

HONOUR KILLING: a dark side of North India!

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I. Abstract:

Honour killings are the brutal act of killing done by families of the family member who is said to have brought shame on the name and honour of the family. According to the data obtained from the United States, out of 5000 cases of honour killing reported internationally, 1000 are from our country India. Whereas the NGOs claim that actual rate is four times this figure I.e. 20,000 cases each year internationally. The patronage of the family and community and lenient laws are the reasons the result of which is the frequent trend of honour killings. This inhuman act also possess socio-cultural legitimacy giving the excuse that it is required for maintaining honour and cultural values in the community. As per the Report on Human Rights Practices for 2019, the most number of honour killing cases are from the northern India especially in states like Punjab, Uttar Pradesh, Haryana and Rajasthan. The major reasons of honour killing are the intolerance of the families to the premarital affairs and matrimonial choices of the females in the family. Offence like honour killing is a result of the State's inability to protect the fundamental rights of its citizens. Honour killings are the violation of the basic human rights and fundamental rights of a person and state is in urgent need to make ways for protecting the victims from such violation. This paper deals in understanding honour killing, its triggers and reasons and the laws which are there to prevent honour killing in India.

II. Introduction:

Honour killings can be defined as the murders or deaths caused by families (*prominently by the male members of the families*) of the member who is said to have brought shame on the name and honour of family and their community. This heinous and inhuman act of killing is justified on the ground that it was necessary to bring purity to the family. The act of honour killing by a family member is not just an act of violence committed in instant anger rather it is a well planned murder committed collectively by all the members of the family who consented it to happen because the victim brought shame to the family. The major reasons of honour killing are the intolerance of the families to the premarital affairs and matrimonial choices of the females in the family. Majorly it is the forbidden inter-caste marriages and love marriages and the leniency of the law that aggravates the situation. The relatives and community members

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are also the ones who constantly pokes the family thereby creating a difficult situation for the female who choose to listen to herself rather than the established norms of society. And in these situations rather than supporting, the family members turns insensitive towards the female and thinks that for securing the family's name and honour, the female must die. India is said to be a democratic country which means that every individual has a right to choose for herself what she wants as long as it is not prohibited by law. But the act of honour killing proves otherwise, as it gives the family a false thinking that it is well under their rights to end the life of their female member as she brought dishonour to their name.

III. Objectives:

The objectives of this research paper are:

1. To do in-depth research about honour killing and its consequences.
2. To examine the triggers which leads to honour killings.
3. To find out what role the law plays in preventing the crime of honour killing

IV. Statement of research problem:

This research paper aims to highlight the heinous crime of honour killing happening across the country, while highlighting the states who has the most honour killing incidents I.e. the northern states of India. This paper will aid in broadening the view of people about love relationships, inter-caste marriages etc. and make them understand the atrocities that the victims of honour killing go through and that it is completely illegal and unnecessary. It highlights the notion that killing is not a way to protect someone's honour rather it is a shameful act which brings nothing but disgrace on the family and community's name. This research paper also study the incidents of honour killing occurred in the northern states such as Haryana, Rajasthan, Uttar Pradesh etc. Finally the paper aims to suggest some remedies and reforms in order to prevent the occurrence of the crime of Honour killing.

V. Research Questions:

1. What are the factors or triggers associated to the occurrence of offence of honour killing?
2. What are the reasons and thinking of people due to which the crime of honour killing is normalized?
3. What are the remedies that law provides to the victims of honour killings?
4. What efforts are being taken to stop the honour killings in the nation?

VI. Honour killing in India:

The act of honour killing has been prominent in India since many centuries, in which the victim is killed by its family members in the name of protecting the honour of the family. The person is laid on the death bed for the reasons such as not accepting the marriage arranged by one's family, marrying a person of other caste or community which is disapproved by the family or for having pre-marital relationships against the wish of the family. This crime of honour killing demolishes in its totality the right of life and liberty that has been guaranteed by the Constitution of India.¹ Justice Deepak Misra while deciding the case *Shakti Vahini V. Union of India & Ors.* said that '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.'² The State is duty bound to protect the fundamental rights enshrined in the Indian Constitution. One such right is provided under Article 21 which is the Right of Life and liberty and an inherent aspect of this right is the freedom of choice in marriage. Offence like honour killing is a result of the State's inability to protect the fundamental rights of its citizens.

