

INDIAN JOURNAL OF LEGAL REVIEW



VOLUME 3 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



Indian Journal of Legal Review [ISSN - 2583-2344]

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 3 and Issue 1 of 2022 (Access Full Issue on – <https://ijlr.iledu.in/volume-3-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

HONOUR KILLING- A CRITICAL ANALYSIS OF THE SOCIAL AND MORAL ASPECT OF THE CRIME

Authors: Maram Deepika, Students of Symbiosis Law School, Hyderabad

Best Citation - Maram Deepika, HONOUR KILLING- A CRITICAL ANALYSIS OF THE SOCIAL AND MORAL ASPECT OF THE CRIME, Indian Journal of Legal Review (IJLR), 3 (1) of 2023, Pg. 205-211, ISSN - 2583-2344.

ABSTRACT

The issue of Honour Killing has been following humans like a shadow and has been haunting their lives constantly. Every citizen of this country has to be responsible and aware of his own rights. No person should try to infringe the right of another person. A man or a woman has a right to live a life of their choice with liberty and dignity. No person should try to have a control on the other person's decisions or actions. Killing a human being might be for family honour or any other reason is wrong. So, the more people become aware of such a crime and understand how wrong it is to take a person's life for reasons like family honour and prestige the more they will be able to sympathise, empathise and as fellow citizens become responsible and fight for those facing such problems. So, this study will be useful for the people and the society at large.

So, the researcher took up this topic to understand the crime and the points which trigger a person's mind to commit the crime and to understand and analyse how morally and ethically the act is wrong. This research would also help the Judiciary to improve the law and bring necessary changes in the legal system to abolish such a crime. It would help the researcher understand the real problem and estimate the mindset of a particular person or community committing the crime.

PART I

Introduction

Women are victims of various crimes one of which is 'Honour Killing'. To assassinate a person maybe for family honour or a cultural tradition is termed as Honour killing or crimes of honour. Living in the 21st century these kinds of crimes keep on haunting women both in urban and rural areas in India. As Phyllis Chesler and Nathan Bloom write, "Honour killing is the premeditated murder of a relative (usually a young woman) who has allegedly impugned the honour of her family."⁴⁷³ Not only women even men have been victims of this crime but mostly women are the victims.

Males in some cases consider women as their property. They are ill-treated. This so called 'property' is totally in control of the male who feels he is the owner. The concept of ownership has turned women into a commodity which can be exchanged, bought and sold. This is the problem. Women are treated as commodities and not human beings who have dignity and equal rights to those of men, this thought is deeply rooted in tribal culture.⁴⁷⁴ It's not only women who have been victims of this crime, men also were victims in some cases like in cases of inter-caste marriages. Definitely, the legal system has to make stringent laws to curb the crime and it is even the responsibility of the people of the country to be understand that every individual has a right to live with liberty

Research Questions

- What is Honour killing and whose honour is at stake?
- What are the social reasons which might influence a person to commit the crime?

⁴⁷³Sneha Annavarapu, *Human Rights, Honour Killings and the Indian Law: Scope for a 'Right to Have Rights'*, 48 Economic and Political Weekly 50 (2013).

⁴⁷⁴Anushree Tripathi & Supriya Yadav, *For the Sake of Honour: But Whose Honour - Honour Crimes against Women*, 5 (Asia-Pac. J. on Hum. Rts. & L. 63 2004).

- How far is the crime of honour killing prevalent in Islamic and Western States?
- What are the legal provisions available to curb this crime?

Research Objectives

- To understand the basic concept of honour killing and who are the main victims of such a crime.
- To study and analyse the various social and moral factors which influence and trigger the mind of an Individual to commit the crime.
- To understand the existence and prevalence of this crime in Islamic and Western States.
- To analyse various Indian and foreign incidents of Honour killing to understand the moral and cultural aspects and how the law is responding to such cases.

Research Methodology

The method of research which the researcher has used and wants to use for his further research is doctrinal in nature. To understand the topic well and analyse various incidents and cases of this crime the researcher believes doctrinal approach is what is required. The scope of the study is wide and the researcher does not want to limit his research methodology to only descriptive but even qualitative and quantitative research as he is keen at providing statistics to understand the intensive nature of the crime and how necessary it is to put an end to such a crime.

Sources of Data

The researcher used various secondary sources like journal articles to understand the concept and definition of honour killing. Many newspaper articles were referred by the researcher for analysing various cases related to the crime. Various articles were used to analyse the statistical data related to the crime. A number of case laws related to honour killing

were gathered from various research papers and books written by various renowned authors.

