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Honour Killing in India and its Social Impact

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Introduction

Cambridge Dictionary defines honour as a quality that combines respect, being proud, and honesty.¹ The term honour or honor is derived from the latin word 'honus' which is an intangible or abstract concept of a professed quality of praiseworthiness, respectability and moreover the ostensible standing of an individual in large social bodies.² Incidents which defy such honour may cause anguish amongst members of society and consequently, result in the death of the individual who brought such "dishonour". An honour killing is the homicide of a member of a family by other members, due to the perpetrators having the belief that the victim violated the principles of a community or a religion the victim has brought shame or dishonour upon the family.³ Therefore, a slight deviation from the practices established in society can cause honor killing.

Honour killing is difficult to explain in concrete terms due to its vast nature in different circumstances. According to reports, honour killing occurs in Bangladesh, Brazil, Ecuador, India, Israel, Italy, Morocco, Sweden, Turkey, Uganda and the United Kingdom.⁴ With a distinct meaning attached to honour for a specific individual, a specific community and a specific country, one can not lay down an exhaustive definition of honour killing but can contemplate situations and illustrations according to the prevailing customs and traditions.

It is necessary to note that as many as 288 cases of honour killing were reported between 2014 and 2016. According to the data of National Crime Records Bureau (NCRB), 28 honour killing

¹ *Honour*, Cambridge Dictionary (4th ed. 2013).

² Navratan Fateh, Honour killing in Canadian context 4 (LAP Lambert Academic Publishing, U.K , 2014).

³ Satyajit Pattanaik, Analysis of Honour Killing: National and International Perspective with Relevant Legislations, Into Legal World (Sept. 4, 2020, 8:31 PM) <https://www.intolegalworld.com/LegalArticles?title=analysis-of-honour-killing-national-and-international-perspective>

⁴ *Culture of Discrimination: A Fact Sheet on "Honor" Killings*, Amnesty International.

cases were reported in 2014, 192 in 2015 and 68 in the year 2016.⁵ The incidents of honor killing have forced us to refer dissent and defiance as synonymous to death. News headlines telling one the incidents of honour killing happening “7 hours ago” and “17 hours ago” sends shivers down one`s spine. Nevertheless, the incidents are more rampant than one can expect and the reasons for the same are bizarre.

Honour Killing: A Judicial Exposition

Relevant judicial pronouncements show the gravity of the issue and what punishments are offered in such circumstances:

1. Vikas Yadav vs. State of U.P. and Ors⁶, 2016

The victim and the accused`s sister were in an intimate relationship, which was disapproved of by the brothers/ accused as well as the family members due to the fact that the victim/ deceased did not belong to the same caste and came from a low economic strata. The deceased was abducted from the wedding venue, murdered and his dead naked body was set aflame. Thereafter, the accused absconded. It was held that the crime was done in a cold-blooded manner with the motive that had emanated due to feeling of some kind uncalled for and unwarranted superiority based on caste feeling that has blinded the thought of "choice available" to a sister-a representative of women as a class. It was held as a case of "honour killing".

The accused were punished with life imprisonment as well as fine of one lakh each under Section 302 of Indian Penal Code, 1860 (“IPC”) along with other punishments under Section 364 and Section 201 of IPC, which were to run concurrently. Thereafter, the High Court imposed a fixed term sentence of 25 years for the offence under Section 302 of IPC and 5 years for offence under Section 201 of IPC with the stipulation that both the sentences would run consecutively. Further, no changes were introduced by the Supreme Court.

⁵ (2018) 7 SCC 192 (India).

⁶ (2016) 9 SCC 541 (India).

2. Bhagwan Dass vs. State (NCT) of Delhi⁷, 2011

The Appellant believed that the act of the daughter brought dishonour to the family since she left her husband and was living in an incestuous relationship with her uncle. Infuriated with the acts of the daughter, the father strangulated her with an electric wire. The Appellant was convicted since the possibility of commitment of crime by someone else, other than the Appellant, was ruled out. Additionally, the omission by the Appellant in not informing the police about the death of his daughter for about 10 hours was a totally unnatural conduct on his part. The ratio decidendi of the case lies in the fact that a person can be convicted on circumstantial evidence provided, links in chain of circumstances connects the accused with crime beyond reasonable doubt.

