions of CEDAW can be used to argue that the tradition and practice of punishing individuals for ill-informed ideas of dishonoring the family, is essentially institutionalized discrimination against individuals and creates a legally binding obligation for India, as a State party to the convention, to take all measures to end all forms of the practice of honour killing and ensure that all discrimination against women in matters relating to marriage and family relations are eliminated, providing them with the equal right to enter into marriage and to freely choose a spouse and to enter into marriage with their free and full consent. For instance, Article 2 of the said treaty mandates that state parties ratifying the Convention declare intent to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination and take steps to eliminate all forms of discrimination practised against women by individuals, organizations, and enterprises. And Article 16 prohibits "discrimination against women in all matters relating to marriage and family relations." In particular, it provides men and women with "the same right to enter into marriage, the same right freely to choose a spouse," "the same rights and responsibilities during marriage and at its dissolution," "the same rights and responsibilities as parents," "the

same rights to decide freely and responsibly on the number and spacing of their children," "the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation" "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration. Thus, the CEDAW prohibits discrimination against women protecting them as a class or category.

Similarly, the 1948 UDHR (Universal Declaration of Human Rights), states that equality must always be established, upheld, and safeguarded since all people are created equal and no one is superior to another. This declaration safeguards discrimination based on gender and class, and on those grounds, it secures the rights of both genders from assailants who murder them in a bid to protect the family's honor. Articles 1 and 2 of the declaration state that "all human beings are born free and equal in dignity and rights," and that "everyone is entitled to all the rights and freedoms set forth in" the declaration irrespective of "sex". Therefore as enumerated in the declarations Articles 3 and 5, women are entitled to enjoy the "right to life, liberty and security of person" and also the "right to be free from torture or cruel, inhuman and or degrading treatment".

Under Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR 1976)⁸ State parties have to take all steps to ensure the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health", is ensured. The BPFA of 1995 ("Beijing Platform for Action")⁹ which in paragraph 232 states "human rights of women include their right to have control over and decide freely and responsibly on matters relating to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence" and directs the executive authorities to "take urgent action to combat and eliminate violence against

⁸ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3.

⁹ United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference, on Women, 27, October, 1995, available at: <http://www.refworld.org/docid/3dde04324.html>

women, which is a human rights violation resulting from harmful traditional or customary practices, cultural prejudices and extremism.

6. JUDICIAL DECISIONS :

In 2017, a 13-year-old girl was beaten to death and set on fire by her parents after she was found talking with a boy. This was believed to be India's youngest ever honor killing case.¹⁰ Other landmark cases include :

Smt. Chandrapati vs state of Haryana and Ors. (2011) This was the first landmark case where all the five accused were convicted of capital punishment in a honor killing case by the Karnal court. In her verdict, district judge Vani Gopal Sharma stated "This court has spent sleepless nights and tried to put itself in the shoes of the offenders. Khap panchayats have functioned contrary to the Constitution of India, ridiculed it and have it become a law unto themselves." The case was both the first to convict Khap panchayats and the first capital punishment verdict in an honor killing case in India. The marriage union of the victims Manoj and Babli was criticized by their family members along with other villagers. When presented in front of the Khap panchayat, the decision was first made that whoever would be in contact with that couple would have to pay Rs. 25000. The accused involving brothers and relatives of the female carried out the orders of the Khap panchayat to abduct and end the lives of the couple to safeguard the family's honor. The court held those five perpetrators guilty and sentenced them to life imprisonment. "All the accused have since been convicted vide judgment dated 25.3.2010 passed by the Additional Sessions Judge, Karnal. In the judgment, observation has been made that police personnel entrusted for the security of Manoj and Babli had received written request of the victims (Annexures P49 and P50) and left them unattended. They never informed their superiors before leaving the couple unattended. The Court of Additional Sessions Judge has recommended action against these police officials."

In **Bhagwan Das vs State (NCT) Of Delhi** on 9th May 2011, a Division Bench of Justice Markandey Katju and

Gyan Sudha Misra viscerally condemned honour killings in India, saying, "In our opinion honour killings, for whatever reason, come within the category of rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilized behaviour. All the persons who are planning to perpetrate 'honour' killings should know that the gallows await them."

Shakti Vahini vs Union Of India AIR 2018 Supreme Court 1601, (2018) 70 OCR 784

In this case, the three judges bench comprising of the then Chief Justice of India Dipak Misra, Justice AM Khanwilkar and Justice D Y Chandrachud held that any attempt by Khap Panchayat or other assembly to prevent two consenting adults from marrying is absolutely illegal. Also, certain guidelines were issued by the court to curb the practice of honor killing in India:

- That two consenting adults do not require the consent of anyone to get married.
- Any action taken by the Khap panchayat or the family members to restrain the two consenting adults from getting married is illegal.
- 'Class honor', however, perceived, cannot smother an individual's choice, which he/she is entitled to enjoy under our compassionate Constitution.
- Any honor-based crime with an intention to suppress a person's choice to love marriage is illegal. Doing so would violate his dignity, which is against the provisions of **Article 21** of the Indian Constitution.
- When two adults get married out of their own will, they choose their relationship; they have been given this right under the Constitution. So, any infringement of the said right is a violation of the Constitution."