VII. Cases of honour killing in North India:

As per the Report on Human Rights Practices for 2019³, the most number of honour killing cases are from the northern India especially in states like Punjab, Uttar Pradesh, Haryana and Rajasthan. This paper mainly focuses on the cases of honour killing in North India.

A. Shakti Vahini v. Union of India & Ors.⁴

In 2010, a petition was filed by a NGO namely Shakti Vahini in which the petitioner sought directions for the Centre and States to put in place a plan to prevent honour killings. The judgment was delivered by a three-judge bench comprising of the former Chief Justice of India, Justice Dipak Misra, Justice D.Y Chandrachud and Justice A.M Khanwilkar. The court stated some directions to be followed while deciding the cases of honour killing; It held that "the cases related to honour killing or violence to couples shall be tried before the designated Court/Fast Track Court and the trial should take place on a daily basis so as to be concluded within six months preferably

1. Article 21 of the Constitution of India, 1950.

2. *Shakti Vahini v. Union of India & Ors.*, 2018 SCC 7 192.

3. US 11 Mar 2020, 45.

4. (2018) 7 SCC 192.

from the date of taking cognizance of the offence. It was further added that these directions should be applied to the pending cases as well. The District judge shall as far as possible assign these cases to one court to ensure speedy trial and disposal thereof.”

In 2018, the apex court delivered this landmark judgment which stated that any act or attempt by the Khap panchayats or any other unauthorized organization to prevent two adults from marrying each other is ‘illegal’. The judgment also added that Khap Panchayats should not take law in their hands and must not assume themselves as the law implementing agency because no authority has been conferred upon them by any law. The court also laid down remedial, preventive and punitive measures for the issue.

B. Manoj & Babli Honour Killing case

On March 2010, a landmark judgment was given by the Karnal District Court in the case of Manoj and Babli. Manoj(23) and Babli(19),two person who belonged from the same gotra, eloped and got married in June 2007. They were killed and thrown near the canal by the family members on which the Khap panchayat assented. It was ordered by the court that the five accused be executed and gave life sentence to Khap panchayat’s head who ordered such killings. While passing her judgment, Justice Vani Gopal Sharma stated that “This court has gone through sleepless nights and tried to put itself in the shoes of the offenders. Khap panchayats have functioned contrary to the constitution, ridiculed it and have become a law unto themselves.”⁵

This was the first case in which the Khap panchayat was convicted and also the first case of honour killing in which capital punishment was given to the offenders.

C. State of U.P. v. Krishna Master and Ors.⁶

In this case the Supreme court gave life sentence to three people involved in honour killing of six members of a family by shooting them with a gun. The brief facts are 15 days before the occurrence of the offence, Sontara daughter of accused Shri Krishna eloped with Amar Singh son of Jhabbu Lal. Shri Krishna after that threatened Jhabbu Lal that if his daughter will not be given back to him, he will kill all the members of his family. After the accused was unable to find his daughter, he murdered the members of Amar Singh's family. The apex court however, didn’t gave death penalty to accused persons as the incident was two decades old and slammed the High court for their acquittal and rejecting the testimonies of a child and other witness.

5. <<http://ibnlive.in.com/news/5-get-death-penalty-in-honour-killing-case/112360-3.html?from=tn>>

6. Criminal Appeal No. 1180 Of 2004, decided on 03rd August,2010

D. Lata Singh v. State of U.P. and Ors.⁷

In this case, the Justice Ashok Bhan and Justice Markandey Katju allowed the writ petition under Article 32 of the Constitution which was filed by a woman Lata Singh for enforcing her right of getting married with a person of her choice with her own will. The facts in brevity are that the petitioner used to live with her brother and after attaining majority she moved out of the house and married a man with her own choice. The brother of the petitioner were against this marriage and started harassing the family of the husband. To end this torture the plea was filed by the petitioner and the court decided that she has a right to choose her life partner and also provided police protection to Lata.

