

HONOUR KILLING: THERE IS NO HONOUR IN KILLING

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ABSTRACT

‘Honour Killing’ is a cultural crime or a cultural tradition prevalent amongst societies, which perceive women as bearers of family honour. Indian cultures are very deep rooted. Many young people in India have been done to death every year owing to ‘Honour Killings.’ It is because so called honour killings are based on the belief, deeply rooted in Indian cultures, which consider the women as objects and commodities, and not as human beings endowed with dignity and rights. Every year, their family members kill hundreds of women in the name of honour because they have brought shame to the family and the community. Most honour killings occur because women are considered as a vessel of the family reputation. Honour killing is the homicide of a member of a family or social group by other members, due to the belief that the victim has brought dishonour upon the family or community. The death of the victim is viewed as a way to restore the reputation and honour of the family.

My article aims at highlighting the legal provisions to tackle with the crime of honour killing. The introduction gives a detailed glimpse of what is honour killing and which acts the family or community considers being dishonourable. Certain acts and behaviour of individuals become reasons for him or her to be killed by his or her own family. It further includes a few landmark cases related to honour killing that shook India. Honour killing is a case of murder and homicide, which has existing penalties in the Indian Penal Code, so the article also deals with those sections. It further throws light on the various legal provisions in the Indian Constitution, which can be used to put a stop to these honour killings in the country. These laws can be used as a tool to put behind bars the khap panchayat members who give orders of killing individuals for the sake of so called ‘honour’. The article further goes on to explain the international provisions related to honour crimes to which India is a signatory. And lastly,

it deals with arguments in favor of creating a new law to bring more clarity for the law enforcement agencies.

Keywords: Honour killings, Crime, International Provisions, Laws

HONOUR: A DETAILED ANALYSIS

One of the hardest concepts to introduce to the western society about honour killing is the concept and meaning of honour in the context of Honour Killings. Many at first instance oppose the use of the word honour due to its frequent interchangeable positive attributions. Nevertheless, it is important to keep in mind that even though the origin of the term honour in context of the killings is positive, the “*mens rea*” element for the killing is fueled from the preservation of the same positive attribution, in an extreme culturally pressured dosage. It is only due to the recent media attention on honour killings that a debate has sprung in society calling the crime dishonour killing. Human Rights Watch offers one of the most apt definitions, which encompasses all the elements of the crime.

Human Rights Watch defines "honor killings" as follows:

*'Honor killings are acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonor upon the family. A woman can be targeted by (individuals within) 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.'*¹

Honour killing is originally the product of a particular social interaction amongst members of the society, which believes in a strong patriarchal structure. These killings are qualitatively different from other kinds of murders. Honour Killing is becoming increasingly the most

¹ Violence Against Women and Honor Crimes. Human Rights Watch.

socially sanctioned repercussion and an all-encompassing deterrent to the rural urban youth, who dare to question the traditional social barriers and further dare to bring dishonour by exercising their supposed 'right to marry'. Hence it becomes imperative to delve into the contours and concept of honour. UN Special Reporter Ms. Radhika Coomaraswamy defines the concept of Honour as especially powerful because it exists beyond reason and beyond analysis. But what masquerades, as "honour" is really men's need to control women's sexuality and their freedom. Crimes of honour potentially violate the right to life, liberty, bodily integrity, the prohibition against torture or cruel, inhuman, degrading treatment, the prohibition on slavery, the right to freedom from gender-based discrimination and sexual abuse or exploitation, the right to privacy, the duty to modify discriminatory practices against women. For males, "honour" is gained through exerting dominance and control over females and younger males, and lost through weakness and failure to control; it can be restored through violent and coercive acts. For females, "honour" is preserved through subordinancy, obedience, chastity, endurance and virginity, and it may be lost through any autonomous acts, particularly those relating to sexuality, and cannot be restored. "Honour" in this sense is often a social quality; it revolves around the public perception of the individuals more than their actual behavior.