Kartar Singh vs State of Punjab- the court held that "Honor killing hinders an individual's liberty, freedom of choice, and one's own perception of choice."

Lata Singh vs State of Uttar Pradesh and others. 2006 (5) SCC 475 had said that "Honor killings are nothing but barbaric cold blooded murder and no honor is involved in such killings." The Supreme Court while dropping all the criminal proceedings against Singh's husband and her in-laws had gone to the extent

¹⁰ <https://www.standard.co.uk/news/world/girl-13-becomes-one-of-indias-youngest-honour-killing-victims-after-being-beaten-to-death-and-set-on-fire-a3638771.html>



of observing that “inter caste and inter religious marriages should be encouraged to strengthen the social fabric of the society.”¹¹

In *Arumugam Servai vs. State of Tamil Nadu*¹², the Supreme Court strongly deprecated the practice of khap/katta panchayats taking law into their own hands and indulging in offensive activities which endanger the personal lives of the persons marrying according to their choice.

The *Miryalaguda honour killing* refers to Pranay Kumar, a 23-year-old Indian man from the marginalized Dalit community, who had inter-caste marriage and was murdered on 14 September 2018 in Miryalaguda, Telangana, India, in front of his 23-year old wife, Amrutha Varshini, who was five months pregnant. The accused reportedly had a contract for ₹10,000,000 (US\$140,000), paid for by Varshini's father and uncle.

State of Maharashtra vs Eknath Kisan Kumbharkar (2019): It was said that honor killings had become widespread throughout the nation, especially in Haryana, western Uttar Pradesh, and Rajasthan. Young couples in love frequently have to seek safety at police stations or protective houses to escape the wrath of kangaroo courts. It was stated that “We have held in Lata Singh case that there is nothing “honorable” in honor killings, and they are nothing but barbaric and brutal murders by bigoted persons with feudal minds. In our opinion honor killings, for whatever reason, come within the category of the rarest of rare cases deserving death punishment.”¹³

7. REMEDIAL MEASURES

The government needs to commit to abolish caste-based oppression and discrimination as national objectives, with a focus on gender-based and caste-based violence against women, men, boys, and girls

¹¹ SC's conflicting judgement on honour as assessed on 8th december, 2010.

¹² (2011)6 SCC 405

¹³ <https://blog.finology.in/Legal-news/honour-killing-in-india>

acknowledged, and that laws and policies be created to abolish it.

National-level public campaigns should be initiated and encouraged by state agencies and departments to promote equality and challenge caste-based and gender-based discrimination and violence, through schools, colleges, universities and media.

Given the dangers, the state needs to offer quality safe houses designed especially for couples who are being threatened or intimidated by their families. These places would ensure that their whereabouts is kept confidential and that they have access to sufficient protection.

Compensation given to victims must be substantial and support them for the future. All fines collected from the perpetrators must go to a fund to be used for the benefit of the victims.

Need for Legislation: Paramount in India is the need for a dedicated law against honour-based crimes and honour killings.

Convictions for honour killings in India can result in capital punishment. The justification for this is that honour killings are detrimental to the unity and growth of society. However, the death penalty is cruel in itself and is against natural justice. Therefore, more than the severity of punishment, it is the certainty of punishment that is effective.¹⁴

Access to Legal Aid and other Ancillary Services for the survivor and victims of honour crimes. They should have access to free medical care inclusive of therapy and other allied mental health services.

8. CONCLUSION

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by

¹⁴ <https://www.dhrdnet.org/wp-content/uploads/2023/01/Crimes-in-the-Name-of-Honour-A-National-Shame.pdf>



which women are forced into a subordinate position compared with men.” In conclusion, honor killings represent a grave violation of human rights and a disturbing manifestation of gender-based violence rooted in deeply entrenched cultural beliefs. To effectively combat this issue, it is essential to foster a holistic approach that includes education, legal reform, community engagement, and empowerment of women. By challenging harmful traditions and promoting values of equality and respect, societies can create safer environments for all individuals. Governments, organizations, and communities must work together to provide support for at-risk individuals and to establish strong legal frameworks that unequivocally condemn honor killings. Only through sustained efforts and a commitment to change can we hope to eradicate this horrific practice and protect the dignity and rights of every person.

BIOGRAPHIES (Optional not mandatory)

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