Significance of study

This issue of Honour Killing has been following humans like a shadow and has been haunting their lives constantly. Every citizen of this country has to be responsible and aware of his own rights. No person should try to infringe the right of another person. A man or a woman has a right to live a life of their choice with liberty and dignity. No person should try to have a control on the other person's decisions or actions. Killing a human being might be for family honour or any other reason is wrong. So, the more people become aware of such a crime and understand how wrong it is to take a person's life for reasons like family honour and prestige the more they will be able to sympathise, empathise and as fellow citizens become responsible and fight for those facing such problems. So, this study will be useful for the people and the society at large

So, the researcher took up this topic to understand the crime and the points which trigger a person's mind to commit the crime and to understand and analyse how morally and ethically the act is wrong. This research would also help the Judiciary to improve the law and bring necessary changes in the legal system to abolish such a crime. It would help and

Literature Review

The topic taken up for researcher needs case-based analysis. To analyse the crime and the reasons for the same the researcher referred to case laws and various journal articles. The journal articles used for research are "***Honour Killing as a Crime in India-Cause and Solutions***"⁴⁷⁵ by Seied Benjamin Hosseini is an article which talks about legal provisions available and related to the crime of honour

⁴⁷⁵Seied Benjamin Hosseini, 'Honour Killing as a Crime in India-Cause and Solutions', Research Gate Publications (2015).

killing. It gives a glance of the definition of honour killing and what acts are considered dishonourable by the community or family.

The news articles used for research to analyse the statistics of the crime are ***"Honour killings: More than 300 cases in last three years"***. Another research article which the researcher used and wishes to use for his future research is ***"Honour Killing in India: An Assessment"*** by Vipin Kumar Singhal which introduces the topic of Honour Killing and talks about the various legal aspects and supreme courts point of view on the topic. It also discusses about various case laws related to the topic. The researcher also referred an article named ***"Same Problem, Different Solutions: The Case of 'Honour Killing' in Germany and Britain"*** which was an article which talks about the various perceptions of people with regard to the causes of honour killing in different countries like Germany, Britain. ***"Critical Study on Honour Killing"*** is a research article by Saksham Sharma which gives a detailed study of the various reasons for committing the crime and the legal aspect of the topic.

PART II

'Murder' or 'forced suicide' of a person is what is called honour killing. It is a cultural and a global phenomenon. Honour killing is not a new problem which originated recently. It is a social problem which originated in the age old customs that have been practised in various cultures. Honour is closely related to respect and standing in the society, therefore it was very seriously dealt with and women were considered the repository of her family's honour.

Background

There has been 300+ honour killing cases in 2014, 2015 and 2016 years. In the year 2014 there were 28 cases of honour killing and in 2016 there were 76 cases recorded and it was in the year

2015 that the highest number of cases were recorded that is 251.⁴⁷⁶

According to (The News, Islamabad, May 30,2003) in the first six months of the year 2002 a total of 624 women were killed in the name of honour. Out of this number 274 were killed by husbands, 90 killed by brothers, 34 of the victims were mothers who were killed by their sons, and 64 killed by relatives including uncles, first cousins'. In the year 2003, 1,261 cases of honour killings were reported in Pakistan and the incidents of crimes against women went up by 50 percent. Other than the fact that hundreds of women made way to the country's Parliament, there was no let-up in the miseries of women who are killed in the name of honour.

Reasons for Honour Killing

Moral and Social aspect - (Keyhani) writes in an article that "Honour killing can be compared to acts like acid throwing and stove burning which are based on revenge and greed to protect the honour and prestige of the family." This action is backed by a moral reasoning that is, if a woman acts in a way that is deemed improper, the patriarchal culture often excuses the male's attempts to do whatever he can knowing that it is wrong to reclaim his own honour, the society always points out that it is the mistake of the women but never tries to point a finger at the actions of the male.⁴⁷⁷The authoritative nature of the male towards the women can be observed here and it is understood that women as a part of the family have no voice and no independent decision making freedom. They are completely denied of their rights and simply act as servants in their own family. The rights like Right to life and personal liberty is violated and these victims never notice this infringement as some of them are not at all aware about such fundamental rights.

⁴⁷⁶ Honour killings: More than 300 cases in last three years, Sep 22, 2018 http://timesofindia.indiatimes.com/articleshow/65908947.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

⁴⁷⁷Nootash Keyhani, 'Honour Crimes as Gender-based Violence in the UK: A Critical Assessment', 2 UCLJLJ 255 (2013).

