



LEGAL AND JUDICIAL APPROACHES OF HONOUR KILLING IN INDIA: AN ANALYSIS

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Abstract

Every citizen of India has right to live of free life under the right to life granted by the Indian constitution and also has the right to choose his life partner. Life is unpredictable. Nobody knows the next minute of life. In this scenario, every individual possesses the entitlement and aspiration to lead the life of their choosing. No individual should ever be compelled to lead a life that fails to appreciate and honor the worth of others. The act of murder occurs when an individual refuses to comply with an arranged marriage imposed by their family or willingly alters it, resulting in potential harm to the family's reputation. While Family law prioritizes the importance of the family structure, yet it often overlooks the significance of love and affection among its members.

Honour killing is said to be committed in order to save family's honour but there is no honour in doing such deed rather it is a barbaric and shameful acts of murder and the wrongdoer deserved a harsh punishment. Honor killing refers to the act of murdering a family or social group member by other members due to the belief that the victim has caused disgrace or dishonor the members of the family or the community. The paper discusses the influence of caste and culture prevailing in different parts of India. In this research paper, the author focuses on the causes of honor killing and the impact that traditional institutions like caste panchayats exercise. There is no comprehensive law in India to combat the honour killing. The impact of honor killings on both women and men is discussed in this paper. The author in the instant paper wants to highlight the legal implications of honour killing in the present day context. Further, the author has discussed various issues and challenges pertaining to honour killing. In the concluding observations, the writer has made some suggestions for punishing and preventing the heinous crime like honour killing. At last, the author has suggested that there is necessity of change of mind set of people and mass awareness to combat the honour killing.

Key Words: *life, honour, killing, respect, law man, woman, marriage, love, family, etc.*

Introduction

Honor killings in India refer to the practice of individuals, typically family members, killing a person, usually a woman, who is perceived to have brought shame or dishonor to the family. The reasons for honor killings are often rooted in cultural, social, and patriarchal norms. These killings are usually carried out based on the belief that the individual has violated traditional norms related to marriage, caste, religion, or social status.

Termed differently, "Honour killing" or "shame killing" refers to the act of taking someone's life, typically carried out by the victim's own family, with the intention of safeguarding the family's "honour" and "dignity" in the context of inter-caste or inter-religion marriages or relationships. While the majority of victims are women, there have been instances where men/boys have also been targeted. Additionally, members of the LGBTQ+ community have also fallen victim to such heinous acts in certain cases.



The reasons for honor killings can vary but often include perceived violations of social or cultural expectations such as engaging in relationships outside of one's caste, religion, or community, marrying against the family's wishes, or even dressing in a manner deemed inappropriate. The cause of honor killing can usually be seen in relationships that are against one's marriage, religion, caste, or social status. Women are most likely to be victims, but sometimes men are also victimized.

Honor killings are prevalent in various parts of the world, and they represent a significant challenge to human rights, particularly women's rights. The victims are often targeted for behavior or choices that are considered unacceptable within their cultural or social context.

Honour killings are considered a serious social issue in India, although the exact number of cases is difficult to determine due to underreporting and the secretive nature of such crimes. The victims are often targeted for reasons such as marrying against their family's wishes, engaging in inter-caste or inter-religious marriages, or having relationships outside the accepted social norms. Honour, like many other intangibles, is a product of human society and is thus linked to certain actions and performances. While this is kept separate from others.

It is important to emphasize what is the basis of this analysis! It is rooted in the belief that society gives meaning to concepts. In other words, concepts are given socially constructed meanings which in turn guide behavior. What is considered socially appropriate the ideas behind honor and dishonor is not only created by society but are also rewarded or punished accordingly. Thus the loss of respect that occurs due to actions that are considered deviant within a socially constructed reality involves social disapproval. While penalties for outrageous behavior vary, some actions are seen so far from acceptable social norms that they deserve the extreme penalty of death.

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It is important to note that the term "honor killing" is used to describe a specific form of violence but has been criticized for perpetuating a misguided notion of honor tied to violence. Some prefer terms such as "killings for perceived honor" to emphasize the wrongful nature of the act and to avoid associating honor with violence. The international community continues to work towards eliminating honor killings through legal measures, education, and advocacy for gender equality and human rights.

The Historical Background of Honor Killings -

The history of honor killings is complex and varies across cultures and regions. Honor killings have been documented in various societies throughout history, and the motivations behind such acts often stem from deeply ingrained cultural, social, and patriarchal norms. Here Below is a summary of the historical context:

Ancient Societies:

Instances of honor-based violence can be traced back to ancient civilizations, where concepts of family honor, caste, and social status were highly significant. The enforcement of rigid social norms often led to severe consequences for individuals perceived to have violated these norms.



