

LEGALFOXES LAW TIMES**A STUDY ON HONOUR KILLINGS IN INDIA: VIOLATION OF ONE'S
AUTONOMY****By Sabarni Som And Pragyanshi Sharma****Abstract**

The traditional crime of honour killing has been taking place in India for quite a long period of time. Women in this society have always been portrayed as property and honour of the family and their basic fundamental rights to live with freedom and dignity have forever been violated in the name of "honour". Thousands of young people, especially women, get killed in India every year for going against their family and having their own marital or sexual choices. This article talks about the crime of honour killing in India in an analytical method. The article highlights the causes and impact of honour killing in the society and talks about the role of law and role of the judiciary in curbing these malpractices in India. It has also come up with a brief critical assessment and some suggestions which may help to abolish such crimes in India in the future.

"Honour is just an illusion. At the end, nothing matters. We all end up in the same place irrespective of caste, race, gender or religion."

Introduction

Honour killing is a social crime and a cultural ritual which has been predominant in India since a long time. The customary practice of such crimes has been observed in all societies and in all periods. It is the homicide of a family member with the mentality that the concerned member, offended the honour of the family or has contravened the principles of community and religion and has brought shame and dishonour upon the family in the society. Honour killings till date are more often faced by women and are a product of an evolving patriarchal social construct. The notion of women, as possession and honour had always been deeply ingrained in the society.

Violence against women's sovereignty, in all matters and specifically in matters of sexuality and marriage, is one of India's most prevalent and tenacious forms of gender violence and therefore the least recognized. It is violence against both men and women, to stop a woman from exercising her own choice in love and marriage. In a situation where the family members should be a support for a woman, they are the ones who go against her, because of her independent marital or sexual choices.

India is a democratic country and every citizen has the equal right to choose his or her life partner. It is disturbing and shameful that even in the 21st century, when a girl doesn't want to marry but to set her career it becomes offensive for the family in most of the places in our country. When a woman loves or marries someone of different caste or religion, she brings dishonour to the family and the consequences that come along with it led to honour killings. In a nation where the citizens are granted equality without any discrimination, honour killings bring absolute discrimination on the victims for picking a person of a different caste or religion. The objective of this article is to study the reasons and impact of honour killings and to highlight the existing legal framework and the role of the judiciary in these crimes.

Honour Killing in India: A brief data

In India, honour killing has been taking place since ages. It is an act of killing by the family on the family members to bring honour to the family and to abolish the shame and dishonour brought by the particular family member. We have gained our independence and now after more than seventy years, people still think that caste is superior to the life of their offspring or family member. India is a democratic country where every citizen has the right to equality and right to life. But the society consisting of such narrow-minded people, leads to the shameful act of Honour killing. In India, caste, status and religion are the main reasons for such crimes in the present time. It is very hard to understand, how someone could ever be so obsessed, to murder their own family members simply to restore what they consider to be their 'family honour'.

This outrageous practice is mostly observed in parts of Uttarakhand, Punjab, Rajasthan, Haryana, Uttar Pradesh and Bihar. In contrast, honour killings are inefficacious in South India and the western Indian states of Maharashtra and Gujarat. While in states like West Bengal and some other parts of India, this practise terminated about a century ago, largely due to the activism and encouragement of reformists.

The state of Punjab has a very scary picture since it has recorded a massive number of honour crimes in the last few years. Rendering to the statistics accumulated by the Punjab police, 34 honour killings were reported in the state between 2008 and 2010; 10 in 2008, 20 in 2009 and 4 in 2010.¹

Activist Kathir Vincent, director of Evidence, an NGO working to protect the human rights of Dalit and tribal people in Tamil Nadu and Puducherry had said that, in India, women constitute almost 97 percent of honour killing victims. The best data available related to honour killings tells us about the act's prevalence. According to the National Crime Records Bureau, in the year of 2018, 10,773 people escaped from their houses or native places due to their romantic relationships.

“According to field investigations and studies by Evidence, in the last five years, there have been 195 unknown cases of honour killings in Tamil Nadu alone. In November 2019, two horrific instances of honour killing took place in the southern state in the span of a single week. Janani, a 17 years old girl from Nagapattinam was set on fire by her mother for being in a relationship with a Dalit man. Five days later, 21 years old Nambirajan's decapitated body was found on the railway tracks in Tirunelveli. Although he belonged from the same community, he had been murdered by his in-laws, who simply could not admit the fact that he was from a lower socio-economic status.”²

In March 2016, a young Dalit man in Tamil Nadu, named Shankar, was viciously beaten to death at a public crossing in the presence of his wife Kausalya. Kausalya's parents were responsible for this, because they were from the dominant Thevar community. Kausalya also was badly injured in this incident because she dared to go against her family and marry a Dalit man.

