

ANALYSING THE ADEQUACY OF THE INDIAN LEGAL FRAMEWORK ON HONOUR KILLINGS: A NEED FOR SPECIAL LEGISLATION

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ABSTRACT

Honour killings in India continue to challenge the foundational ideals of equality, dignity, and personal liberty that the Constitution of India enshrines. These acts of violence are typically directed at individuals who exercise independent choice in selecting a life partner—often in deliberate defiance of rigid caste hierarchies or entrenched community expectations. What makes these crimes especially alarming is their premeditated character: they are not isolated eruptions of passion but are instead nurtured by sustained social control and collective coercion. Although such acts fall squarely within existing criminal provisions—particularly those governing murder and conspiracy—the absence of a dedicated legal category for honour-based violence significantly weakens prevention and accountability. Judicial intervention, most notably in *Shakti Vahini v Union of India*, has attempted to bridge this gap by establishing protective safeguards and issuing preventive directions. Nevertheless, recurring incidents and inconsistent enforcement continue to raise serious doubts about the adequacy of the current framework. This article examines whether the existing legal architecture is sufficient to address honour-based violence or whether a dedicated statutory regime is required. It argues for a more responsive legal approach that accurately reflects the social realities underlying such crimes while reinforcing the protection of individual autonomy.

Keywords: Honour Killing, Constitutional Rights, Article 14, Article 19, Article 21, Personal Liberty, Caste System, Khap Panchayats, Judicial Activism, Preventive Law.

INTRODUCTION

Honour killing stands as one of the most troubling contradictions within contemporary society—a phenomenon in which the very concept of "honour" is weaponised to justify the extinction of human life.¹ Behind each such act lies not merely a criminal event but a profoundly personal story of someone who dared to love, to choose, or simply to live according to their own conscience. These

crimes are overwhelmingly perpetrated by those who would ordinarily be expected to offer protection and support—family members—against individuals who step beyond the narrowly defined social boundaries governing marriage, particularly where those boundaries intersect with caste, religion, or community identity.

What renders honour killings especially disturbing is that they are rarely spontaneous.

They typically emerge from a deliberate, and often collective, decision-making process, shaped by fear of social censure and the weight of community pressure.² In such circumstances, "honour" ceases to function as a virtue associated with personal dignity and instead becomes an instrument of control—control over identity, over choices, and, most pervasively, over women's autonomy. The victim's voice is silenced in the name of preserving a communal reputation constructed upon exclusion and coercion.

Within the Indian legal context, these acts are prosecuted under general criminal provisions that penalise homicide and related offences. However, the absence of a specific legal framework addressing honour killings raises a question of fundamental importance: can general criminal law truly capture the unique social and cultural dimensions of this form of violence?³ Or does the gravity and distinctive nature of honour-based violence demand a separate, focused statutory response? This question lies at the very heart of the present study.

1. HISTORICAL BACKGROUND OF HONOUR KILLINGS

Honour-based violence is not a modern aberration—it carries deep historical roots that can be traced across diverse societies and time periods. In ancient and medieval settings, social structures built upon rigid caste hierarchies, clan identities, and entrenched patriarchal norms left individuals—women in particular—with almost no space for autonomous decision-making.⁴ Departure from tradition was treated not merely as disobedience, but as an act of bringing collective shame upon the family. Such deeply embedded norms were reinforced across generations, making them extraordinarily resistant to reform.

In the Indian context, the problem is closely linked with caste endogamy and long-standing community traditions that treated intra-caste marriage as an imperative for maintaining social "purity." Over time, informal

bodies such as Khap Panchayats emerged as powerful enforcers of these unwritten codes, exercising authority that extended well beyond social guidance into outright coercion—imposing boycotts, issuing threats, and at times actively sanctioning violence in the name of preserving honour.⁵ The persistence of these patterns after Indian independence—withstanding the constitutional commitment to equality and personal liberty—reveals a troubling gap between legal aspiration and social reality.

1.1 CONCEPT AND CAUSES OF HONOUR KILLING

Honour killing does not arise from a single moment of anger or impulse. It is the product of deeply entrenched social beliefs that treat family reputation as a collective resource—one that can be "damaged" by the individual choices of any one of its members.⁶ Such violence is most commonly triggered when a person exercises a choice that crosses socially proscribed boundaries—marrying outside their caste or religion, entering a relationship without family approval, or forming associations considered incompatible with community norms. What constitutes, for the individual, a simple exercise of personal freedom is perceived by others as an act of irreparable defiance.