Medieval and Renaissance Periods:

During medieval and Renaissance periods, honor killings were reported in various parts of the world. The enforcement of family honor and social hierarchies was particularly pronounced during this time.

Colonial Era:

The colonial era brought changes to societal structures, and the clash between traditional practices and colonial influences sometimes exacerbated tensions within communities. Some argue that colonial policies contributed to the preservation of certain patriarchal and conservative values.

Modern Era:

In the modern era, honor killings persist in many regions, reflecting a complex interplay of cultural, religious, and societal factors. Migration and globalization have brought these issues to the forefront, as communities navigate between traditional values and the influence of external cultures.

Legislation and Human Rights:

Over the years, there has been increasing global recognition of honor killings as human rights violations. Many countries have implemented legal reforms to address and prosecute individuals involved in honor killings. International organizations and advocacy groups work towards raising awareness and combating such practices.

International perspectives

Honor killings are not confined to a specific region or religious group; they occur in various parts of the world. While South Asia, the Middle East, and North Africa are often associated with honor killings, cases have been reported in Europe, the Americas, and other regions as well.

It is essential to note that the historical context of honor killings is diverse, and the factors contributing to such acts can differ significantly across cultures. Efforts to address honor killings involve a combination of legal measures, educational initiatives, and advocacy for gender equality and human rights. The fight against honor killings continues as societies work to challenge harmful norms and promote a more inclusive and just environment.

Causes of Honor Killings

1. Motivations behind Honor Killings:

Honor killings are a deeply disturbing and tragic phenomenon that occurs in certain societies. These acts are driven by a complex web of factors, which vary from one case to another. It is important to understand that honor killings are not justified under any circumstances, but exploring the underlying reasons can help shed light on the societal dynamics that perpetuate such violence.

2. Societal Pressure and Patriarchal Norms:

One of the primary reasons behind honor killings is the immense societal pressure to uphold traditional values and norms. In many societies, particularly those with deeply entrenched patriarchal systems, the concept of family honor is closely tied to a woman's behavior and perceived modesty. Any perceived transgression, such as engaging in premarital relationships or seeking autonomy, can be seen as a threat to the family's honor and reputation.



3. Control and Power Dynamics:

Honor killings are often rooted in control and power dynamics within families. The perpetrators, usually male family members, believe that they have the right to dictate the lives of their female relatives. This sense of entitlement leads to extreme measures being taken to maintain control and dominance over women's choices and actions. Tragically, this can result in the loss of innocent lives.

4. Fear of Social Stigma:

Fear of social stigma and the desire to preserve the family's reputation play a significant role in honor killings. Families may feel compelled to resort to extreme measures to avoid being ostracized by their community. The fear of being judged and shamed by others can push individuals to commit heinous acts in the name of preserving their perceived honor.

5. Lack of Legal Protection and Enforcement:

In some cases, honor killings persist due to the lack of effective legal protection and enforcement. Weak legal frameworks, coupled with societal acceptance or indifference, create an environment where perpetrators believe they can act with impunity. This absence of justice further perpetuates the cycle of violence and allows honor killings to continue.

It is crucial to emphasize that honor killings are a grave violation of human rights and should never be condoned or justified. Efforts must be made to challenge and change the societal norms and attitudes that perpetuate such violence, while also ensuring that legal systems provide adequate protection for those at risk.

Legal Implications

The pivotal role played by provisions in Indian Law is to safeguard and uphold the fundamental and constitutional rights of individuals. These provisions act as a shield against any violation of constitutional rights, particularly under Article 14 (equality before law) and Article 19 of the Constitution of India.

In our country, every citizen possesses their own rights, regardless of their caste, religion, or gender. The Indian Constitution explicitly states that India is a secular State, granting us the freedom to choose our religion and life partner.

However, when it comes to honor killings, it becomes evident that there is a stark contrast to the principle of equality before the law. Section 299 and 301 of the Indian Penal Code, 1860, classify honor killings as culpable homicide amounting to murder. These acts are committed with the intention of preserving the family's honor, but they ultimately result in the loss of a life.

The Constitution of India upholds the ideals of equality before the law, as stated in Article 14, and equal rights before the law, as stated in Article 15. These provisions ensure that every citizen is treated fairly, without any discrimination based on caste, creed, sex, race, or religion.

However, in the case of honor killings, it is evident that there is a lack of equality before the law. The victims are predominantly females, highlighting a gender-based violation. This goes against the principles enshrined in our Constitution.

