



## HONOUR KILLING IN THE CRIMINAL JUSTICE ADMINISTRATIONS SYSTEM IN INDIA: A SOCIO-LEGAL STUDY

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### **Abstract**

*The concept of honour killing is customary in nature and the most victimized section are especially the feminine gender. In some places honour killing is equated with a form of femicide. Since women are the epitome of honour for a family through ages, any deviation on their performance of duties are being construed as derogatory. So they are intentionally murdered by a member of the family or any social group for derogating the fame of their respective families and sometimes of the society as a whole. The researcher focuses on the present legislative effort as well as the various cases where it is clearly held by the different decided cases on honour killing but its great concern that is to make an attempt to h The most specific rationale of being inclined to this topic is its topical relevance and the controversies gyrating around. Modern India has been the storehouse of all religious antiquities and is unable to wipe out orthodoxy in its vision. This is the reason as to why such heinous and barbaric acts of killing in the name of honour are taking place. The main objective behind selecting this topic is giving priority to the increasing crimes and concentrating on the issues leading to such transgression. The factors leading to such felony has been discussed in this paper.*

**Key Words:** Honour, Honour Killing, Femicide, Victimization, Legislative Efforts, Religious Etc.

### **CONCEPTUAL ANALYSIS**

Honour is the most prized possession and the most cherished value of the Indian patriarchal family. Since the old ages, the format of the Indian families has been strictly patriarchal and the male dominion is evident. Girls and women were considered as procreative individuals and were responsible to maintain the pride and dignity of the family. Despite the concept of secularism in the country, the weaker sex are being blamed for every dishonour and shame. According to the patriarchal set up and versions, families achieve and mislay honour through the improper behaviour of women. When in a family any women opts for her own alliance or moves out for choosing her career, she is considered to bring dishonour to the family as her fore-mothers have never went out of the wishes of the male elders. At the same parlance, if a male is accused of raping a woman also then it is considered that the victim woman must have behaved in a way which would have forced the boy to commit the offence. No where the boy is to be blamed for his misdeed but the lady who is the victim, she has to pay the price either by spending the rest of her life in gloominess and trauma or the family members opt to kill her in the name of their so-called "honour".

### **SIGNIFICANCE OF THE STUDY**

The present study on honour killing is a definitive concept of the topic. The relevance of the study in the present context is that where in this new age era woman are empowered through various schemes and methods, the menace of killing women in the name of honour is on the rise. The researcher articulates to put forward that this crime is basically a type of femicide and women are the worst victims of the same. Through the study of the topic, the scholar puts forward her view that killing in the name of honour is a shame and such derogatory can be checked only if there is a strict and comprehensive law for it.

The dogma of honour is a gendered notion in India and the tenets of it embodies different philosophies for both the sexes in different ways. The man is considered to be the regulator of honour and dictates the woman to serve her to be a daughter, wife and mother even. In actuality, both man and woman are contemporary to each other. The process of procreation is a mutual evolution. But moreover the woman is to be blamed if she cannot reproduce a male child. The blessing of reproducing new generation is only been gifted to a woman but if the born child is a female then it brings dishonour according to some orthodox mentalities. In due course of time, the orthodoxy that prevailed in the minds of the people has erased to some extent after the codification of laws. But this new concept of "Honour Killing" has known no boundaries. Not only femicide has taken place in the name of honour but in many places in the world and now in India too, males are being killed in the name of honour. Males who marry against family's will, males who indulge in promiscuous relationships, those males who enjoy homosexual behaviour and opt out to be gays are considered to bring dishonour to the family. Since the elder members fear that the successive lineage may also get affected by the deeds of the present line which according to them attracts dishonour and bad fame.

The Constitution of India has laid down definite provisions where the concept of killing people in the name of honour is negated. Article 19 which speaks about right to freedom embodies six clauses which individually gives a citizen of India various rights regarding freedom of speech and expression, right to assembly, right to form association, right to movement, right to residence, and right of trade and occupation. Clause(1)(f) which speaks about right to property has been deleted by



the forty-fourth Amendment to the Constitution with effect from June 20<sup>th</sup> 1979. If right to freedom of speech and expression has been guaranteed by the Constitution where an individual has the right to express one's wishes and opinions decently as well as freely by word of mouth, writing, printing, pictures or other legal mode, then it is really inhuman and illegal to suppress that right by some adamant patriarchs. Clause (1)(g) speaks about the right of a person to take up any trade or occupation of his or her choice. So in accordance with this fundamental right, any woman cannot be stopped or restricted for joining any trade or service. But this is again taken up negatively by the members of the family specifically the male fraternity. When women go out for such purpose, the male members are of the opinion that she will attract bad fame one day as she will work along with other males. And they do not hesitate in killing those innocent women in the name of honour.

Further Article 21 of the Constitution of India also speaks about right to life and personal liberty. It says that no person shall be deprived of his life or personal liberty except according to procedure established by law. This article gives us right to life and not the right to die or take away anybody's life. The idea and frame of killing a person that he has brought dishonour to the family is severely inhumane. If a woman dresses up in western outfits also she is considered to bring disgrace and discredit to the name of the so-called traditional family with ethnic values. If a woman cannot dress up according to her own wish also, then where stands the concept of a dignified and willed life? Being the repository of the family and caste honour, a woman is rendered an object of protection and violence at the same time. The fear of losing this honour makes men rationalize and justify masculine aggression and violence against her.

The idea and concept of honour crimes in India is basically patriarchal and the main reasons behind such a diabolic act are marriages that are done inter-caste, inter-religious, intra-gothra and intra-regional. In a severely rigid patriarchal society, the word honour is never measured by the importance and worthiness of a man but fairly it only lies with the woman who remains under the control and command of a man. And if any deviation happens on the part of that woman, then she is accused of derogating the so-called honour. Human Rights Watch defines "Honour Killings" as follows – "Honour Killing are acts of vengeance, usually death, committed by family members against the female family members who are held to have brought dishonor upon the family. A woman can be targeted by individuals her family for a variety of reasons including : refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce even from an abusive husband or allegedly committing adultery. The mere perception that a woman has behaved in a way that "dishonors" her family is sufficient to trigger an attack on her life."

From the primordial ages, the status of women in our country is like a social destitute who has to serve the patriarchal lineage and has to abide by the commands and directives given by the father, brother, husband and son. Now another aspect has to be looked upon as to whether it is a menace to the women of the upper class or women with rural background. In the rural set-ups generally the reasons of such killing are inter-caste, inter-religious, inter-gothra etc. But in the urban areas, the male dominion may seem dormant but it is active intrinsically and the consequences are fatal. Girls in the urban places are keeping up pace with the modern world and are opting for career first rather than entering into a wedlock. In the fast moving world, girls and women are standing with balanced shoulders with males. Such an equality and freedom may pinch the male family members and then they act as perpetrators to such a heinous crime. The adaptation of western lifestyles by the daughters sometimes may lead to stir up annoyance and rebel in the father's and brother's mind and they do not hesitate to exterminate their own kith and kin for such a trivial issue. Furthermore, adaptation of more western cultures like being in a homosexual relationship with their matched up mates is not yet accepted in an orthodox society like ours. Parents hate listening words like lesbians and gays for their children and take no time in decimating the pinching child.

The scholar has objectified the meaning, definition and conceptual analysis of honour killing in India in the very first chapter of the study. Its deals with the impact of this heinous crime in the present day society. The after effects and the prefixes related to such killing are being discussed in the study. Definitions given by different groups, ethnic tribes commissions and committees are also being conversed in the study. The legislative efforts taken by the government and the judiciary in congregation with view to honour killing has also to be studied upon. The researcher has tried to segregate whatever piece of information is available relating to such efforts in this study. A very often name "Khap Panchayat" is being used now a days. Also known as "Katta Panchayats" in Tamil Nadu, it has been the catchword of the day. Khap Panchayat is the assembly of few most elderly person from a union of villages who takes decisions on the modern days problems and pronounce severely harsh punishments. They have turns into quasi – judicial bodies though they do not have any existence in the Indian Constitution. Their explicit work is to assert the harshest punishments on the basis of a tradition that has been running from antiquity. They assert death punishments to the people who specially degrade the tradition of that place. As according to them, by imposing such punishments they can create a deterrent effect in the minds of the future generation and they will no more dare to venture into such derogatory work. Such Panchayats are mostly prevalent in northern India but in some Khap of Uttar Pradesh, the Panchayatdars have put a ban on women wearing western outfits and also have interdicted female college



students to use mobile phones. They have formed an opinion that the commission of rapes can be curbed out if a girl is married at very early and tender age rather than sending her to school which will only invite troubles. The Supreme Court has already declared such bodies as illegal in 2013 but the practice of Khap still continues as they consider themselves as quasi judicial bodies. Despite no constitutional validity of such Panchayats, it is a shocking fact that more than 3 crores of people are residing under the Khap villages which is almost similar to the population of Canada.

The author has emphasized on the new legislation framed out by the Government which is known as The Endangerment of Life and Liberty (Protection, Prosecution and other measures) Act, 2011, which is an initiative to tackle the menace of honour killings in some parts of the country and deal with illegal orders of by 'Khap Panchayats'. This proposed legislation has been drafted by the Law Commission Member and senior advocate R.Venkataramani. This anticipated legislation is being discussed and approved by the commission which was headed by Justice P.Venkatarama Reddy. As the commission has turned down the notion of incorporating a new section under the IPC or make any necessary amendments in Section 300 of the Indian Penal Code for bringing "honour killings" into ambit, the researcher recommends for the same. The researcher holds the view that since law is the most dynamic faculty with new age crimes on the rise, topics like honour killings, euthanasia and surrogacy should find a place in the amended Indian Penal Code. The new insertions under the criminal law amendment act of 2013 incorporates acid attacks (Section 326A and 326B), sexual harassment (Section 354A), voyeurism (Section 354C), stalking (Section 354D), gang rape (Section 376D) etc. as new offences giving the Penal Code a new distinct look. It also places punishments distinctly for such offences. Hence the scholar puts forth the idea of incorporating "Honour Killing" under a different section or as a module under Section 300 IPC.

The notion of such killing has got different arenas in different countries. Honour killing or homicides executed in the name of honour has become a worldwide phenomenon and no single country is left unclutched from the grips of this transgression. Different countries have got inimitable groups who carry out such crimes in the name of principles and nobility. In India, the Khap Panchayats are known for their inflexible and obdurate approach on people who disgrace prestige any way. In Pakistan, honour killings are known as "Karo-Kari" which means black male and black female respectively. It is not completely true that honour killings only occur in rural areas. The Aarushi Talwar murder case of Noida is a glaring example of such killing where a 14 year old girl was killed by her parents who are doctors by profession. Aarushi was the single child of the couple and she was killed on May 15<sup>th</sup> 2008, and after a day on 16<sup>th</sup> May 2008 the 45 year old servant of the home, Hemant Banjade was also mercilessly killed by the couple. The couple has faced conviction and has challenged the decision in the Allahabad High Court.

Another objective of this study is to make the readers abreast about the social issues that lingers after and before such killing. The criminological and victimological aspects of honour killing has also been intended to show in this study. Honour killing though are dastardly acts but still in a developing country like ours, such concepts are claimed to be justified. The evil minded people who are related in performance of such felony go scot-free due to lack of evidence against them and the hesitation of the masses to raise voices to oppose such misdeed. The victims of such crimes hardly gets justice as many of such killings go unreported. The Panchayatdars and the oppressive people make a foul play of it and hardly care for the trauma that the family of the victim undergoes

## REVIEW OF LITERATURE

1. Amnesty International report "*The regime of honour is unforgiving: women on whom suspicion has fallen are not given an opportunity to defend themselves, and family members have no socially acceptable alternative but to remove the stain on their honour by attacking the woman*".
2. The National Commission on Women has recommended the removal of the word "honour" from honour killing and also has suggested special provisions or a new chapter in the Indian Penal Code to prevent such crimes. An inquiry committee headed by NCW member Charu Wali Khanna, in its recommendations has said that "The usage of the word (honour) has a tendency to rationalize and legitimize the motive of the crime by creating a false notion that the crime has been committed to save the 'honour' of the family. Thus implying society is bound by tradition to protect this violation of tradition."

## REFERENCES

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2. Violence against Women and 'honour' Crimes" Human Rights Watch.
3. Justice Verma Committee Report.
4. 242<sup>nd</sup> Law Commission Report.
5. NUJS consultation paper on khap panchayat.