The main reason for commitment of an honour killing is belief that any member of family had brought dishonour to the family. The dishonour can be of different types for different families. The perceived dishonour is normally the result of the following behaviour, or the suspicion of such behaviour, which are dress codes unacceptable to the family/community; or wanting to terminate or prevent an arranged marriage or desiring to marry by own choice; or engaging in certain sexual acts, including those with the opposite or same sex, etc. Also the most obvious reason for this practice to continue in India is because of the fact that the caste system continues to be at its rigid best and also because people from the rural areas refuse to change their attitude to marriage. Also in our country the society is mainly the patriarchal. Men are expected to enforce such norms and traditions and protect family and male honour from shame. Women are expected to conduct themselves honorably. This understanding of the notion gives legitimacy to all forms of social regulation of women's behaviour and to violence committed against them. Causing a scandal or gossip within the community is often the most significant aspect of an offense against "honour". Ultimately it is those with power within the family and community i.e. men and older women who have proved

their internalization of the “honour” code through the policing of younger women, who decide what acts are “honorable” or “dishonourable”.

Some actions, which are strongly linked with honour-based violence, are:

- Loss of virginity outside marriage
- Pre-marital pregnancy
- Infidelity
- Having unapproved relationships
- Refusing an arranged marriage
- Asking for divorce
- Asking for custody of children after children
- Leaving the family or marital home without permission
- Causing scandal or gossip in the community
- Falling victim to rape

Honour Killing is a phenomenon that is clearly the final result and a conspicuous consequence of crumbling socially stated patriarchal norms and their constant tussle with modernity. Tradition is not necessarily detrimental but when tradition reeks of bias, discrimination and exploitation in the name of honour and leads to loss of lives of helpless and innocent minority segments of populations, it ought to be affirmatively uprooted. Redundant traditions, which are ought to be imposed by self-styled khap leaders or rigid and supposed “righteous parents” are actually, outmoded customary law imposing unreasonable political orthodoxy. At the helm of all affairs, it’s a vicious cycle, which connects petrified eloping couples that have rebelled against the social caste/class stratified structure, which has resulted in their unfortunate horrific Honour Killings.

HISTORICAL PERSPECTIVE OF HONOUR KILLING

As noted by Christian Arab writer, Norma Khouri, honour killings originate from the belief that a woman’s chastity is the property of her families, a cultural norm that comes "from our ancient tribal days, from the Hammurabi and Assyrian tribes of 1200 B.C

Matthew A. Goldstein, J.D. (Arizona), has also noted that honour killings were encouraged in ancient Rome, where male family members who did not take actions against the female adulterers in their family were "actively persecuted".

The origin of honour killings and the control of women are evidenced throughout history in the culture and tradition of many regions. The Roman law of Pater families gave complete control to the men of the family for both their children and wives. Under these laws, the lives of children and wives were at the sole discretion of the men in their family. Ancient Roman law also established historical roots of honour killings through the law stating that their husband in whatever manner the husband desired could kill women found guilty of adultery. In ancient Rome, being raped was seen as dishonourable to the point of destroying a woman's life and reputation, and honour killing was supposed to be a "merciful" act. In Greece also, their husbands dictated the lives of women as women were considered socially below males.

CASES THAT SHOOK INDIA

- **Nitish Katara killing:** In February 2002, Nitish Katara was abducted and murdered by politician DP Yadav's son Vikas Yadav and his cousin Vishal Yadav, for having intimate relations with their sister, Bharti. Since the Yadavs never approved of the relationship, Katara received threats several times. On February 17, Nitish and Bharti attended a friend's wedding, where Bharti's brothers were also present. From the wedding, the Yadav brothers took Katara for a drive from where he did not return. Three days later, his body was found battered to death with a hammer and then set aflame.²
- **Manoj-Babli case:** In June 2007, Manoj and Babli, from Karora village in Kaithal district, were brutally murdered by Babli's relatives for marrying in the same gotra. The cruel act was carried out on the orders of a khap panchayat. On

² <http://www.mid-day.com/articles/nitish-katara-murder-case-honour-killing-cases-vikas-yadav-vishal-yadav-conviction/17443183>

June 23rd, their decomposed bodies were found in a branch canal in Hissar. Investigations showed that the couple was forced to accept each other as brother and sister. On refusing to do the same, they were forcefully fed pesticides and were strangled to death and their bodies thrown in the canal.