Article 19 and Article 21 of the Indian Constitution guarantee the Right to Freedom and Right to Life,



respectively. In honor killings, both of these fundamental rights are violated. Every individual has the right to choose their life partner, and no one should have the authority to deprive them of their freedom and life.

The Hindu Marriage Act, 1955, clearly states that an individual becomes a legal adult at the age of 18, as defined in Section 3. Therefore, honor killings are a direct violation of the law. No one has the right to take someone's life in the name of preserving family honor, especially when the person involved does not consent to an arranged marriage

It is crucial to recognize and uphold the principles of equality before the law in order to eradicate the practice of honor killings and ensure justice for all citizens..

International Legal Norms:

India has also ratified several international treaties and conventions that address the issue of honor killings, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) from 1979, the Universal Declaration of Human Rights (1948)[19], and the International Covenant on Civil and Political Rights (ICCPR) from 1996.

Judicial Approach on Honor killing

Role of judiciary plays a prominent role in combating honour killing in India. It is a complex task to determine the exact first instance of honor killing in India, given that such incidents have taken place over many years and historical records may not always provide a comprehensive account. The historical and cultural roots of honor killings in India further complicate the identification of a specific "first" case.

Nevertheless, there is one notable early case that garnered significant attention, dating back to 1953. This case involved the murder of K. M. Nanavati by Kawas Nanavati in Mumbai. While this particular case may not fit the traditional definition of honor killing, which typically involves familial or communal violence against an individual perceived to have brought dishonor, it does shed light on societal attitudes towards honor and morality.

The Public Interest Litigation (PIL) filed by the NGO Shakti Vahini sheds light on the oppressive actions of khap panchayats, who impose severe punishments on couples who have fallen in love or violated the traditional sagotra marital relationship rule.

Shakti Vahini v Union of India, 2018

In 2018, the case of **Shakti Vahini v Union of India** “Dipak Misra, the Chief Justice of India, emphasized that the expression of personal choice is an integral part of both freedom and self-respect, and they cannot be separated.”

Verdicts: Pursuant to Article 32 of the Constitution of India, the present Writ Petition was filed with the aim of seeking directives from the respondents, namely the State Governments and the Central Government, to adopt preventive measures in order to address honor crimes. Additionally, the petition sought the formulation of a National Action Plan and State Action Plan to effectively combat such crimes, as well as guidance for the State Governments to establish specialized units for each case. Furthermore, it was requested that a mandamus letter be issued to the state governments, compelling



them to initiate proceedings in every honor killing case and to take necessary measures to eradicate such acts. The petitioner argued that Section 5 of the Hindu Marriage Act of 1955 supported the opposition of khaps to marriages between individuals belonging to the same gotra. This section stipulated that "Sapinda should be separated from the paternal side by five degrees, and from the maternal side by three degrees."

Furthermore, the Department of Women and Child Development has taken measures to provide rehabilitation for female victims who are at risk of honor killings. Efforts have also been made to raise awareness within society about the prevention of such crimes. A circular outlining the necessary actions to prevent "Honour Killing" cases has been included for reference.

The case of **Smt. Laxmi Kachhwaha vs. State of Rajasthan (1999)** involved a Public Interest Litigation (PIL) that was filed in the Rajasthan High Court against the Khap Panchayat for their illegal operations. After careful consideration, the court determined that the Khap Panchayat should be limited in their activities and their members should be held accountable by being imprisoned.

On March 11, 2011, the infamous **Manoj Babli case** unfolded, shedding light on the dark reality of honor killings. This case revolved around two victims, Manoj and Babli, who had defied the wishes of the Khap Panchayat by marrying each other despite being in love. In an attempt to force them to accept their decision, the Khap Panchayat declared them as siblings. However, Manoj and Babli refused to comply. Tragically, their resistance led to a horrifying fate. In a cruel act, insecticides were forced down their throats while they protested, and their lifeless bodies were callously discarded into a canal after being strangled. The perpetrators of this heinous crime, some of whom were family members, were subsequently apprehended and handed life imprisonment sentences.

In August 2012, the Law Commission of India published a document titled "Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework." This document put forward a legislation with the objective of tackling the harmful impact of Khap (or caste) panchayats, which infringe upon the basic right of individuals to autonomously select their life partners.