A defining characteristic of honour killings is that they are rarely the act of a solitary individual. They more often represent the outcome of deliberate planning and collective endorsement, involving family members, extended kin networks, and, in some instances, local community bodies.⁷ This shared intention and collective participation distinguish honour killings from other forms of homicide, since the violence is socially reinforced rather than individually motivated. It reflects not merely a failure of the criminal law, but a deeper failure of societal values.

2. CONSTITUTIONAL PERSPECTIVE

Honour killings are not merely criminal acts—they constitute a direct assault on the

foundational values of the Constitution of India. The Constitution envisions a polity in which every individual is entitled to dignity, equality, and freedom. When a person is harmed or killed for exercising a personal choice, that harm transcends the category of crime and becomes a fundamental constitutional wrong.

3.1. Article 14 – Right to Equality

Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws to every person.⁸ Honour killings are deeply rooted in discrimination—premised on distinctions of caste, religion, or social status. When families or communities punish individuals for contracting inter-caste or inter-religious marriages, they enforce precisely the kind of invidious distinctions that Article 14 is designed to prohibit. No private or communal norm can legitimately override the constitutional guarantee of equal treatment.

3.2. Article 19 – Freedom of Expression and Personal Choice

The freedoms guaranteed under Article 19 encompass the right to express oneself and to make personal choices free from unreasonable interference by the state or by private actors.⁹ The choice of a life partner is among the most intimate and significant decisions a person can make. Where society or family attempts to override that choice through coercion, threats, or violence, they directly undermine the essence of constitutional liberty. The notion that an individual must subordinate their deepest personal choices to community expectations—on pain of death—is irreconcilable with the spirit of a rights-based constitutional order.

3.3. Article 21 – Right to Life and Dignity

Article 21, which protects the right to life and personal liberty, has been expansively interpreted by the Supreme Court of India to encompass the right to live with dignity and autonomy.¹⁰ The Court has consistently affirmed that the freedom to choose one's partner is a fundamental aspect of individual dignity.¹¹ In cases of honour killing, this right is not merely

restricted—it is violently and irrevocably extinguished. The victim is denied the most elementary of all human entitlements: the right to live, and to live with dignity.

3. THE EXISTING LEGAL FRAMEWORK

4.1. The Indian Penal Code 1860

In India, honour killings are not addressed by any dedicated statutory provision. Instead, they are prosecuted under the general criminal law, principally through provisions of the Indian Penal Code 1860.¹² While these provisions are sufficiently robust to punish the act of killing, they fail to capture the distinctive social and collective dimensions that define honour-based crimes.

The primary provision invoked is section 300, which defines murder.¹³ Where an honour killing occurs, it is treated as intentional homicide, attracting the maximum penalty available under the law. Yet what the Code categorises as "murder" is, in reality, a far more complex act—one driven by social pressure, family complicity, and a perceived communal imperative to "restore honour" through violence.

Section 34, dealing with acts done in furtherance of a common intention, is also highly significant in this context.¹⁴ Since honour killings routinely involve multiple family members acting together, this provision allows the law to hold all participants equally liable, even where only one person physically carries out the act. Similarly, section 120A, which defines criminal conspiracy, addresses situations where the crime is planned and agreed upon in advance—a pattern characteristic of the vast majority of honour killings.¹⁵ Despite the applicability of these provisions, a fundamental gap remains: the law treats honour killings as ordinary murders, without acknowledging the specific motivations, social patterns, and collective pressures that make them a distinct category of violence.

4.2. Other Relevant Legislation

Several other legislative instruments touch

indirectly upon issues connected with honour-based violence. The Protection of Women from Domestic Violence Act 2005 offers remedies for women facing abuse within the household, including physical and psychological harm.¹⁶ While it may apply where women face threats from family members, it does not specifically address killings perpetrated in the name of honour.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 becomes relevant where inter-caste relationships provoke violence, particularly when one partner belongs to a scheduled community.¹⁷ It recognises caste-based oppression, but does not define or treat honour killings as a distinct offence. Similarly, the Prohibition of Child Marriage Act 2006 addresses coerced and premature marriages, which are sometimes a mechanism for families seeking to prevent "dishonour," yet extends no further than that limited domain.¹⁸ Taken together, these statutes demonstrate that while Indian law possesses multiple tools to address related forms of violence, none confronts the specific problem of honour killings as an identifiable and distinct social phenomenon.