On June 1st 2018, a case was reported from Hisar, Haryana. A body of a 25-year old married man, allegedly abducted, along with his wife by her relatives was found near Rajasthan canal. One more shocking incident from the same state was recorded on August 26th, 2018. A couple, who eloped from Haryana, were found hanging from a ceiling fan in Bhiwadi industrial area, in Panipat. One of the politicians from Haryana had once quoted in his speech

¹Saksham Sharma, Critical Study on Honour Killing, Racolb Legal, November 18, 2018, <http://racolblegal.com/critical-study-on-honour-killing/>

²AnugrahaSundarvelu, Why India needs separate law for Honour Killings, The Swaddle, April 21, 2020, <http://theswaddle.com/honour-killings-india-law/>

that, “Can’t allow a girl to marry by choice, after investing 20-30 lakhs on her education”. Being a patriarchal form of society, how one should behave and live is determined by men.

In January –June 2019, 58 incidents of suspected hate crimes against women were reported. Amongst them, 30 were either raped or sexually assaulted. Out of them, 4 victims were eventually killed. There were 7 alleged incidents of honour killing, in which 3 women were killed.

The above- mentioned cases and data portray the dangerous reality of the society we are living in. The scariest part of all is, most of the cases of honour killings notoriously get unreported in our country.

Role of Khap Panchayats in Honour Killing

Khap Panchayats have a major role to play in promoting the culture of honour killings in India. Since ages, it has been promoting patriarchy and targeting couples with a clear motive to have control over women and also to consider women as the property of men.

A Khap is a community organisation which signifies a clan or group or associated clans. They are found typically in Northern India, particularly among the people of Western Uttar Pradesh and Haryana. These are not purely democratic in nature. They follow a formal consultative process in this Panchayats where the decisions are respected by the whole community under peer pressure, avoiding which may invite social stigma in the community. The principle of natural justice is hardly observed in their decisions. In areas governed by the Khap Panchayats, love marriages are considered a taboo. They control the lives of young people by imposing its command on them through various ways like public boycott, penalties etc. In maximum cases, they end up either in killing or compelling the victims to commit suicide.

“The Supreme Court, in 2011, termed these Khap Panchayats as ‘kangaroo courts’ and declared them illegal and wanted them extinguished.”³

Causes of Honour Killings in India

The reasons that lead to honour killings are extremely outrageous and insensitive. There is no wisdom in the decision of the family or society to kill a certain member of the family for such groundless reasons.

Some of the important causes that trigger these crimes are listed below:

³Khap Panchayats and Honour Killing, IAS Exam Portal, <http://iasexamportal.com/current-affairs/khap-panchayat-and-honour-killing>

1. Refusal of an arranged marriage: If the member of the family refuses to accept the marriage arranged by the family, then the family would be caused to kill that particular family member for the welfare and honour of the family. Desiring to marry by own choice and not accepting the marriage arranged by the family is often a major reason for such crimes.
2. Inter-caste marriage: Marriage performed by the particular family member with another person of a different or lower caste brings down the honour of the family, who pursue their caste as their soul. In such a case, the member who is of superior caste would kill the victim, rather than living by lowering their caste. The caste is the soul and prestige of the offenders and they do not care about the victim even if that person belonged their own family.
3. Seeking divorce: A woman trying to attain a divorce or separation without the consent of the husband or the family is another reason for such crimes. Our culture is so patriarchal that a woman does not even have the liberty to walk out of her own marriage if she desires so. It is often viewed as an insult to the men who arranged the marriage between the two families. The woman is seen as bringing down the prestige of the family, by exposing the marital problems openly in public.
4. Victims of rape: In a society where a woman's character is interlinked with honour, prestige and purity, a victim of rape is said to bring huge shame and dishonour on the family. In many cultures, rape victims are subjected to severe violence and oppression, including honour killings from their families and relatives.
5. Homosexual acts: Engaging in homosexual activities or relations is still a big taboo in our society. When a couple of the same sex wants to cohabit together, the society and the family do not permit, as it brings alleged shame and dishonour on the family. There is ample evidence that, homosexuality is another major ground that triggers honour killings in India.
6. Allegations and rumours about family members: Allegations against a woman can be sufficient to smear her family's repute and status. In our society, the fear of families to be ostracized by the community is huge. Hence certain allegations on the daughter which brings shame and dishonour on the family is enough to trigger them to kill the daughter.