3. State of U.P. vs. Krishna Master and Ors.⁸, 2010

In furtherance of the fact that a girl named “Sontara” eloped with “Amar Singh”, six persons were killed and almost a whole family was wiped out to save the “honour” of the family. The Trial Court held it as rarest of rare case and capital punishment was imposed on all the three accused. However, the Supreme Court noticed that the incident took place 20 years ago in 1991 and the High Court ordered acquittal in 2002. After the said order, nothing adverse against any of the respondents was reported. Therefore the Apex Court held that to sentence the respondents to death after their acquittal in the year 2002 would not be justified and further, it imposed rigorous imprisonment for life under Section 302 of IPC.

4. Dilip Premnarayan Tiwari v. State of Maharashtra⁹, 2009

The accused's younger sister had revolted against the family and got married to a Keralite. Therefore, to preserve the family honour, the accused had taken the revenge of the so-called insult of his family. Consequently, three convicts had killed two persons and grievously injured two others. A third victim later succumbed to his injuries. The crime was held to be that of “honour killing”. The Court reduced the death sentence awarded to

⁷ (2011) 6 SCC 396 (India).

⁸ (2010) 12 SCC 324 (India).

⁹ (2010) 1 SCC 775 (India).

two of the criminals to imprisonment for life with a direction that they should not be released until they complete 25 years of actual imprisonment. The third criminal was sentenced to undergo 20 years of actual imprisonment. That these criminals were young persons who did not have criminal antecedents weighed in reducing their death sentence. It was also said that mere life imprisonment which is capable of resulting into 20 years of imprisonment or 14 years of actual imprisonment may not be adequate punishment for these accused persons. It was also said that the mere number of persons killed is not by itself a circumstance justifying the death sentence.

Laws related to Honour Killing

In spite of the widespread misconception in the minds of the people that they are the sole protectors of their family's prestige, no specific laws deal with honour killing in India. Undeniably, courts have granted justice through Section 302 (Punishment for Murder) along with other connected provisions crimes like kidnapping (Section 364) and harming of evidence (Section 201). Life imprisonment, rigorous imprisonment or capital punishment is announced as per the facts and circumstances of each case. Therefore, it can be said that honour killing is termed as murder in India but the substantive motive stays the same, to protect the honour. Additionally, the following sections play a crucial role for the punishment of offences in the name of honour killing:

- Sections 299, Culpable Homicide
- Section 300, Murder
- Section 301, Culpable homicide by causing the death of a person other than the person whose death was intended.
- Section 302, Punishment for murder
- Section 303, Punishment for murder by life-convict.
- Section 304, Punishment for culpable homicide not amounting to murder
- Section 304A, Causing death by negligence
- Section 307, Attempt to murder
- Section 308, Attempt to commit culpable homicide

Other provisions relating to criminal conspiracy, abetment of offences and common intention can also be brought under review as per the facts and circumstances of a particular case. But to make our law more strong on the issue of 'honour killing' an important amendment in the Section 300 of Indian Penal Code, 1862, must be done by adding a new definition of 'Murder' in the form of 'Honour Killing'.¹⁰ This suggested amendment will bring in a conclusive proof that honour killing coincides with murder. This will also bring in awareness about the issue and lead to deterrence in the society.