4. JUDICIAL INTERPRETATION

In the absence of dedicated legislation, the judiciary has assumed a critical protective role. India courts have not only imposed punishment on perpetrators but have also emphatically condemned the social mindset that produces and sustains such violence. Through a series of landmark pronouncements, the courts have sought to bridge the legislative gap, affirming that personal liberty and human dignity cannot be sacrificed upon the altar of tradition.

An early and significant intervention came in *Lata Singh v State of Uttar Pradesh*, in which the Supreme Court of India clearly recognised the constitutional right of consenting adults to marry a person of their choice.¹⁹ The Court held that such marriages are constitutionally protected and that any form of harassment or

violence by family members is unlawful—a clear judicial repudiation of community-imposed constraints on matrimonial choice.

In *Bhagwan Dass v State (NCT of Delhi)*, the Court advanced this reasoning further by explicitly characterising honour killings as "barbaric and shameful acts of murder."²⁰ By

categorically rejecting any cultural or social justification for such crimes, the judiciary made clear that no conception of honour—however deeply held—can ever excuse the taking of a human life.

The case of *Shakti Vahini v Union of India* marked a watershed in preventive

21 jurisprudence. Recognising that honour killings are frequently premeditated and socially sanctioned, the Supreme Court issued detailed directives requiring authorities to identify couples at risk, provide them with protection, and take firm action against unlawful assemblies—including Khap Panchayats—that seek to interfere with personal relationships.

In *Arumugam Servai v State of Tamil Nadu*, the Court went further still, condemning the role of Khap Panchayats and comparable bodies in the starkest terms, describing them as illegal and oppressive institutions lacking any authority to interfere in personal choices regarding marriage.²² While these judicial pronouncements have made a significant contribution to the protection of individual rights, they operate under inherent limitations. Court judgments address specific disputes and, at best, produce guidelines; they cannot substitute for a comprehensive legislative framework. Without dedicated legislation that clearly defines, prevents, and punishes honour killings, enforcement remains episodic and dependent on judicial initiative.

5. COMPARATIVE LEGAL ANALYSIS

Examining how other jurisdictions have responded to honour-based violence illuminates both the strengths and the deficiencies of India's current legal approach.

Although the phenomenon tends to share common social roots across societies, legal responses differ considerably—ranging from purely punitive regimes to more preventive, victim-centred systems.

6.1. India

As noted, India addresses honour killings through general criminal law, principally provisions concerning murder and conspiracy. The approach is predominantly reactive—engaging only after the harm has been done. There is no legal recognition of honour killing as a distinct offence, a gap which prevents the law from adequately addressing the social and collective dimensions that characterise such violence.

6.2. Pakistan

Pakistan introduced statutory reforms through the Criminal Law (Amendment) (Offences in the Name of Honour) Act 2016, which sought to close a significant loophole under which perpetrators could escape punishment by obtaining a pardon from the victim's family under qisas and diyat provisions.²³ By rendering honour killing non-compoundable in prescribed circumstances, the reform aimed to ensure greater accountability. However, enforcement challenges and the deep-rooted social acceptance of honour norms continue to limit its practical effectiveness.

6.3. United Kingdom

The United Kingdom adopts a notably more preventive and victim-centred framework. The Forced Marriage (Civil Protection) Act 2007 and the Serious Crime Act 2015 together provide a legislative architecture designed not merely to punish offenders but to prevent harm before it materialises.²⁴ Courts may issue protection orders, authorities can intervene at an early stage, and dedicated support mechanisms are available for persons at risk. This reflects a sophisticated recognition of honour-based violence as simultaneously a criminal and a social problem, requiring both legal and structural responses.

6.4. Jordan and Turkey

Jordan has made incremental progress in reforming provisions that historically conferred leniency upon perpetrators who killed in the name of honour. While outright exculpatory provisions have been curtailed, the influence of social attitudes on judicial and prosecutorial practice means that the impact of formal legal reform remains constrained.²⁵ Turkey, for its part, has enacted strict penalties for honour killings—a development that, paradoxically, has been accompanied by a reported increase in so-called "forced suicides," in which victims are pressured into taking their own lives in order to shield the family from criminal liability.²⁶ This troubling consequence reveals the limitations of relying solely on punitive measures without simultaneously addressing underlying social pressures.