- **Asha Saini murder case:** In June 2010, India witnessed yet another brutal case of honour killing in Swarup Nagar, Delhi. Asha, a 19 year-old girl and her boyfriend Yogesh, 20, were tortured, electrocuted and beaten to death by the girl's family. The girl's family had disapproved of their daughter's relationship with Yogesh, a driver. The couple was tortured in a flat owned by the girl's uncle. The neighbors heard the couple wailing and begging for help for hours but didn't step in to help because they were threatened by the family to "mind their own business".
- **Bhavna Yadav death:** In November 2014, a 21 year-old Delhi University student Bhavna was strangled to death by her parents, just a few days after her marriage to Abhishek, because she had tied the knot against her parents' wishes. Her parents killed her at her house in southwest Delhi's Dwarka North. After killing their daughter, the couple took her body to Alwar in Rajasthan and set it on fire.
- **Dalit hacked to death:** In March 2016, a young Dalit man was hacked to death for marrying an upper caste girl, who herself narrowly escaped the brutal assault in Tamil Nadu. Shankar, a third year engineering student had married Kausalya, 19, who belonged to an influential political community Thevar. About six men attacked Shankar with sickles and machetes when he was walking with Kausalya in a crowded street. The killers apparently shadowed the couple on motorcycles and before escaping, thrashed Shankar and the young woman, who miraculously survived the grave injuries.
- **Father rapes, kills pregnant teenager:** In November 2013, a father and another man were arrested for raping and murdering a 17-year-old girl. The girl had

eloped to Uttan with a boy of her village in Gazipur district of Uttar Pradesh. Her father, Ramesh Rajbhar, tracked her down and brought her to his friend's house in Dachkulpada, where both tried to convince her to leave the boy. When she flatly refused, the duo forcibly took her to an isolated forest area, where they raped the girl before strangulating her to death with her own dupatta.

- **Nirupama Pathak murder of 2010:** In May 2010, Nirupama Pathak, who was working as journalist with a business daily in Delhi, was murdered by her family in Jharkhand because she was in a relationship with a man from a lower caste. Nirupama was dating Priyabhanshu Ranjan a colleague and friend from her Indian Institute of Mass Communication in New Delhi and had planned to marry him in an Arya Samaj mandir. Nirupama was found dead on 29 April in her parents' house in Tilaya in Koderma district in Jharkhand under mysterious circumstances. Her family then filed a case of rape and abetment to suicide against Priyabhanshu, which was later, found to be false. Priyabhanshu's father Ramashankar Kanth had told, "My son is innocent. He is no way involved in the case. My son had informed me on the day Nirupama died that he received an SMS from Nirupama that her mother, father and brother have bolted her inside a bathroom at their house." While her mother called it a case of suicide, a post-mortem revealed that the journalist was smothered to death and that she was 10-12 weeks pregnant at the time of her murder. Nirupama's mother was arrested but later the court set her free as the police found a suicide note signed by Nirupama. In 2012, her boyfriend surrendered to the police in a case of abetment of suicide.
- **Monica and Kuldeep Murder of 2010:** Another honour killing hit the headlines in Delhi in June 2010 when their family members killed a couple, Monica and Kuldeep, along with Monica's sister Shobha. Monica had married Kuldeep, who was a Rajput boy, and their families did not approve of the alliance. Both of them belonged to the Wazipur village of Delhi. Shobha on the other hand was involved in a relationship with a boy belonging to another caste and had reportedly helped her sister elope. The three accused - Ankit Chaudary, Mandeep Nagar and Nakul

Khari- were on the run after committing the triple murders and when caught by the police, had claimed "there was a lot of pressure on them and that's why they did this (murder)." The three were allegedly killed for bringing dishonour to their families by marrying outside their community. At the time of the murder, the family had shockingly justified the killing and Dharamveer Nagar the uncle of Mandeep and co-accused Ankit, had said that the killings were necessary to uphold the family's honour. Ankit was Monica's brother, while Mandeep was Shobha's brother. For the killers, it was evident that they didn't see anything wrong with the murders.