Nevertheless, several human rights are nationally as well as internationally recognized and thus, can protect individuals from such brutal behaviour. The Constitution protects individuals with Fundamental Rights under Part III. It secures the Right to Life under Article 21¹¹ and allows an individual to live with dignity¹² and freedom of choice. It is the duty of the State to preserve the fundamental rights of individuals and therefore, prevent honour killing in all aspects. In the case of *Shakti Vahini v. Union of India (UOI)*¹³, it was specifically stated that,

“Honour killing guillotines individual liberty, freedom of choice and one's own perception of choice. It has to be sublimely borne in mind that when two adults consensually choose each other as life partners, it is a manifestation of their choice which is recognized Under Articles 19 and 21 of the Constitution. Such a right has the sanction of the constitutional law and once that is recognized, the said right needs to be protected and it cannot succumb to the conception of class honour or group thinking which is conceived of on some notion that remotely does not have any legitimacy.”

Several international laws and conventions also point towards prevention of honour killing. **Article 42** of The Council of Europe Convention on Preventing and Combating Violence Against

¹⁰ Honour Killings: The Law It Is and the Law It Ought to Be, Law Teacher (Aug. 16, 2019) <https://www.lawteacher.net/free-law-essays/constitutional-law/honour-killings-the-law-and-improvements-to-it-law-essays.php#ftn4>.

¹¹ INDIA CONST. art. 21.

¹² *Id.*

¹³ (2018) 7 SCC 192 (India).

Women and Domestic Violence is titled as Unacceptable justifications for crimes, including crimes committed in the name of so-called "honour". It further says:

1. Parties shall take the necessary legislative or other measures to ensure that, in criminal proceedings initiated following the commission of any of the acts of violence covered by the scope of this Convention, culture, custom, religion, tradition or so-called "honour" shall not be regarded as justification for such acts. This covers, in particular, claims that the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.

2. Parties shall take the necessary legislative or other measures to ensure that incitement by any person of a child to commit any of the acts referred to in paragraph 1 shall not diminish the criminal liability of that person for the acts committed.

The basic human rights like the right to life are even protected under International Convention on Human Rights (1948). The presence of laws that treat 'honour killings' leniently is also a brazen disregard of the International Convention of Civil and Political Rights (1966).¹⁴ The Convention on the Elimination of All Forms of Discrimination against Women (1979) also seeks to preserve the rights of women and prevents discrimination of women in any form, whatsoever.

Therefore, undoubtedly, even in absence of specific laws, honor killing is prevented in all forms through several provisions. It can seek no defence of preserving the customs and traditions. The mask of caste discrimination, economic discrimination and restrictings for the sake of respect in society needs to be unveiled and consequently, the laws must prioritise individuality over society.

The Victims of Honour Killing

The deep rooted caste structure and patriarchal domination are some of the chief factors resulting in the rise of honour killings. Inter-caste marriages are still looked down upon and many people

¹⁴ Honour Killings: The Law It Is and the Law It Ought to Be, Law Teacher (Aug. 16, 2019) <https://www.lawteacher.net/free-law-essays/constitutional-law/honour-killings-the-law-and-improvements-to-it-law-essays.php#ftn4>

often succumb to its consequences. In a recent case, a man was murdered by his wife's father and another relative after being married for just six months.¹⁵ Attempts were made to forcibly separate the couple after they had an inter caste marriage. However, on not being successful, the father preserved the honour, indeed.

Being a woman is another reason why a person can be a victim of honour killing. In India, women constitute almost 97 percent of honor killing victims, according to activist Kathir Vincent, director of Evidence.¹⁶ The male dominated society is often triggered when a woman does what she wants. This often results in harassments, isolation and even murder so as to let the women know "what they deserve".

The Perpetrators of Honour Killing

Several people and collective groups are responsible for either actually doing the honour killing or promoting it in one way or another. Several times, an individual like a parent, a brother or a husband are held responsible. Close relatives and blood relations are often the chief perpetrators of such a cold blooded murder. The collective behaves like a patriarchal monarch which treats the wives, sisters and daughters subordinate, even servile or self-sacrificing, persons moving in physical frame having no individual autonomy, desire and identity.¹⁷ The concept of status is accentuated by the male members of the community and a sense of masculine dominance becomes the sole governing factor of perceptive honour.¹⁸

Another group responsible as the pseudo adjudicators, the Khap Panchayats. According to India Today, khap panchayat is the union of a few villages, mainly in north India, who have lately emerged as quasi-judicial bodies that pronounce harsh punishments based on age-old customs and traditions, often bordering on regressive measures to modern problems.¹⁹ In the case of *Arumugum Servai v. State of Tamil Nadu*²⁰, Supreme Court noted,

¹⁵ Brinda Karat, *For One Of India's Most Brazen "Honour Killings, Justice Denied*, NDTV, June 26, 2020.