6.5. Comparative Insight

A survey of these jurisdictions yields a consistent lesson: the most effective responses to honour-based violence combine robust criminal punishment with preventive mechanisms and sustained investment in social awareness and victim support. Legal reform in isolation—however stringent—proves insufficient unless it is accompanied by a shift in societal attitudes and the provision of structural safeguards for those at risk. India, at present, relies predominantly on post-hoc punishment and lacks a framework that integrates prevention and victim protection in any systematic way.

6. THE CASE FOR SPECIAL LEGISLATION

The persistence of honour killings in India despite the availability of general criminal law provisions points to a structural inadequacy that cannot be remedied by case-by-case judicial intervention alone. A dedicated legislative framework is not merely desirable—it is necessary.

7.1. Definitional Clarity. The first imperative is to define honour killing as a distinct criminal

offence. Treating these acts as ordinary murder under the Indian Penal Code obscures their specific motive—the preservation of so-called “family honour”—and prevents the development of coherent prosecutorial and preventive strategies. A statutory definition would establish doctrinal consistency and ensure that the full social meaning of the crime is legally recognised.

7.2. Preventive Mechanisms. Special legislation must introduce proactive protective measures. Because honour killings are typically preceded by a period of planning, threats, and community pressure, a dedicated law could empower authorities to intervene before harm occurs—providing police protection to vulnerable couples and issuing preventive orders against potential perpetrators.

7.3. Collective Accountability. Given that honour killings routinely involve multiple actors—family members, relatives, and community bodies—dedicated legislation should expressly address collective participation, imposing clear and direct liability upon all who instigate, facilitate, or support such acts.

7.4. Regulation of Unlawful Community Interference. A special law should explicitly prohibit and penalise the conduct of informal bodies such as Khap Panchayats when they attempt to dictate or constrain personal choices relating to marriage and relationships.

7.5. Victim Protection and Support. Legislation in this area must mandate the creation of institutional support structures—safe houses, helplines, and legal aid services—to ensure the safety and dignity of individuals facing honour-based threats, particularly inter-caste and inter-religious couples who may have no family support to rely upon.²⁷

7. RECOMMENDATIONS

1. Enact a dedicated statute on honour killings that clearly defines the offence, addresses collective participation, and prescribes proportionate penalties.

2. Implement, through robust administrative action, the preventive guidelines issued by the Supreme Court of India in *Shakti Vahini v Union of India*.

3. Take firm legislative and executive action against unlawful community interference, including the imposition of penalties on informal bodies that attempt to coerce or control personal choices.

4. Strengthen police accountability through mandatory training on honour-based violence and clear protocols for timely protective intervention.

5. Expand the network of government-funded safe houses and support services for individuals facing honour-based threats.

6. Integrate education on individual rights, gender equality, and constitutional values into school and community curricula to challenge the social norms that underpin honour killings.

7. Engage civil society organisations, educational institutions, and community leaders in sustained advocacy for broader social reform.

8. CONCLUSION

Honour killing is more than a crime—it is a reflection of deep social control, entrenched patriarchal authority, and systemic inequality. It demonstrates how the most intimate of personal freedoms can be violently suppressed in the name of tradition, particularly where the intersection of caste, community identity, and gender converge to silence individual voice.

The current legal framework, comprising general provisions for murder and conspiracy supplemented by fragmented sector-specific statutes, addresses the symptoms of this problem without confronting its structural causes. Judicial intervention—however progressive—cannot compensate indefinitely for the absence of a coherent statutory regime. The constitutional guarantees of equality, freedom, and dignity demand more than reactive punishment; they demand a proactive

architecture of prevention and protection.

A dedicated law on honour killings is, on this analysis, both necessary and long overdue. Yet legislation alone will not be sufficient. Durable change requires a simultaneous transformation of societal attitudes—a shift in which respect for individual autonomy displaces rigid and coercive conceptions of family honour. Only through the combined effort of legislative reform, robust enforcement, and sustained social change can honour-based violence be meaningfully and lastingly addressed in India.

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