Honour Killing also has a psychological aspect to it. It is associated with emotional need to safeguard and protect one's honour. 'Honour' has been an important element many years ago and even now. Girls who marry a low caste person are considered to have brought disgrace to the family. The family of the girl feel that their honour is attacked and they feel that they can no more face the society. Therefore, they don't accept the boy and even kill their daughter who has brought disgrace to the family. Another reason could be to cover up shameful incidents like rape, extramarital relations etc. Sexual deviances like treachery and being unfaithful to spouse, shamelessness, or gay acts are viewed as breach of the sacred moral code of that place. The individuals who perform such acts pollute themselves and in certain societies, their debasement may corrupt themselves, yet their families as well, and they would need to be rebuffed or executed to purge this stain.⁴⁷⁸

Honour killing is viewed in two other aspects. Some people view it as gender-based violence and some view it as cultural specific crime. Some people believe honour killing to be a crime associated to women specifically as they believe that 'honour' is intricately tied to women behaviour.

Honour Killing in Western and Islamic Countries

'Honour killings' happen in many countries across the world. About 5,000 women and girls are murdered worldwide every year by predominantly male family members, who believe the girls have brought dishonour to their families.⁴⁷⁹ Girls were subjected to violence and were even killed for making attempts to bring disgrace to the family. Girls who were thought to have brought disgrace to the family were stoned and buried. This was followed in barbaric

societies of Arab. During the Roman civilization the fathers were given the right to kill their unmarried sexually active adulterous wives and daughters. Generally, an episode in Ramayana also has the element 'honour killing' involved. Sita also can be said to have endure a honour killing when she was approached to demonstrate her pavitrata (virgin status) by going into flames and come out unharmed (Agni pariksha).⁴⁸⁰ Honour killing was a tradition in rural Turkish culture but this culture does not explain its occurrence. Various factors were pointed by some thinkers which might be the reasons for honour killing in Turkey, Netherlands and other western countries. These are:

- Elopements
- Adultery
- Due to provocations and pressure from community

In Turkey a family whose 'honour' or 'namus' is attacked find it unbearable to be socially excluded. So because of community pressure honour killing takes place.⁴⁸¹ Whereas in countries like Britain, people view people view honour killing in a gender-based dimension and defined these murders as VAW (violence against women). Honour killing has been observed as a cultural specific type of murder in Germany.

Honour Killing is also prevalent in the Islamic states. All over the Muslim world women are killed believing that they have defamed the family and brought disgrace to the family. Honour killing is purely an act which is against the teachings of Islam. The lines below prove the same

"Whoever kills a believer intentionally, their reward will be Hell, to abide therein forever, and the wrath and the curse of Allah are upon them, and a dreadful penalty is prepared for them."

⁴⁷⁸ Saksham Sharma, 'Critical Study on Honour Killing', *Racolb legal*, November 18 (2018).

⁴⁷⁹ Patricia Martin, 'The Tabirib Justice Center', 39 *Children's Legal Rights Journal* 296 (2019).

⁴⁸⁰ S. Muruganathan, 'Honour Killing' the Menace - A case study in Tamil Nadu', *IJMRSS*, vol. 1 Issue 1, October-December (2014).

⁴⁸¹ Van Eck, C., *Why an honour killing? In Purified by Blood: Honour Killings amongst Turks in the Netherlands*, Amsterdam: Amsterdam University Press, (pp. 183-220), (2003).

Case Laws Related to Honour Killing

***State of U.P. v. Krishna Master and others*⁴⁸²**

This was a case in which the accused daughter 'Sontara' had eloped with Amar Singh. The accused who was the father of Sontara became inimical and warned Amar Singh's father that if he did not get his daughter by the evening, he would not spare anyone. Through the wife of Guljari Lal, Amar Singh was given information about the planning of the respondents to kill Amar Singh. Therefore, Amar Singh and Sontara did not come back. Later one day the respondent Sri Krishna along with two others entered the house of Guljari Lal and started firing shots indiscriminately. They were shot dead and Sontara's father Krishna was held convicted under Section 302 and Section 34 of IPC.

The Supreme Court delivered a judgement against the respondents and awarded a life sentence for the three who committed the crime.

***Arumugam Servai v. State of Tamil Nadu*⁴⁸³**

This is another case where the Supreme Court dealt with the role of khap/katta panchayats in the personal life of people. The Court strongly objected the acts of these panchayats of taking law into their hands and committing wrongful acts that harm the life of other people who want to marry the person they like. These panchayats support crimes like honour killing which is very wrong. Therefore, the Supreme Court strongly deprecated the acts and the role these panchayats play in the people of the State of Tamil Nadu.

***State of UP through the CBI v Rajesh Talwar and others*⁴⁸⁴**

In this case the Ghaziabad court declared two people guilty for murdering Arushi who was their own daughter. She was found with her throat slit open. The girl who was 13 years old was staying with Hemraj who was a servant working in her house. The Court declared that the act of the Talwar's were guilty of Honour Killing. ***Lata Singh vs. State of U.P. & Anr.*⁴⁸⁵** is a case which is in the similar stance.