¹⁶ Anugraha Sundaravelu, *Why India Needs a Separate Law for Honor Killings*, The Swaddle (Apr 21, 2020), <https://theswaddle.com/honor-killings-india-law/>

¹⁷ *Shakti Vahini vs. Union of India (UOI) and Ors*, (2018) 7 SCC 192 (India).

¹⁸ *Shakti Vahini vs. Union of India (UOI) and Ors*, (2018) 7 SCC 192 (India).

¹⁹ *What is khap panchayat*, India Today, Oct. 11, 2012.

²⁰ (2011) 6 SCC 405.

*“We have in recent years heard of "Khap Panchayats" (known as "Katta Panchayats" in Tamil Nadu) which often decree or **encourage honour killings** or other atrocities in an institutionalised way on boys and girls of different castes and religion, who wish to get married or have been married, or interfere with the personal lives of people. We are of the opinion that this is **wholly illegal and has to be ruthlessly stamped out.**”*

Another emerging barbaric phenomenon is that of “Mob Lynching” wherein the victim is brutally killed by a large group of people, leaving behind no single individual to be responsible. Such incidents happen in the case of religious disputes, eating of beef etc. States like Rajasthan have passed two separate bills regarding mob lynching and honour killing in 2019.²¹ Earlier in 2018, Manipur also passed a special law against mob lynching.²² Although such laws promise stringent punishments and fines for appropriate protection, one can have faith in law when one uses it. Hunter S. Thompson rightly says, “We cannot expect people to have respect for law and order until we teach respect to those we have entrusted to enforce those laws.”²³

The Social Impact

The influence of honour killing in the society is extensive. Honour killing is practised all over the world and with limited rules and regulations to prevent the act, the act has shown us cases of draconian nature. One can neither tolerate it, nor dare to prevent it.

1. The Fear in Society

When it should be the laws which must deter “illegal” acts, honour killings allows deterrence of “legal” acts by committing an “illegal” act. One can say that the sole factor driving this mad force is the desire to establish superiority and claim fear. Another factor may be to preserve and “nurture” our traditional values.

²¹ Mohammed Iqbal, *Bills against lynching, honour killing passed*, The Hindu, Aug. 5, 2019.

²² Mohammed Iqbal, *Bills against lynching, honour killing passed*, The Hindu, Aug. 5, 2019.

²³ Hunter S Thompson: in his own words, *The Guardian* (Feb 21, 2005, 12:30 PM)
<https://www.theguardian.com/books/2005/feb/21/huntersthompson#:~:text=%22We%20cannot%20expect%20people%20to,rather%20kill%20than%20live%20peacefully.>

However, when such an act is committed against one individual in a group, unfortunately, it sets an example for other members as well. People often succumb to the wishes of the majority for the sake of their life. This further results in blatant violation of human rights. A society must be based on the principles of harmony and coordination. Still, through honour killing, the “protectors” force people to follow the principles which the majority or the superiors feel are right.

2. Death of women

According to The State of World Population 2000- Lives Together, World Apart: Men and Women in a Time of Change, a report by United Nations Population Fund, the most obvious consequences of “honour” killing are the deaths of thousands of women each year.²⁴ Many women are killed or murdered in consequence of honour killing and many kill themselves in the fear of being a victim. Several suicides happen to prevent such dishonour.

3. Consequent failure of State Machinery

The State is mandated to protect the rights of the people. However, when the law is taken in the hands of khap panchayats and the mob, the people in the society are influenced to report the matter to these pseudo adjudicatory bodies. People start to honour their decisions.