This case highlights how killing and harassment is done in the name of honour and the traumas that individuals have to go through if they wish to marry outside of their caste. Thus this case became a landmark judgment in the legal history.

VIII. Reasons of Honour Killing:

There can be a long list of excuses given by the people involved in the heinous crime of honour killing for explaining what makes them right in doing what they did. But no excuse or reasoning can change the fact that killing of a person in the name of honour is an inhuman, brutal and insensitive act. It is unfortunate that even in the 21st century, the dominance of such thoughts and beliefs that relates love relationships with honour of family are prevalent. Some major reasons that led to the crime of honour killing are stated below:

A. Mentality of People/ Community: No matter if our nation is moving towards development, the mentality of people even today is the same as it was years ago. Marrying someone from different caste, status or religion is still unacceptable and a matter of shame. The pressure from community and family on the person completely neglects his/her right of choice of marriage which is enshrined in the Constitution of India.

B. Illiteracy: The literacy rate of India is 77.7% leaving almost one-third population of the country which is illiterate. One cannot ignore the importance of quality education in solving the major problems prevailing in our country in the name of customs and traditions. People are not aware of their rights and the reliefs they can resort to in cases their rights are infringed due to the lack of education and knowledge. On the other hand, the offenders think committing such offences are completely allowed because of the olden beliefs from which they never evolved due to lack of education.

7. Criminal Writ petition no. 208 of 2004, decided on 07th July, 2006, AIR 2006 SC 2522

C. Lack of Governance: The constant increase in the number of cases of honour killing is because the governance is lacking and has not been able to reach the grass-root level to cure the problem. The society will grow only if the development happens at the lower levels of the nation.

D. Khap Panchayat: A Khap panchayat is an assembly of Khap elders, which is an organization representing the Jat clan. They are found in northern India, particularly among the Jat community of Haryana and Uttar Pradesh. These pachayats have no official government recognition or authority to decide any matter by taking law in their hands. The illegal and unconstitutional decisions given by such committee creates wrong impression in the minds of young generation and also leads to such heinous crimes in the society.

E. Prestige of Every Caste: The belief of individuals that their caste is the best of all, their religion is the best, their community is the best etc. is one of the major reason that results in the crime of honour killing. The members of family find it very difficult to accept that their child has accepted a person of other caste or religion as his/her partner as they have the notion that any other caste apart from their own is substandard.

IX. Triggers of honour killing in north India:

The reasons that becomes the triggers for the occurrence of crime of honour killing are:

1. Loss of virginity before marriage
2. Infidelity
3. Premarital pregnancy
4. Refusing a marriage arranged by the family
5. Seeking divorce and custody of child
6. Being in a relationship unapproved by family
7. Eloping to get married with someone against wish of family
8. Leaving the marital home without permission
9. Falling victim to rape

These are only few triggers I could find due to which honour killings happen, but the list isn't exhaustive and the reasons for occurrence of this crime are different at different places and regions.

X. Legislations that criminalize honour killing :

A. The Constitution of India:

The Indian Constitution has been the basic document and guiding force which vests fundamental and constitutional rights to its citizen. There are numerous rights under

Constitution that gets violated when this barbaric act of honour killing is committed. The rights which are violated are:

1. The violation of Article 14 of the constitution which talks about Equality before law.
2. Article 15(1) and (3), Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
3. Article 19 which provides for Protection of freedom of Speech and expression.
4. Article 21 which provides for Protection of life and personal liberty, and
5. Article 39(f) which states that it is the duty of state to protect children and young people from abuse and moral and material abandonment.