Impact of Honour Killings

The impact of honour killings on the society is extremely vast. Honour killings have never been constrained to a single gender; men are also the victims of such grave crimes. However,

comparatively, it has always been women who have suffered more in the hands of this cruel society.

One of the most obvious consequences of honour killing is the death of thousands of young people in India each year. It is absolutely heart-breaking to see that, the young generation who form the future of our nation, are getting killed so ruthlessly by their family and the society just because they choose to follow their own dreams, sexual choices or marital choices. The toxic patriarchy which prevails in our society has always been responsible for the deaths of so many innocent people.

Honour killings have a huge role to play in affecting a victim's mental health. Suppression and violence not only violate a woman's basic rights but threatens her health and the very state of her being. The toxic patriarchy on women has always impacted on the mental health of the victim. The victim always stays in a state of fear of unexpected violence and oppression which can put her at a higher risk of developing a variety of psychiatric syndrome such as depression and anxiety.

Honour killings affect the victim's mind so bad that often it results in voluntary or involuntary suicide by the victim. Women, who are accused of bringing dishonour and disrespect on the family, often choose "honour suicides" as a resort. They cannot accept the extreme level of humiliation they experience from the family members after committing a particular act which is against the norms of the family. There is also a sense of fear among these women of getting violently attacked or killed by her family. This explains the reason why in some cultures, there is a high rate of suicides among women.

Children who witness such domestic violence and honour-based crimes in their household develop a negative psychological impact in their young evolving minds. These children may face an improved risk of behavioural difficulties, anxiety and depression in the future. Moreover, these children have a higher risk of modelling such crimes later in their own lives.

Role of law in the Protection of Victims of Honour Killing

There are no explicit laws which deal with the crime of "honour killing" extensively, but there are various legal provisions to protect every citizen from such crimes. The Constitution of India has some remarkable provisions which allow an individual to exercise his/her choice, independent of any cast, religion or gender and it also safeguards the citizens from honour crimes during honour killings.

The honour crimes are similar to homicide and murder, which are serious crimes under the Indian Penal Code, 1860. Section 299 and 300 deal with culpable homicide not amounting to murder while Section 302 deals with the offence of murder. The reason to apply these sections in honour killings is because the acts are done with the purpose to murder the victims as they had allegedly brought dishonour and shame upon the family. The culprits of such crimes can be penalized under Section 302 of the IPC.⁴

There are certain important provisions under the Indian Constitution which get violated due to this crime. Article 14, 15(1), 15(3), 19 and 21 are some of those articles. Article 14 talks about Equality before Law and Article 15 says that every citizen of India would be treated equally before law irrespective of or without any discrimination of caste, creed, sex, race, and religion.

But in the case of honour killing, females have always been the victim more than the male members of the family, which violates the concept of equality before law and also gives rise to gender violation to a huge extent.

Article 19 and Article 21 of the Indian Constitution talks about Right to Freedom and Right to Life and Personal Liberty respectively. In occasion of honour killings, both the rights get violated together. It is the fundamental right of any citizen of this country to choose his or her own life partner. No individual has the right to snatch away one's freedom by infringing and compelling the person to act or live as per the demand of others. Every citizen has the right to life and liberty, which is the most important fundamental right. No single individual has the right to take away a person's life. In cases of honour killing, where the victim gets killed, it is exposed to the violation of Article 21.

According to the Hindu Marriage Act, 1955- every citizen shall become a major after reaching the age of 18, as demarcated under Section 3. Although later, the Supreme Court had modified the Act and altered the age of attainment of majority to 21 years. This Act says that every citizen has the right to choose their own life partner after attaining the age of majority. No person shall be compelled for marriage against their wishes. If an individual is not accepting the marriage arranged by the family, no one has the right to kill that person in the name of dishonour in the family.⁵

Judiciary on Honour Killing

⁴SeiedBeniamin Hosseini, Study on Honour Killing as a Crime in India-Cause and Solutions, January 2015

⁵Urishant, Honour Killing in India, Legal Services India, <http://www.legalserviceindia.com/legal/article-1014-honour-killing-in-india.html>

There are several judicious decisions given by the High Courts and The Supreme Court of India relating to honour crimes. Throughout time, the courts through their judgements has mentioned that killing anyone in the name of honour is the abuse and violation of the Indian Constitution and anyone going contrary to the Constitution will be punished. Some of the important and landmark judgements will be discussed in the following.