- **Deepti Chhikara murder of 2012:** In June 2012, reports came out that a young woman Deepti Chhikara was killed, and her body was then dumped in Uttarakhand. The girl, who was a schoolteacher at an MCD school, was strangled to death by her mother Birmati and brother Mohit, and later her uncle Amit helped the duo in disposing of the body. The mother-son duo first beat her up and Mohit later strangulated her to death. Birmati held Deepti by her legs, while Mohit strangulated her. Deepti wanted to marry one Lalit Vats, but her family was opposed to the match as he was from a different caste. Deepti was allegedly killed in April but her family didn't register any complaint. It was Lalit who alerted the police to the fact that Deepti had been missing since she went to her maternal home.

PROVISIONS OF THE INDIAN PENAL CODE THAT TALK ABOUT 'MURDER' AND 'HOMICIDE'

So far, there is no specific law to deal with honour killings. The murders come under the general categories of homicide or manslaughter. Sometimes the honour killings are also done by a mob and so when a mob has carried out such attacks, it becomes difficult to pinpoint a culprit. The collection of evidence becomes tricky and eyewitnesses are never forthcoming. Honour Killings are cases of murder and homicide, which are grave crimes under the Indian Penal Code. The act of honour killing amounts to murder and homicide because they are done

with the intention of murdering the victims as they have purportedly brought dishonour upon the family. The existing penalties under the Indian Penal Code are as follows:

1. **Section 299-304** penalizes any person guilty of murder and culpable homicide not amounting to murder. The punishment for murder is life sentence or death and fine. The punishment for culpable homicide not amounting to murder is life imprisonment or imprisonment for up to 10 years and fine.
2. **Section 307** penalizes attempt to murder with imprisonment for up to 10 years and a fine. If a person is hurt, the penalty can extend to life imprisonment.
3. **Section 308** penalizes attempt to commit culpable homicide by imprisonment for up to 3 years or with fine or with both. If it causes hurt, the person shall be imprisoned for up to 7 years or fine or both.
4. **Section 120A and B** penalizes any person who is a party to a criminal conspiracy.
5. **Section 107-116** penalizes persons for abetment of offences including murder and culpable homicide.
6. **Section 34 and 35** penalizes criminal acts done by several persons in furtherance of common intention.
7. **Section 300** introduces “fifthly” clause to Section 300 of IPC, which at present defines “murder” under four categories. The additional definition would make khap-dictated honour killings a distinct offence and make all those who participate in the decision liable to be tried for the main charge, that is murder, and liable maximum penalty, death.³

The above-mentioned provisions talk exclusively about murder and homicide. Since, honour killing is a type of murder and homicide, sometimes the culprits manage to escape liability because there is no law specifically just for it. It is however, essential for the legislators to come up with a more stringent law, so that all those who violate other individual’s right to live can be held liable.

³ <https://indialawyers.wordpress.com/tag/honour-killings/>

LEGAL PROVISIONS IN THE INDIAN CONSTITUTION THAT CAN BE USED TO STOP HONOUR KILLING

The Constitution provides ample provisions allowing individuals to exercise his/her choice irrespective of caste, religion or gender and protects them from honour related crimes like honour killings. Such killings violate Articles 14, 15(1), 19 and 21 of the Constitution of India. It violates the women's right to live, right to move freely, right to equality and right to security.

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Article 14 of the Indian Constitution guarantees to all its citizens right to equality before the law or equal protection of the law. This right to equality is one of the fundamental features of the Constitution. However, honour killing hideously violates this Constitutional Right provided to the individuals. Honour killing is generally directed towards women and it further gives rise to gender violence and discrimination as the male accused somehow manages to escape the punishment. This further leads to the violation of Article 15(1), which states that 'the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them'. Honour killing on the contrary, is largely based on the difference in class and religion.

