

## HONOUR KILLING

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### **ABSTRACT**

The research paper aims at highlighting one out of many social evils existing in the society- Honour Killing, it tells about various legal aspects of the same. In the culture and traditions of various locations throughout history, the origins of honour killings and also the control of women are shown. Any Member of a family that bought disgrace should be punished because of a major reason for crime and honour. According to different family beliefs, many sorts of dishonour might occur. These atrocities are committed worldwide and are not exclusive to one particular religion or creed. However in various areas of the Middle East and South Asia, about half of all honour killings occurred in India and Pakistan. They occurred quite dramatically and consistently. This research paper broadly covers honour crimes in Indian society. The introductory part of the paper talks about what is honour killing and which acts performed by a person are considered dishonourable by the family of the person and is expected to ruin the honour. Certain acts done by the individuals become the reasons for the family to kill him/her. They are killed by their own family, especially the males of the family or the community they are believed to be a part of. Further, the paper tells the questions that will be addressed in the research paper. The paper will also include the researcher's analysis of some case laws related to honour killing.

### **INTRODUCTION**

There are several explanations of 'honour killing' abound. But the valid observation of most of the definitions was made by Welchman and Hossain, they said 'honour killing' or 'honour crimes' arise by illustrative ways that mean the community wants to set examples to everyone and warn them not to do anything against the communal norms. As per The Human Rights Watch, the bare impression that "a man or a woman has done something or has behaved in such a way that is believed to be 'dishonouring'" her/his family members finds it a sufficient reason to trigger the life of their daughter or son. Honour killings are those murders that occur when an individual (or individuals) disobey or break the rules and standards enforced by his/her

community under the name of safeguarding and protecting the honour of the family and society as prescribed by our culture.<sup>1</sup> These standards set by the community can be in regards to the sexual autonomy of a person, marriage, religious beliefs and conscience, caste, property, and all the other aspects that are expected to construct the honour of people. The statistics of the year 2010 has indicated that in India, roughly 900 cases of honour killings are reported in the various districts in the states of Uttar Pradesh, Rajasthan as well as in Tamil Nadu, while 100-300 increased cases took place in the rest of the nation. Despite various existing Conventions for the Elimination of all Forms of Discrimination Against Women (CEDAW), the crimes in the nations like India, Bangladesh, and many middle east nations like Saudi Arabia, Iran etc. are unmanageable and widespread and the sufferers are not only women – though predominantly they are women – but also some men who exercise certain personal freedom and are “sexually deviated” like the transgender community in the society. This practice is still prevalent in various parts of the country prominently in states like Punjab, Haryana, Uttar Pradesh in north India and Tamil Nadu in south India.

In the year 2010, June the surveys have shown a constant rise of honour crimes in various parts of Punjab, Bihar, Rajasthan, Haryana, Uttar Pradesh, Jharkhand, Madhya Pradesh and Himachal Pradesh, The Supreme Court of India has asked the Union Government and State

Other terms that can be used to describe Honour Killing are murder and homicide which are considered very heinous crimes as per the Indian Penal Code. Honour Killing violates various fundamental rights available. They include Article 14, 15(1) & (3), 19, 21 and 39(f) of Indian Constitution. It also violates the various commitments that are made by the Indian Government on the international level. India is a signatory of the “United Nation Conventions on the Elimination of all Forms of Discrimination against Woman” (CEDAW), the convention has also been ratified by the Indian Government. The government how have they responded to the regular increase of such incidents and what steps have been taken to prevent more honour crimes. Alarmed by the spike in the cases the government planned to introduce the bill in July 2010 i.e. in the monsoon session to provide deterrent punishments. Further many steps were also taken to prevent this heinous crime. The recent case law related to the topic is Deepika and Another v.

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<sup>1</sup> Human Rights, Honour Killings and the Indian Law: Scope for a 'Right to Have Rights' SNEHA ANNAVARAPU, December 14, 2013.

State of Madhya Pradesh, The judgment of the case was delivered on November 04, 2020. Overview: The petition was filed by Deepika and her husband to seek police protection. According to them, they are majoring and have performed their marriage, but they are receiving threats from their parents. After the proceedings of the case, the panchayat of the area was warned that if any harm is caused to the couple the immediate F.I.R. will be lodged against them<sup>2</sup>.