Manoj-Babli Case⁶: This case is one of the most important and historical cases of honour killings in India. This case talks about the honour killings of newlyweds, ManojBanwala and Babli in June 2007. They were in love with each other and thus escaped and got married. After getting to know, the family members got angry and found them. They had taken the case to the Khap Panchayat, who primarily stated that any person who has contact with the victim would have to pay a sum of 25,000 as a penalty and hence no person should contact them. They went dead against the marriage. Their decision went against the victims because they belonged to different castes which brought dishonour and shame on Babli's family, who were of upper caste. The verdict of the Khap was absolutely religious-caste based. The Khap Panchayat was also accused in crime because they were equally involved in killing the victims for the honour of the family. Babli's grandfather was the Khap leader, who ordered the killing. Hence all her relatives were equally involved in this murder. The victims were abducted and brutally murdered by them. This matter went before the court of Karnal district where the five perpetrators were sentenced to life sentence who were involved in the murder. It was the very first time when an Indian court had given such a rigorous punishment for honour killing and hence it became a revolutionary judgement on giving life sentence to the accused of honour killing. "The driver who was involved in the abduction was sentenced to imprisonment of seven years."⁷

U.P. v. Krishnamaster & Ors⁸: The Apex Court in this case, bestowed life sentence, to three people who were involved in the death of six persons of a family in a case of "honour" killing in a village in Uttar Pradesh in 1991. This landmark judgement was delivered by the bench on August, 2010. A Bench of Justices consisting of H.S. Bedi and J.M. Panchal overturned the order of acquittal approved by the Allahabad High Court after the trial court handed them the death sentence.

⁶Smt. Chandrapati v State of Haryana And Others, Criminal Misc. No. M-42311, 27th May, 2011

⁷Urishant, Honour Killing in India, Legal Services India, <http://www.legalserviceindia.com/legal/article-1014-honour-killing-in-india.html>

⁸State of U.P. v. Krishna Master & Others, Criminal Appeal No. 1180 of 2004, 3rd August, 2010

Lata Singh v. State of Uttar Pradesh and Another⁹:

In this case, a bench of Supreme Court headed by Justice MarkandeyKatju had made a very interesting statement regarding the crime of honour killing. He said that, honour killings are nothing but vicious unsympathetic murders and no honour is achieved in such killings.

The Supreme Court had dropped all ongoing criminal proceedings against Singh's husband and her in-laws and also observed that, "*intercaste and inter religious marriages should be encouraged to strengthen the social fabric of the society.*"¹⁰

Shakti Vahini v. Union of India, 2018¹¹: In this case, the Supreme Court had dispensed notice to the Central Government and nine states for the sudden alarming rise of honour killings across the country because of the Public Interest Litigation filed by Shakti Vahini. The court wanted to get informed about the steps taken to curb such violence in the country. Further, the court had laid down certain preventive, punitive and remedial measures for the states and the police administration in order to build a strong system. Former CJI Dipak Mishra in his judgement had said that, "*We don't live in a world in which there exists a single definition of honour anymore, and it's a fool that hangs on to the traditional standards and hopes that the world will come around him*"¹². This case is a glaring example that reflects the victory of dynamic and free thinking over the stagnant and irrational concepts prevailing in the society.

The State of Maharashtra v. Eknath Kisan Kumbharkar, 2019¹³: It was further held in this case that, honour killings have become a widespread practise in many parts of the country, predominantly in Haryana, western Uttar Pradesh and Rajasthan. Very often, young people who fall in love and wish to get married, have to look out for accommodation and protection in the police lines or protection homes. The honourable judges had stated in this case that there is no honour involved in committing such crimes as previously mentioned in the Lata Singh case. They

⁹Lata Singh v. State of U.P. & Another, Writ Petition (crl.) 208 of 2004, 5 SCC 475 (2006)

¹⁰Honour killings: The Law It Is and the Law It Ought to Be, Lawteacher.net, 16th August, 2019, <http://www.lawteacher.net/free-law-essays/constitutional-law/honour-killings-the-law-and-improvements-to-it-law-essays.php#ftn11>

¹¹ Shakti Vahini v. Union of India, (Civil) No. 231 of 2010, 7 SCC 192 (2018)

¹² https://www.livelaw.in/pdf_upload/pdf_upload-361975.pdf

¹³The State of Maharashtra v. Eknath Kisan Kumbharkar, Confirmation Case No. 3 of 2017, Decided on 6th August, 2019

also said that these crimes come under the category of rarest of the rare cases deserving death punishment.

After such landmark judgements given by the Supreme Court, we can believe that, the 'rule of law' present in our country does not release any person who has killed someone in the name of honour, in his own family or community.

Bill passed

No specific or codified law has ever been dedicated to the crime of honour killing, separately. Since a few years, these gruesome crimes had been taking place and the rise in the number of such killings throughout these years has been alarming.