Honour killing involves the murder of a particular person, which is a violation of Article 19 and Article 21 of the Constitution. Such brutal murders, under the practice of saving the so-called name of the family, is clearly against the provisions enshrined in Article 21 of the Constitution. The khap panchayat violates a person's fundamental right to life as they kill or instigate murder, in the name of honour. Every individual has the right to live and no other person has the right to infringe this basic right of any individual. It is only possible when law, i.e. under the sit, grants it, for example-capital punishment. There have been cases where the khap panchayat has forcefully separated couples that are eligible to get married. This and many other situations are in violation to the provisions of the Constitution and thus become a major reason as to why this 'crime of honour' should be stopped.⁵

⁴ <http://www.manupatra.com/roundup/337/Articles/Honour%20Killing.pdf>

⁵ <http://iosrjournals.org/iosr-jhss/papers/Vol15-issue6/F0562831.pdf?id=5903>

INTERNATIONAL PROVISIONS RELATED TO HONOUR KILLING TO WHICH INDIA IS A SIGNATORY

The main objective of international laws is to maintain peace all over the world, in order to protect the rights of the individuals and to eliminate any form of discrimination against them based on caste, color, sex, creed, place of birth etc. International laws also protect individuals against violations perpetrated by the State and its officials or any private abuse or violations committed in the name of customary practices i.e. honour killing. The States signatory to such international laws are binding to protect the individual from any such violations.

India, as a state party to the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW 1979)⁶ is required to take all measures to end all forms of practices of honour killing and to eliminate all forms of discrimination against women in matters relating to marriage and family relations. It is to provide women with equal rights to enter into marriage with their free and full consent and to choose their spouse freely, as laid down in Article 16 of the Constitution. This includes refraining informal decision making bodies like the khap panchayat to enforce their dictates and infringe the rights of the individuals.

As per Articles 1 and 2 of the Universal Declaration of Human Rights (UDHR 1948), “all human beings are born free and equal in dignity and rights” and “everyone is entitled to all the rights and freedoms set forth in” the declaration irrespective of “sex”. This declaration also in its Articles 3 and 5 entitle women the “right to life, liberty and security of person” and the “right to be free from torture or cruel, inhuman and or degrading treatment”. All crimes of honour, including honour killing, is a gross violation of these rights provided by the declaration to women.

The International Convention on Economic, Social and Cultural Rights (ICESCR 1976)⁷ under its Article 12 orders all States to take necessary steps to make sure that the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” is ensured. Crimes of honour that involve sexual violence and mental or physical torture and abuse violate

⁶ <https://advocateravikant.wordpress.com/2011/05/10/honour-killings-and-the-law-in-india/>

⁷ <https://indialawyers.wordpress.com/tag/honour-killings/>

the right of women to enjoy the highest attainable standard of health. India, being a State party is legally obligated to ensure that women are able to avail this right.

Honour killing involves the violation of a number of human rights, like right to life, liberty and security; right to freedom from gender-based discrimination; right to privacy; right to marry; right to be free from sexual abuse and exploitation and etc. Being a complete violation to the Human Rights Act (1998), the State needs to take immediate and effective measures to protect individuals from such violations.

It is, however, shocking as to how even after so many international and constitutional provisions and various human rights provisions to eliminate violence against women; individuals continue to be the victims of murders in the name of honour.

ARGUMENTS IN FAVOR OF A NEW LAW

Honour killing has been a daunting part of our society for a really long time. The dominating members of the family order the killing of the members who bring shame to the family and get away with it by calling it ‘murder in the name of honour’. Even though there are existing laws that try to deter honour killing, it is very much still a part of our society. Eradicating it requires a serious intervention in the status quo. According to me, more stringent and specific laws are required to tackle this menace.

Making the crime of honour killing a separate offence will bring more clarity for the law enforcement bodies. The new law will be accompanied with institutional machinery that’ll require coordination of all the stakeholders. The State and the Central Government will work on sensitization of these law enforcement agencies. It will create special police cells in each district to provide protection to the couples. The Magistrate at the district level will have more protection powers and it will also mandate social initiatives and awareness to curb such violence through social means.

One of the proposals of making a new law is to amend the Indian Evidence Act by putting the burden of proof on the accused. In this way, the khap panchayat or the families that order such killings will be responsible for establishing their innocence. This will further lead to ‘joint

liability’, where both, the person who orders the killing and the person who carries it out will be held liable and therefore punished.