### **LITERATURE REVIEW**

The initial research conducted concludes that there are various articles, journals, historical sources and many case laws are available to analyze the topic of 'Honour Killing'. The topic talks about the several murders by the own family members of a person when he/she is believed to have done a deed that harms the family name in the community. The journal article 'Human Rights, Honour Killings and the Indian Law: Scope for a 'Right to Have Rights' by Sneha Annavarapu<sup>3</sup>, has given a detailed description of the topic. Furthermore, articles are also referred to, they are Study of Honour Killing as a Crime in India-Causes and Solutions<sup>4</sup>, Honour Killing in India: An In-depth Study by Sango Bidani, Youth Ki Awaz. All of these sources have provided important data regarding the topic. Various aspects of honour killing, its causes and the various legal provisions are talked about in detail in these respective sources referred to by the researcher. Different articles were also read to get the information about the legislation. Nothing Honorable in Honour Killing- UrmilaBhardwaj<sup>5</sup> was very informative and helped the researcher to get a description of facts related to the topic.

### **RESEARCH METHODOLOGY**

The current research topic requires a doctrinal method of research to better analyze the topic of Honour Killing prevalent in Indian culture and society. Research based on the library content is very common and used by those who are undertaking researches on legal topics. The doctrinal method of research is mainly concerned with legal propositions and doctrines. The main aim of

<sup>2</sup> Deepika v. State of MP, 2020 SCC OnLine MP 2562.

<sup>3</sup> Sneha Annavarapu, Human Rights, Honour Killings and the Indian Law: Scope for a 'Right to Have Rights

<sup>4</sup> SeiedBeniaminHosseini, Study of Honour Killing as a Crime in India- Causes and Solutions, January 2015.

<sup>5</sup> UrmilaBhardwaj, Nothing Honourable in Honour Killing.

this research methodology is to specify the facts and attain the objectives of the study. This research is based on the published data. It is entirely theoretical research that comprises legal statutes, case citations, case laws or legal analysis. The research conducted is qualitative and is subjected to various analyses and observations. It involves critical examination of the topic and evaluating various facts and information available. Hence, the researcher proposes doctrinal research as it best fits the analysis of the current subject.

### **RESEARCH QUESTIONS**

The questions of research are as follows:

1. What is the historical context of Honour Killing?
2. What are the reasons for such crimes? Analysis of the contentions and views of the researcher.
3. What are the various efforts made by the government to eliminate this social evil?
4. How do the Constitutional Provisions safeguard the victims of honour killing?
5. What judgments did Courts give on the cases related to Honour Crimes?

### **HISTORICAL PERSPECTIVE**

Honour Killing is said to have originated from one belief i.e. a woman's celibacy is considered a property that is said to be owned by their families, it is a cultural norm that was set by an ancient tribe of Hammurabi and Assyrian of 1200 B.C. It has likewise been noticed that honour killings were encouraged in ancient Rome, where males of the family who didn't take actions against female adulterers in their family were "effectively persecuted". "The origin of honour killings and also the control of ladies is evidenced within the culture and traditions of assorted regions throughout history. The legal code of Pater families gave unlimited authority to the boys of the family for both their kids and spouses. Under these laws, the lives of youngsters and spouses were at the only real discretion of the boys in their families. Ancient jus civile also established historical roots of honour killings through the law proclaiming that girls seen as guilty of adultery can be executed by their husbands in whatever they wanted. In ancient Rome, being raped was viewed as dishonourable to the purpose of destroying a lady's life and reputation, and homicide should be a "merciful" act. In Greece additionally, the lives of women were directed by

their husbands as ladies were considered socially beneath males”. Killings are still prevalent in many parts of north India. The states that still report honour killings include Punjab, Haryana, Rajasthan and Uttar Pradesh and the prime reason for the same is marrying without the consent of the family to a person who either belongs to a different religion or caste or community. In comparison to the number of cases in north India, cases are very few in the south and western parts of the country. Even in many parts of the eastern states, West Bengal particularly the numbers of killings have been relatively very less or it can be said they have ceased a century ago due to the influence and the efforts put in by the reformists such as Swami Vivekananda, Ramakrishna, Ishwar Chandra Vidhyasagar and Raja Ram Mohan Roy.