In the case of **The State of Maharashtra vs Eknath Kisan Kumbharkar** on August 6, 2019, it was emphasized that honor killings have unfortunately become prevalent in various regions of The region, specifically in Haryana, western Uttar Pradesh, and Rajasthan, is known for its distinct characteristics.. Young couples who dare to fall in love often find themselves seeking refuge in police lines or protection homes to escape the wrath of kangaroo courts.

In the landmark **Lata Singh case**, it was firmly established that honor killings hold no honor whatsoever. Instead, they are savage and merciless acts committed by narrow-minded individuals with archaic mentalities. We firmly believe that honor killings, regardless of the motive, fall under the category of the most heinous crimes deserving of the death penalty. It is imperative to eradicate these barbaric and feudal practices, as they tarnish the reputation of our nation. This serves as a necessary deterrent against such outrageous and uncivilized behavior. Those contemplating "honor" killings must be aware that the gallows await them.



Critical analysis

Honour killings, a crime committed in the name of preserving family honour, must be reevaluated and redefined. It is crucial to recognize that there is no honour in taking someone's life. Cultural customs and religious beliefs should never serve as justifications for such acts, as they are often misinterpreted and open to manipulation. The freedom to practice religion does not grant the right to kill. To combat this evil, we must take the following steps:

1. **Increasing Awareness:** Honour killings are most prevalent in rural areas, where girls are often the victims. Due to limited access to education, they are unaware of their rights and may perceive these acts as punishment for their own perceived faults. By spreading awareness and educating individuals, we can empower them to fight back against such injustices.

2. **Social Reforms:** The root cause of honour killings lies in the mentality of society. Inter-caste unions continue to be regarded as socially unacceptable in numerous societies. It is essential for society to evolve with the changing times and embrace acceptance. Fear of societal judgment should not deter individuals from reporting such cases, as shedding light on these crimes is crucial for addressing them effectively.

3. **Strong Legal Measures:** While existing laws may cover honour killings under various provisions, it is imperative to establish a specific, stringent law that explicitly addresses these heinous crimes. This will serve as a deterrent and ensure that the perpetrators face appropriate punishment for their actions.

By redefining the concept of honour and taking these proactive measures, we can work towards eradicating honour killings and creating a society that values and respects every individual's right to life. A distinct legislation is imperative to address the heinous act of honor killings, ensuring the perpetrators are held accountable and providing necessary rehabilitation and support to the affected families. This law should encompass the issue of harassment faced by young couples who choose to marry against their families' wishes. Legal protection must be extended to couples who face threats from their own families. It is crucial to impose stringent punishments on the criminals involved in honor killings, sending a resolute message to deter such acts. Additionally, the collection of statistics is essential to facilitate a comprehensive study, analysis, and informed decision-making process regarding the necessary measures to be taken.

Concluding observation

Honour killings in India are the most heinous and violent crimes committed against individuals. This deeply rooted practice has a long history in Indian culture and continues to persist in various parts of the country. These cases highlight the fact that more than half of the Indian population still lives under the oppressive grip of the caste system, where even young people are denied Individuals possess the freedom to exercise their own judgment and make choices pertaining to their personal lives.

The fact that such barbaric crimes are committed without question, and are even seen as a way to purify the impure, is a clear indication that India has yet to progress. True development must start from the very foundation, addressing the core issues. Alternatively, it is akin to a hollow structure corroded from within by termites, destined to collapse. Caste, religion, communities, and traditional beliefs are the primary factors contributing to this problem. Despite the numerous recommendations put forth by organizations like the Domestic Women's Association, the government has failed to take any action, leaving India without a specific law to address this issue.



I would like to conclude my article by highlighting a significant case, *Shakti Vahini v. Union of India*, 2018, which was a landmark ruling delivered by Justice Dipak Misra. In this case, Justice Misra eloquently stated, "Liberty, in its practical sense, means the right to choose." It is imperative that feudalistic ideologies fade away, allowing the path to freedom to be unobstructed. The preservation of the right to enjoy freedom must be diligently safeguarded, enabling it to thrive with strength and magnificence.

A comprehensive review of all legislation is imperative to address this gendercide. Taking a life is an act of killing, and simply adding the term 'honor' to it should never serve as a sufficient justification for its perpetuation.

Last but not the least, as far as the abovementioned discussions, debate, deliberation and discourse is concerned, it is found that there is need of a comprehensive law in India to combat the heinous crime like honour killing. Nothing is the honour in the name of honour killing. There is also need of mass awareness to control the honour killing. The existing law is to be strictly implemented and stringent punishment may be imposed who are directly or indirectly involved in the honour killing. The abettor is also to be equally liable for honour killing. Mass media plays a prominent role in creating awareness among the people to check the honour killing.

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