Rajasthan was coming up with a massive number of cases involving honour killings for a few years. Parliamentary affairs minister, Shanti Dhariwal had stated in one of his speeches that, within the last five years, 71 cases of illegal decrees or diktat given by 'Khap Panchayats' were recorded and 10 cases of honour killing occurred in Rajasthan.

A bill was passed in the Rajasthan Assembly in the month of August 2019, to control the occurrences of 'honour killings' in the state with the provision of punishment of death penalty or life imprisonment for murdering innocent young couples in the name of honour.

The name of the bill was "The Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill, 2019". It had been passed after making a few amendments based on certain proposals given by the members of the parliament.¹⁴

The Bill has laid down death penalty or life sentence and a hefty amount of fine up to five lakh rupees for the perpetrator on killing a couple or either of them in the name of honour.

A Critical Assessment

The conventionally male-subjugated society has always captivated the human mind to think and act within the cultural boundary. The world is moving forward, and our societies are reversing back to the traditionally old mindset. In our society, the status of men has always been superior to that of women which have resulted harmful and lethal for women most of the time. Though in the 21st century, women are educated, still they are not empowered to stand for their rights. The so-called codes of honour are the creation of deeply rooted patriarchal, social and cultural

¹⁴Bill Mandating Death Penalty for 'Honour Killing' Passed in Rajasthan Assembly, News 18, August 5, 2019, 9:12 PM IST, <http://www.news18.com/news/politics/bill-mandating-death-penalty-for-honour-killing-passed-in-rajasthan-assembly-2259381.html>

preconceptions, whereby women are perceived or forced to bear all obligation for maintaining communal honour.

There are various rights and laws brought against the crime of honour killing but still, it has become a wide-spread issue. Most of the time, the accused is well aware of the rigorous punishment for such crimes but still engages himself in such practices with the mind-set that the honour of the family is more important than the victim. The worst part is, they are ready to face the consequences of punishment for such crimes rather than facing the consequences of bringing dishonour to the family.

Conclusion

The abolition of honour killing requires serious intervention. Equality in gender relations has not been attained and ferocity still exists in the name of honour. Hence it is the responsibility of the state to safeguard its citizens from the violation of such human rights. Associating such crimes with rigid traditions and certain communities prevents acknowledgement of the fact that these crimes are extremely widespread, across regions and communities. The solution to this problem mainly lies in the eradication of myths from the mind-set of people. The society should be imparted proper education regarding marriages, human rights and the constitutional rights of people. Khap Panchayats in villages should not be invested with so much power because they have the ability to wrongfully influence the uneducated naive people and instigate them to commit such acts.

It is high time that India should be developed in real senses. Modernisation and development do not only mean constructing sky touching buildings, industries etc.; but the real meaning of development and modernisation lies in the thinking of an individual and the mentality of the society. The society should be progressive enough to think sensibly in all aspects so that it can comprehend and respect the rights of others. The concept of Right to Privacy is an important facet to curb this social and communal evil and it should be understood by all the citizens in our country.

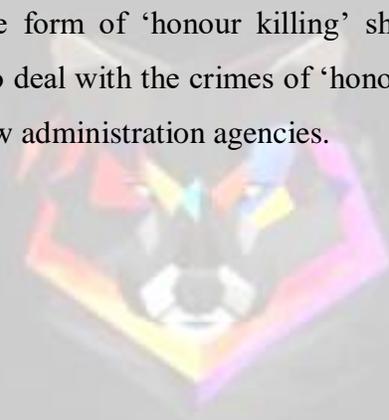
The violence can only be reduced when these kinds of patriarchal and backward mind-sets of people will be challenged. Changes and development have to start from the very base, the core. Stringent laws should be introduced and certain amendments should be done as well to curb down this barbaric crime. If not handled carefully, it will be just like a resonating wooden structure eaten on the inside by termites that will eventually come crashing down.

Suggestions

Literacy is the key to overall development of the society. People in the rural and the urban areas should get proper education to think beyond all these and to understand the consequences of such heinous crimes.

Media can play a significant part in condemning such crimes. Media has the power to reach people in the society like nobody else. Hence, they can create awareness among people about the consequences of such heinous crimes.

The laws should be more stringent on the issue of 'honour killing'. Only a rigorous legal statute will be effective to curb down such grave crimes permanently in the society. A significant amendment in Section 300, of the Indian Penal Code, 1862, is required. A new and separate classification of 'Murder' in the form of 'honour killing' should be added in the IPC. The amendment will make it easier to deal with the crimes of 'honour killings' separately and it will help to bring more lucidity for law administration agencies.



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