B. Indian Penal Code:

Currently there is no separate provision that criminalize honour killing, but there are other provisions under which this act can be penalised. These are:

1. Section 299-304: The sections penalises any person guilty for murder and culpable homicide not amounting to murder. For murder the criminal is awarded life imprisonment or death and fine whereas for culpable homicide it is life imprisonment or imprisonment upto 10 years and fine.
2. Section 307: The section penalises the act of threatening to kill for which the criminal is awarded imprisonment upto 10 years and fine. If a person gets injured, the punishment can be extended to life imprisonment.
3. Section 308: The section penalises the attempt to commit culpable homicide and the sentence is imprisonment upto 3 years or fine or both. If a person gets injured, the punishment can be extended upto 7 years imprisonment or fine or both.
4. Section 34 and 35: The section penalises when several persons are involved in doing a criminal act having a common intention.
5. Section 120A and 120B: The sections penalises all person who are participants of criminal conspiracy.
6. Section 107-116: The sections penalises anyone who is involved in abetting murders, including murder and culpable homicide.

The continuously rising cases of honour killings and the people speaking up against this cruelty, have finally awoken the legislation. According to the home minister, the central government proposed to amend the Indian Penal Code and make Honour killing a 'distinct offence'. But the impact of this amendment is yet to be studied, if this will help in making any difference to the present condition and in preventing this barbaric act.

C. Indian Evidence Act, 1872:

The Indian Evidence Act provides penalties for those involved in concealing evidences, either before or at the time or after the occurrence of suspected crime.

D. The Indian Majority Act, 1875:

The Indian Majority Act comes into play when the Khap Panchayats of families of the couple tries to split the married couple by using force and threats, while both the person were eligible for such marriage I.e. have attained majority.

These situations breach the provisions enshrined in this act. Under Section 3 of the act, every person residing in India shall upon completion of 18 years of age, attain majority, which means the person has the right to take decisions for himself/herself.

E. The Special Marriage Act, 1954:

The main reason for the enactment of this Act was to provide for a special form of marriage for Indian people residing in India or in foreign countries, irrespective of the religion or faith practised by either person who intends to get married. This act comes into action as a savior for when the couple is separated because they belong to a different caste, religion or faith due to the community's belief that such a marriage is void or a sin.

Furthermore, the government also proposed to revoke the 30 day notice period which is currently provided under this act for inter-community marriages, as this period is said to be misused by the families and khaps to destroy, threaten and forcibly separate the couple.

F. The Protection of Women from Domestic Violence Act, 2005:

The Protection of Women from Domestic Violence Act provides for overall enforcement of the rights of women enshrined under the Indian constitution, who are victims of abuse of any kind that occurs in a family, and of matters connected thereto and incidental with it.

If we go on and logically analyse the legislations, it would be apt to state that our country has ample laws that either directly or indirectly penalises the act of honour killing and make it a criminal offence. The problem is not the lack of standalone law but the lack of strict implementation of the existing laws in order to prosecute the offenders. On the contrary, a separate law could assist the court in better framing of charges and delivering punishments. But then also the strict implementation of such provision will be required.

XI. Conclusion:

I would conclude this paper by stating that Protecting one's honour should never mean sustaining its honour at the cost of another's life and liberty. An individual thought and choice of a woman be it a mother, wife, sister or daughter cannot be ignored and curtailed in the name of honour by applying physical force or threats and causing mental cruelty to the woman. The choice of how and with whom a woman wishes to live her life is her decision to make and disapproving or questioning on such decision is harming her self-respect and honour. Such acts of eliminating a woman's choice are done by the fathers and brothers in the name of protecting their "family honour" are extremely insensitive and brutal.

It is worthy to go through the court's judgment in the case of *Lata Singh V. State of U.P.*⁸, the court observed that 'India is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve such inter-caste or inter-religious marriage the maximum they can do is that they can cut-off social relations with the son or daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage.'

The bench further added that 'we sometimes hear of "honour" killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.'

8. (2006) 5 SCC 475