### **CAUSES OF HONOUR KILLINGS**

The major cause for committing an honour crime is a belief that any member of a family who had brought dishonour should be punished. There can be different types of dishonours according to different beliefs of the families. But in general, dishonour perceived can be a result of unacceptable dress code or terminations of arranged marriage or having the desire of love marriage, etc.

Another very common reason for the continuous honour crimes in India could be the fact that we have a caste system that is at its rigid best and also the people who belong to the rural parts of the country are still not ready to change their preset attitude they have towards marriage. Also, the society we reside in is said to be patriarchal i.e. controlled by men. Society expects men to make and enforce certain standards that are to be respected and they are even supposed to protect the family and male honour from shame. Women are always expected to conduct themselves in a way that is acceptable by society. This comprehension of the idea offers authenticity to all types of social regulation of women's conduct and violence submitted against them. Few major causes are talked about in detail. They are:

1. Dressing up in a manner that is considered inappropriate and dishonourable to the family of the person and the community they belong to.
2. Terminating arranged marriages and keeping the desires of marrying their own choice is a very common cause of honour killing in rural India. If the marriage that was

prearranged by the family doesn't proceed, it is said to bring dishonour to the family, where the honour crimes begin in the first place. There are various cases such as a 21-year-old girl who was strangled to death as she is said to have ruined the family's image by marrying in another caste or a girl stoned to death by her father and brother when caught with a boy of another caste.

3. When a woman tries to get a divorce without her husband's consent could trigger honour killing by the extended family. Seeking divorce is considered an insult to the men's deal he has negotiated for the marriage.
4. In many cultures being raped can also subject a person to honour crime. Rape victims are believed to bring disgrace to families. Women's celibacy is considered property to the men around her, primarily her father than gifted to her husband.

### **STEPS TAKEN BY THE GOVERNMENT**

It was estimated by a UN organization that nearly about 5000 girls and women are killed regularly because of their acts that are said to be disgraceful. They ruin the honour of the family. The issue of honour crimes was first heard in parliament in the year 2009. In regards to the issue, there was a discussion in Rajya Sabha and there was a demand for a new law. In the year 2010, there was a landmark judgment in the case of Manoj and Babli honour killing case of Karnal district Court where the whole panchayat was sentenced to life imprisonment for ordering the killing. In August 2010, the legal department of "All India Democratic Women's Association" (AIDWA) with Women's Organization drafted an all-inclusive law titled- "The Prevention of Crimes in name of Honour and Tradition Bill" and forwarded it to the government to address it. It includes violation of rights of the young couples and it lists various punishments people are subjected to and the crimes that take place due to the same reasons. In 2012, the *Law Commission Of India* introduced a bill of its own in its 242nd report. The bill- "*Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliance) Bill 2011*" deals with unlawful assemblies such as khap panchayat. In March 2018, preventive measures to combat honour killings were given by the Supreme Court. The court has laid the guidelines that are to be strictly followed till a proper law is legislated.

## **LEGAL PROVISIONS**

Other terms that can be used to describe Honour Killing are murder and homicide which are considered very heinous crimes as per the Indian Penal Code. Honour Killing violates various fundamental rights available. They include Article 14, 15(1) & (3), 17, 19, 21 and 39(f) of Indian Constitution. Honour killings are very heinous and grave; they are the cases of homicide and murder. National legislation to combat honour killing include:

1. “Indian Majority Act, 1859<sup>6</sup>: Clause 3 of Article 21 provides everyone with the right to marry. A person who is has attained the age of 18 years and is major and wants to marry a person of other caste or community, then it is not prohibited by law and any honour crimes because of this is considered illegal and actions can be taken against the same as in case *Surjit Kumar v. State of Uttar Pradesh*<sup>7</sup>. Special Marriage Act, 1954<sup>8</sup>: this act is specifically formed to provide a special form of marriage to Indians residing within or outside the territory. The marriage performed can be with a person of any caste, community or religion and honour killing on such ground is a violation of this act.
2. Protection Of Human Rights Act, 2006<sup>9</sup>: this particular act protects every individual’s rights. Despite such legislation, social evils like honour killings are still prevailing in society.
3. Domestic Violence Act, 2005<sup>10</sup>: This act states that if a woman is prevented from marrying a person of her own choice, this amounts to emotional abuse of the woman.”

There are various global laws and conventions signed to eliminate these honour crimes. Many steps are taken at the international level to prevent the violation of human rights and to reduce the number of crimes.

## **CASES**

### **1. Smt. Chandrapativs State of Haryana And Others<sup>11</sup>**

The two victims of the case are Manoj and Babli. They were a couple who eloped to get married as their families were against that. On knowing that the couple elopes the family got very angry

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<sup>6</sup> Indian Majority Act, 1859.

<sup>7</sup> *Surjit Kumar v. State of Uttar Pradesh & Ors*, 2002 (456) ACC 79

<sup>8</sup> Special Marriage Act, 1954

<sup>9</sup> Protection of Human Right (Amendment), 2006

<sup>10</sup> Domestic Violence Act, 2005

<sup>11</sup> *Smt. Chandrapativs State of Haryana And Others* 27 May 2011

and searched for the victims. The matter was taken to khap panchayat, which declared the fine of 25000 on keeping any contact with the victims. Later on, when the couple was found, they were presented before the panchayat who was also against their marriage. The decision given was against the victims as they don't belong to the same caste. According to them, the decision was in the interest of society. Victims were abducted and killed by them. When the matter was presented before the Karnal District Court, the five perpetrators were sentenced to life. This was the first case of honour killing in which such judgments was procured.

## **2. Shakti Vahini v. Union of India, 2018<sup>12</sup>**

On the 27th March 2018, the Supreme Court gave a landmark ruling in the Writ Petition of Shakti Vahini v Union of India and ors that any attempt by KhapPanchayats or some other gathering keeping two consenting grown-ups from marrying is totally 'illicit' and set down preventive, remedial and punitive measures in this regard. The court's judgment went ahead with an appeal recorded by a non-government organisation (NGO) Shakti Vahini in 2010.

The court held that- "the criminal cases about honour killing or violence to the couple(s) shall be tried before the designated Court/Fast Track Court earmarked for that purpose. The trial must proceed on a day to day basis to be concluded preferably within six months from the date of taking cognizance of the offence. We may hasten to add that this direction shall apply even to pending cases. The concerned District Judge shall assign those cases, as far as possible, to one jurisdictional court to ensure expeditious disposal thereof".

## **3. Lata Singh vs. State Of Uttar Pradesh, 2006<sup>13</sup>**

"The case of Lata Singh v. State of Uttar Pradesh is another landmark judgment in the legal history of India. For this situation the Hon'ble Justice Ashok Bhan and MarkandeyKatju, JJ. permitted the writ petition under Article 32 filed by a lady named Lata Singh for authorization of her right, that is to marry an individual of her choice with her own will. The Supreme Court gave the decision in her favour and requested for her police protection too."

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<sup>12</sup> Shakti Vahini Vs Union Of India & Others, 27 March 2018 Writ Petition No. 231 of 2010.

<sup>13</sup> Lata Singh Vs. State Of Uttar Pradesh & Others, 2006 Writ Petition No. 208 of 2004.



**SUGGESTIONS**

1. A separate law regarding honour killings should be made to punish the criminals and support the families of the abducted.
2. Law formulated should include the issues of harassment faced by the young couples who wish to marry their own choice without the family consent.
3. Legal protection should be provided to the couples who receive threats from their own families.
4. Severe punishment should be given so that more honour crimes can be prevented.

**CONCLUSION**

As effectively announced by the honourable court that there isn't anything fair in an honour killing. Besides this is the immediate infringement of basic freedoms of an individual who by being a human has the basic birthright of the right to live. In the current research paper, the researcher has tried to talk about the topic in detail. In the initial parts, there is a brief about the history of the current topic, the cause and the steps taken to prevent honour crimes from happening. In the subsequent parts, the different legislations are dealt with. A few cases were also referred to study the judgments procured in the cases of honour killings.

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4. ‘Honour Killing’ In India – An In-Depth Study.
5. Nothing Honorable in Honour Killing- UrmilaBhardwaj