For long we have been victims of this crime and it is high time to stamp out of these barbaric and feudal practices, which are a slur on our nation. Thus, I strongly support the formation of a new law to eradicate honour killing.

CONCLUSION

The twin notion of ‘honour’ and of ‘shame’ and their justification for violence and homicide can be found in many cultures. Honour killing has historical roots in many regions of the world including Latin America, Europe, the Middle East and South Asia. In some Arab and South Asian states, modern day incidence of honour killing is more predominant, but the practice of honour killing originates from ancient Arab culture, with its roots in Pakistan. It is not associated with particular religion or religious practice, it is widespread across Christian, Jew, Sikh, Hindu and Muslim communities. Sometimes, honour killing is not a religiously motivated crime; it is based on personal agendas, ego and traditional mindsets.

In simple words, honour killing is done to save the honour of the family. But there is no such honour in killing a person. No person has the right to take another person’s life. ‘Religion’ and ‘culture’ cannot be evoked as an excuse to killing someone. No culture has the right to kill and harass women based on their mindset of morality and honour. Everyone has the right to life with full dignity and equality; every person can choose to believe in a particular community’s customs. The freedom of belief does not mean the freedom to kill those who are opposed to it.

It is, however, the State’s responsibility to ensure the protection of individual’s human rights, to avoid honour killing and to create possibility and opportunities for people to break free of the social taboos. A social evil like honour killing just cannot be eradicated over night, it requires social, economic, political, and cultural and every other aspect of the society to sensitize against it. In the words of Justice Sujata V. Manohar of Supreme Court of India, “...It is not easy to eradicate deep seated cultural values or to alter traditions that perpetuate discrimination. It is fashion- able to denigrate the role of law reform in bringing about social change. Obviously law, by itself, may not be enough. Law is only an instrument. It must be

effectively used. And this effective use depends, as much on a supportive judiciary as on the social will to change. An active social reform movement, if accompanied by legal reform, properly enforced, can transform society.”⁸

BIBLIOGRAPHY

1. BOOKS

- Lynn Welchman and Sara Hossain, ‘Honour’: Crimes, Paradigms, and Violence Against Women. Published by Zubaan, India, 2006
- Amir H. Jafri, Honour Killing: Dilemma, Ritual, Understanding. Published by Oxford University Press, 2008

2. ARTICLES

- Honour Killings are a separate horror | The Hindu
- Of love and honour killings | The Hindu
- Honour Killings: Supreme Court says those who kill for ‘honour’ deserve death sentence | India Today
- India sees huge spike in ‘honour’ | Aljazeera
- Honour Killings: The Law It Is and The Law It Ought To Be | LawTeacher

3. WEBSITES

- [https://www.worldwidejournals.com/indian-journal-of-applied-research-\(IJAR\)/file.php?val=January_2014_1388584173_ee78c_75.pdf](https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/file.php?val=January_2014_1388584173_ee78c_75.pdf)
- <http://www.manupatra.com/roundup/337/Articles/Honour%20Killing.pdf>
- <https://indialawyers.wordpress.com/tag/honour-killings/>
- <http://www.prsindia.org/theprsblog/?p=301>
- <https://advocateravikant.wordpress.com/2011/05/10/honour-killings-and-the-law-in-india/>
- <http://iosrjournals.org/iosr-jhss/papers/Vol5-issue6/F0562831.pdf?id=5903>

⁸ [https://www.worldwidejournals.com/indian-journal-of-applied-research-\(IJAR\)/file.php?val=January_2014_1388584173_ee78c_75.pdf](https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/file.php?val=January_2014_1388584173_ee78c_75.pdf)

- <http://www.mid-day.com/articles/nitish-katara-murder-case-honour-killing-cases-vikas-yadav-vishal-yadav-conviction/17443183>
- [http://www.ijhssi.org/papers/v2\(6\)/Version-2/E0262024029.pdf](http://www.ijhssi.org/papers/v2(6)/Version-2/E0262024029.pdf)
- <http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/hk-ch/p5.html>