If this practice becomes more prevalent than it already is, it is bound to cause failure for the judiciary, the legal system and the police. Once people start losing faith in the system and start to gain confidence over the other bodies, human rights shall be doomed.

In the case of Shakti Vahini²⁵, it was put forth that the Central Government is engaging various States and Union Territories for considering a proposal to either amend the Indian Penal Code or enact a separate legislation to address the menace of honour killing and related issues. The Union

²⁴ Consequences of Violence Against Women with Disabilities, The Advocates for Human Rights (Aug 4, 2008) <http://www.stopvaw.org/consequences>

²⁵ Shakti Vahini vs. Union of India (UOI) and Ors, (2018) 7 SCC 192 (India).

of India has filed another affidavit stating, inter alia, that in order to tackle the issue of 'honour killings', a Bill titled 'The Prohibition of Interference with the Freedom of Matrimonial Alliances Bill' has been recommended by the Law Commission of India vide the 242nd Law Commission Report. However, till today nothing concrete on the said lines has been enacted or enforced.

Certain preventive, remedial and punitive measures were brought to the Court's notice in the Shakti Vahini case. These measures deposited a wide power in the hands of the police personnel and if truly complied with, the country can do away with the khap panchayats soon.

The social impact of honour killing and these khap panchayats is deep and pervasive. The effect can continue for years and affect generations of people, especially women. Where one part of the society is outgrowing their culture, another part of the same country is trying to legalise death and murders to preserve the culture. To truly normalise freedom and human rights, one has to raise awareness. The Government needs to play a key role in raising awareness and promoting the “non-conventional” activities. The practice has been established over years in diverse ways and it shall take years to demolish as well.

The intention, knowledge and hatred towards the victim is obvious in the cases of honour killing. This is the consequence of years of practice and customs. The upbringing of individuals imbibes these practices in the minds of people. If not prevented now, the upbringing of several future generations will reflect a similar pattern of behaviour. One may seek clarification by looking at what Ellen Johnson Sirleaf says. She says, “Future generations will judge us not by what we say but what we do.”²⁶

Conclusion

It was held in Lata Singh's case²⁷ that there is nothing 'honourable' in 'honour' killings, and they are nothing but barbaric and brutal murders by bigoted, persons with feudal minds. One

²⁶ Barend Leyts, President Charles Michel speaks at the extraordinary summit of the Organisation of African, Caribbean and Pacific States, European Council, Council of the European Union (June 3, 2020, 15:55 PM), <https://www.consilium.europa.eu/en/press/press-releases/2020/06/03/president-charles-michel-speaks-at-the-extraordinary-summit-of-the-organisation-of-african-caribbean-and-pacific-states/>.

²⁷ Lata Singh v. State of UP and Ors., (2006) 5 SCC 475 (India).

cannot portray the grievousness of the issue better than the about statement. It is indeed true that such acts are a blatant violation of human rights and people need to get aware that it is every individual's choice to do what he or she pleases unless they are harming the legal principles.

An honour killing is an act of rage and an act of human behaviour. One can truly control such activities by a change in mentality. Social boycott is what kills a person inside before honour killing gets hold of the situation. Acceptance towards the right things can lead us all to a path of righteousness.

The case of *Bhagwan Dass v. State of Delhi (NCT)*²⁸ notes,

Before parting with this case we would like to state that 'honour' killings have become commonplace in many parts of the country, particularly in Haryana, western U.P., and Rajasthan. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts.

It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilized behaviour. All persons who are planning to perpetrate 'honour' killings should know that the gallows await them.

The impact of honour killings can be controlled by a change in thinking on an individual basis and once, stringent laws are concretely enforced and awareness is raised, people will be bound to reform, not just externally but internally as well.

²⁸ Bhagwan Dass vs. State (NCT) of Delhi, (2011) 6 SCC 396 (India).