Another incident related to Honour killing was Bhavna Yadav's honour killing case where a 21 year old girl named Bhavana was brutally murdered by her family as she married a boy from another caste and religion. A recent incident was that of Amrutha and Pranay who had an inter-caste in January 2018. Amrutha's father Maruti Rao was a big business man and he was totally against this marriage. He hired goons and made them kill Pranay. Similarly, there have been many such horrifying instances and incidents all over India and other western countries as well.

Legal Aspect of Honour Killing

Honour killing is wrong and a heinous act. But there is no specific law related to this crime. Honour killings get solid assents from the general public. Subsequently, this crime, has probably the most grounded backing of masses. The Law Commission of India opposed the proposition of the Government to revise Section 300 of IPC to incorporate 'honour killing' within the meaning of murder on the ground that the current arrangement is satisfactory to deal with the circumstance prompting such murdering. Honour Killings which are not less than murder are serious crimes under the Indian Penal Code. Culpable homicide is defined and dealt with under Section 299 of the IPC, while Section 300, is related to homicide amounting to murder.⁴⁸⁶

Article 14 of the Indian Constitution certifies to each individual the privilege to equity under the

⁴⁸² State of U.P. v. Krishna Master and others, AIR 2010 SC 3071.

⁴⁸³ Arumugam Servai v. State of Tamil Nadu, AIR 2011 SC 1859.

⁴⁸⁴ State of UP through the CBI v Rajesh Talwar and others, AIR 2012 SCC 217.

⁴⁸⁵ Lata Singh vs. State of U.P. & Anr., AIR 2006 SC 2522.

⁴⁸⁶ Supra note. 7

watchful eye of the law or the equivalent assurance of the laws. Article 15(1) also is related to the topic and this article prevents the State from discriminating citizens based on race, sex, religion, place of birth or any of them. Honour Killing is also an act which causes violation of Article 19 and Article 21 of the Constitution of India. Committing such heinous crimes and murdering a person in the name of honour are clearly against the Constitutional provisions mentioned under Article 21 of the Constitution of India.⁴⁸⁷

PART III

Suggestions

- People must be made aware about the scientific logic behind the concept of 'Gotra' (hierarchy) and its irrelevance to the inter-caste marriage in the 21st century.
- Even a little threat or trouble to the women or her husband by the family member of the lady against their wish marriage should be considered potential danger to their lives and the couple should be given police protection.
- It should be understood that every person has a freedom to live with whoever he or she likes. No one can be deprived of their life and be killed for any reason. The punishment for such crimes like honour killing should be life imprisonment (non-bailable).
- A specific law criminalizing this evil act must be enforced.⁴⁸⁸

Conclusion

"Mine honour is my life; both grow in one; Take honour from me and my life is done."

– William Shakespeare

⁴⁸⁷ Gulafroz Jan & Khazin Munir, 'Honour killing: a socio-legal analysis with special reference to district Srinagar of J&K', *Sociology International Journal*, Vol. 2 Issue 4(2018).

⁴⁸⁸ Supra note.7

Women have the option to live the manner in which they like. Ladies are not property; they are humans and they also possess emotions and feelings. Ladies have similar chance to flourish in the public arena as any male, yet a few traditions and conventions of certain societies keep ladies from taking off to such statures. Everyone has a privilege to live his/her life in his/her in a way however they wish to live. A family has to be supportive and they should respect each other decisions. Killing someone in the name of honour is against the Constitution and it morally and socially wrong and unethical. Each person irrespective of gender has a right to live and to live as they like with the person they wish to live with.

References

Research Articles

- Seied Beniamin Hosseini, 'Honour Killing as a Crime in India-Cause and Solutions', Research Gate Publications (2015).
- Vipin Kumar Singhal, 'Honour Killing in India: An Assessment', March 17, 2014.
- Saksham Sharma, 'Critical Study on Honour Killing', *Racolb legal*, November 18 (2018).
- Eck, C., *Why an honour killing? In Purified by Blood: Honour Killings amongst Turks in the Netherlands*, Amsterdam: Amsterdam University Press, (pp. 183-220), (2003).

Journal Articles

- Nootash Keyhani, 'Honour Crimes as Gender-based Violence in the UK: A Critical Assessment', 2 *UCLJLJ* 255 (2013).
- Patricia Martin, 'The Tahirih Justice Center', 39 *Children's Legal Rights Journal* 296 (2019).
- S. Murugananthan, 'Honour Killing' the Menace - A case study in Tamil Nadu',



IJMRS, vol. 1 Issue 1, October-December (2014).

- Gulafroz Jan & Khazin Munir, 'Honour killing: a socio-legal analysis with special reference to district Srinagar of J&K', Sociology International Journal, Vol. 2 Issue 4(2018).

News Paper Articles

- Honour killings: More than 300 cases in last three years, Sep 22, 2018, http://timesofindia.indiatimes.com/article/eshow/65908947.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst