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# Critical Analysis on Honour Killings in India

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## ABSTRACT

*India is a hierarchical society where different types of caste, class, and creeds where everybody assumes that their class is best in whole and every class have their own customs and ethical values where every member of class is considered as the preservers of the family's honor, and their conduct reflects the family's culture, family upbringings and ethics. This mentality of the Indian is so well entrenched that any attempt by anyone to breach the cultural or ethical norms of the community then it is strongly opposed by the family members or relatives in the sake of honour that leads to Honour killing.*

*Honour killing can be termed as killing for Honour, a death is awarded to the men or women by their own family members such as parents or relatives for marrying against their will or marrying outside their caste or religion or marrying within the prohibited degree of relationship.*

## I. HONOUR KILLING

Love is natural human feeling, which is beyond caste, religion, economic status. So, it is not unnatural for two persons to fall in love; it is unnatural for parents or relatives to murder their children for falling in love without their permission or consent.

Honour killing can be defined as an act of pre-planned murder committed by parents or relatives against other family members, who has brought dishonor upon the prestige or reputation of the family. Generally, the male member of family kills the female member who has brought dishonor upon family name or reputation. It is a kind of pre-planned or pre-arranged murder by the members of family against the member who has brought shame to the family in the society.

The main causes behind the occurrence of honour killings are marrying person outside the caste or religion, marrying person within the same gotra (ancestral lineage), homosexuality, pre-marital sexual intercourse whether consensual or non-consensual, extra marital affair and

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refusal to arrange marriage.

Honour killings affects the society at large where one or more persons consider themselves above law. The ethical values of a society such as respect for diversity, self-determination etc., are degraded when such acts are either committed or ratified by anyone.

## II. CAUSES OF HONOUR KILLING IN INDIA

1. Mentality of people –The main cause of this heinous or brutal crime of honour killing is the mentality or mindset of people, that they are not ready to accept the truth or reality that their children can marry with their own choices either in outside the caste or religion or within same gotra or sapinda relationship.

2. Rigidity of caste system- The rigid caste system divides the whole society into segments or sections and that is hierarchal. Indian society has been classified into four groups or segments that is -the brahmins, kshatriyas, Vaishyas and shudras. Indian people had an orthodox mind set so they had a conception or mindset that marriages are possible only in same community or caste therefore when inter caste marriage has been practiced, they consider it as shame upon the family name or reputation. Even Indian families are not ready to accept the inter- caste marriage and it is okay to kill and spend their life in prison but would not tolerate their kids marrying outside their caste or community.

In 2014, a college student named Bhawna Yadav was brutally murdered by her own parents and maternal uncle for marrying her boyfriend, who belongs to different caste. According to the sources the girl was beaten up, strangled and hurriedly cremated.<sup>5</sup>

In Kanyakumari a Dalit boy was murdered by upper caste Hindus for being in love relationship with a woman from their community.<sup>6</sup>

***Gudur Sandeep Reddy Vs. State Of Telengana***<sup>7</sup> -Here in this case a boy was killed by girl's father and her relatives because of inter-caste marriage between the girl and boy. The girl family is not ready to accept such inter –caste marriage so they decided to kill the boy to restore their family prestige or reputation.

3. Inter religion Marriage- is marriage between two persons professing different religions.

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<sup>5</sup>Hindustan Times. 2022. *Man killed, wife shot at five times in Delhi, honour killing suspected*. [online] Available at: <<https://www.hindustantimes.com/cities/delhi-news/man-killed-wife-shot-at-five-times-in-delhi-honour-killing-suspected-101624579959735.html>> [Accessed 12 July 2022].

<sup>6</sup> The New Indian Express. 2022. *Dalit youth dies under suspicious circumstances in Kanyakumari; kin allege 'honour killing'*. [online] Available at: <<https://www.newindianexpress.com/states/tamil-nadu/2021/nov/10/dalit-youth-dies-under-suspicious-circumstances-in-kanyakumari-kin-allege-honour-killing-2381903.html>> [Accessed 12 July 2022].

<sup>7</sup> MANU/TL/0408/2020

Indian families are not ready to accept the inter- religion marriage and it is okay to kill and spend their life in jail but would not tolerate their kids marrying outside their religion.

In Meerut a Hindu –Muslim couple got married were killed by the girl’s family in the village named- Hapur and the reason behind their murder is that the boy belonged to Hindu family, and the girl belonged to Muslim family.<sup>8</sup>

4. Illiteracy and unawareness about their rights- large sections of the society are not aware about their rights and remedies which is the reason behind prevalence of honour killings. The incident of honour killing violates the fundamental rights of a person which is provided under Article 14 ,15(1) and (3), 21 and 39(b) of Indian Constitution 1950.

5. **Lack of adequate laws** –There is no legal definition of honour crime in India but there are various penalties for honour killing is provided under section 299 to 304 of Indian penal code 1860. In today’s era we need to have strict laws to deal with cases of honour killings as this is a crime which cannot be treated as lenient crime because human being does not have the right to write down death penalty for innocent persons.

6. **Pre-Martial sexual intercourse** – In Indian society the sexual intercourse before marriage is not acceptable and consider it is as immoral activity and against the tenets of every religion. The concept of virginity is made extreme important in India, as a good or ideal wife should be so. In Indian society the virginity of a girl can only be taken away by her husband after marriage otherwise pre –martial sexual intercourse brought dishonor upon the family’s name or reputation. Sexual activity of women is always controlled that that they do not choose a sexual partner of their own choice. If one Manages to waver from this situation, they became victim of honour killing.

7. **Extra martial affairs** – In Indian society when a married person has a sexual relationship with someone other than their spouse, it is considered as an immoral or unethical activity that brought shame on the name of family’s name or reputation and their upbringing are being questioned by every member of their community or society. this situation leads to male members of the family to commit honour crime against the victim to restore their honour.

8. **Marrying within the same gotra** –According to Hindu customs or traditions it is not allowed that a boy and a girl of the same gotra (ancestral lineage) can marry because the people having same gotra are considered brothers and sisters. Even Hindu Marriage Act 1955 does not

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<sup>8</sup>Sandeep Rai: Muslim woman weds Hindu man both killed, (Updated: Nov 30, 2014, 15:42 IST ) [http://timesofindia.indiatimes.com/articleshow/45321279.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/45321279.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

legalizes marriage between members of the same gotra and considered that marriage as null or void-ab-initio. When people got married within the same gotra or sapinda relationship and were later killed by their families or relatives for preserving the honour.

In *Manoj-Babli case*<sup>9</sup> –Manoj and Babli were brutally murdered by Babli's relatives for marrying within the same gotra. According to sources, firstly the couple was asked to accept each other as brother and sister but they denied accepting it and on the orders of Khap Panchayat they were murdered by Babli's relatives.

9. **Homosexuality** –is the sexual intercourse or sexual attraction between two persons of the same sex as man and man or women and women but the Indian society is not ready to accept homosexuality and that leads to honour killings.

10. **Lack of formal governance** –The main reason for the increment in cases of honour killing is the formal governance has not been able to reach the rural section of the society. Large number of populations is living in villages in India, but they are not entitled to get justice through fair mode.

### III. LEGAL ASPECT OF HONOUR KILLING IN INDIA

#### 1. Indian Constitution 1950-

Indian constitution provides various fundamental rights to protect the individual. Rights are vested in every citizen irrespective of their race, religion, caste, sex, and gender etc. and these rights are protected from honour killings.

There are various fundamental provisions are violated due to honour killings. Fundamental rights provided under Article 14,15(1),15(3), 19 and 21 of the constitution of India are violated due to honour killings. Article 14 provides every person has the right to equality before the law or the equal protection of the laws.

*Lata Singh Vs. State of U.P. and another*<sup>10</sup>– Here in the case the Apex court decided that it is fundamental right of a person to marry a person of his /her choice irrespective of the caste and religion under article 21 of the constitution.

#### 2. Child Marriage Restraint Act 1929-

According to this Act the legal age for marriage in India is 21 years for man and 18 years for women irrespective of their caste or religion. This Act applies when the khap Panchayats used

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<sup>9</sup> MANU/SC/0365/2001.

<sup>10</sup> MANU/SC/2960/2006.

force to separate couples who are eligible to get married.

### **3. The Special Marriage Act 1954 –**

This Act provides a different type of marriage for persons who belongs to India and all Indian nationals living in foreign countries, irrespective of their religion or culture followed by either party. This Act is applicable where the khap Panchayats or parents used the force or violence to separate legally married couples who are entitled to get married and registered their marriage.

### **4. Indian Penal code 1860-**

Every honour killing is to be considered as murder wherein the motive of murder is to preserve the family prestige or reputation in society.

Section 299 to 304 of this Act punishes any person guilty of committing murder and culpable homicide not amounting to murder. The punishment for Murder under this Act is life imprisonment or death, and fine and the punishment for culpable homicide that is not amounting to murder is life imprisonment or imprisonment for up to 10 years, and fine.

Section 120A and 120B of this Act provide punishment to everyone who is a member to a criminal conspiracy.

Section 107 to 116 of this Act provide punishment to people for abetting murders and culpable homicide.

### **5. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**

The Act is linked to honour killings because there are lot of incidents of honour killing are due to caste and religion of girl and boy. The aim of this Act was to facilitate the social involvement of Dalits into the Indian society. The atrocities under this Act includes various acts such as forcing an scheduled caste or scheduled tribe person to eat or drink any poisonous substance, try to remove their clothes, parading naked , assaulting, outraging the modesty of an woman on basis of their category , sexual exploitation of an scheduled caste or scheduled tribe women , forcing an scheduled caste or scheduled tribe person to leave his or her own house or village etc. and all these atrocities are punishable.

### **6. The protection of women from domestic violence Act, 2005**

The legal provisions of the Protection of Women from Domestic Violence Act, 2005 provides for protection of the rights of women provided under the Indian Constitution who are victims of violence of any form occurring within their family and for matters connected to it.

## **7. Domestic Violence Act ,2005**

Under this Act, If the restrictions are imposed upon the women that leads to the psychological or emotional abuse of the women like women is prevented from marrying the person of her own choice.

## **IV. SUPREME COURT VIEW ON HONOUR KILLING**

### **1. MANOJ-BABLI CASE<sup>11</sup>-**

FACTS -Manoj and Babli belonged to same village and fall in love with each other, were murdered by Babli's relatives for marrying within the same gotra. The cruel act was carried out on the decision of Khap Panchayat as they denied accepting each other as brother and sister and their decomposed bodies were found from Barwala branch canal in Hissar.

COURT DECISION – When this matter brought before the court, they had sentenced five perpetrators who were involved in the murder to life sentence. This is the landmark case where the court also convicted the khap panchayat for their order of killing the victims.

### **2. BHAGWAN DASS VS. STATE OF DELHI<sup>12</sup>**

FACTS-Here in the case the accused was enraged with his daughter, who had left her husband without any reason and was having a sexual intercourse with her uncle. The accused felt that this act of his daughter had dishonoured his family, and to restore the honour he strangled her to death.

COURT OBSERVATION- The court observed that honour killings due to any reason come under the head of rarest of rare cases and a person committing such crimes deserves death penalty and it is peak time to consider such barbaric act as heinous crime.

### **3. SHAKTI VAHINI VS. UNION OF INDIA<sup>13</sup>**

FACTS- A non-government organization called Shakti Vahini had approached Apex court under Article 32 of the Indian constitution 1950 for seeking directions for government to take preventive measures to deal with cases of honour killing.

COURT OBSERVATION- The court observed that two adults do not need the consent of their families or relatives to get married and held any steps of the Khap Panchayat or any other body to suppress their desire to marry each other is illegal or unconstitutional.

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<sup>11</sup> MANU/SC/0365/2001.

<sup>12</sup> (2011) 6SCC396.

<sup>13</sup> AIR 2018 SC 1601.

#### **4. GUDUR SANDEEP REDDY VS. STATE OF TELENGANA<sup>14</sup>**

FACTS: Here in this case a boy was killed by girl's father and her relatives because of inter-caste marriage between the girl and boy. The girl family is not ready to accept such inter –caste marriage so they decided to kill the boy to restore their family prestige or reputation.

COURT OBSERVATION- The court rejected the bail application of accused or guilty person based on reasonable evidence to believe that accused had committed said offence of honour killing.

#### **V. IS INDIA NEEDS A SEPARATE LAW FOR HONOUR KILLINGS?**

Until 2013, The National Crime Records Bureau (NCRB) had 12 motives of murder and honour killing was not mentioned in that. It was only from 2014 that honour killing was recognized as a separate motive for murder in India. NCRB reports show that in 2019, there were a total 24 cases of honour killing, while in 2020, the total number of 25 cases of honour killing in India.

Currently in India the honour killing is not defined in any legislation or law and honour killing is treated as just other murder case, no one looks at what preceded the murder to be committed. The government even provide no protection to couples who has self –choice their life partners.

Section 300 of I.P.C is insufficient to deal with matter of honor killing as it would only punish the murderer while the others who are directly or indirectly associated with the crime or the silent spectators of the crime are saved from the harsh punishment. Honor killing is pre-planned murder by the family or relatives to preserve their honor but currently it is fall under the category of murder, which is defined in IPC, so the accused used the defence of grave and sudden provocation for getting mitigated punishment. Even minors are told to commit the murder so that they do not receive a strict or harsh punishment for committing the murder.

There is different punishment for the offenders, conspirators, and inciters but an enactment of new legislation all these persons can be put on equal footing and provide same punishment to all of them for honour killing so there is need to introduced system of joint liability on the matter of honour killing. Generally, two groups are involved in the honour killing firstly those who order for killing for the sake of honour (like khap Phanchayats) and secondly those who execute the order of khap Phanchayats. Hence by the new legislation the concept of joint liability will be introduced that both persons giving orders and executors will be equally responsible, and it will be affective to reduce the cases of honour killing in India.

There is need for amending The Indian evidence Act 1872 to put the burden of proof on the

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<sup>14</sup> MANU/TL/0408/2020.

guilty person. Hence, parents or relatives would be responsible or answerable in the court for proving their innocence instead of victim. Through this amendment it will be uncomplicated to punish those who commit murder to preserve the family prestige.

There is also need to amend the Special Marriage Act ,1954 because when the couples apply to be married under this Act , a one –month notice announcing the marriage is put up in the court so this create fear in the minds of couples that information about their marriage reaches to their families and lead to honour killing and the procedure for marriage registration under this Act is a long process which takes about 45 days. During this tenure a couple may be unsafe and case of honour killing may be happen.

Rajasthan is only State which has passed a separate legislation to deal with cases of honour killing in 2019 while no other state has passed any separate law to deal with cases of honour killing.

### **Impact of Honour Killing**

Honour killing create fear or terror in the mind of the youth who want to marry with their own will. Due to honour killing women are subjected to the violence and living under such circumstances was a challenged.

## **VI. SUGGESTIONS**

1. A separate law should be passed against the honour killings which bring strict penal provisions for committing honour killing for sake of prestige.
2. There is need to have a clear and unambiguous definition of the honour killing to know about its meaning and consequences.
3. Education is the key to prevent such heinous crime in the name of honour. So, the people should be provided education and make the people aware of available remedies or measures to tackle such crime.
4. Provide support to NGOs which worked against the honour killings.
5. Government should establish special cells and helpline numbers to provide protection to the victims of honour killing.
6. Government can take help from the media to spread awareness about the rights which is available to the victim and about the unconstitutionality or illegality of Khap Panchayat's orders.
7. Special courts to be established for the disposal of the cases related to honour killing.

8. Government should provide protection to the couples who has self-choice their life partners and any threatening to kill by parents or relatives to the couple should be consider as danger to the life of couples.

9. After enactment of new legislation, it will be the responsibility of the state to ensure the proper and effective application of the new laws by ensuring that all those involved police and judges should trained to understand the reasons behind the honor killings, and it is illegal for kill someone in the name of honor.

## **VII. CONCLUSION**

Life is unpredictable and no one knows the next second of life. In such case, every human has the right to live the life up to their willingness. It is unjustified to kill someone for the sake of honor and killing someone will never restore the lost honor rather these acts amount to murder. Honour killing is not a crime against any individual rather it is a heinous crime against the whole society as some group of people consider themselves more superior and above law.

The concept of honour killing is a heinous crime in India but there is no proper legislation to regulate this offence that shows failure on the part of the government to secure its citizen's rights and letting them freely exercise their rights and to choose their life partners irrespective of caste or religion. To prevent the evil act of honor killing the government should introduced new laws which would be very strict and bring in scope to every individual who commits or involves in this heinous crime of honor killing and should provide protection to the couples who has self-choice their life partners. Government must take various measures to change the mentality of people towards the inter –caste marriage by providing education to them.

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