

URGENT NEED OF REFORM & FORMULATION OF LEGISLATION TO CURB HONOUR KILLING: NO HONOUR IN HONOUR KILLING

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DOI: doi.org/10.55662/IJLDAI.2023.9201

ABSTRACT

Indian society is the amalgamation of multilateral, multilingual and pluralism which is completely culturally diverse. India is recognized for its enriched culture and secularism is one of the distinct features of our nation. So different community have their own norms, tradition, mores and values apart from the formally recognized laws. The definition of reputation in society, or holding a high esteemed honor among the prestigious community or society is confined here 'if the adult of your family lives within the boundaries set by the **orthodoxical pre-occupied standards**'. This article demonstrates the barbaric steps or treatment the society or the partner gives to the **love birds** who are fugitive, divergent, social deviant and unrefined as per the societal calculation and measurement but not in the eyes of law. The paper exhibits the nastiness in the name of religion, sacraments, culture or tradition which is existing still in this 21st century where we proudly talk about modernization and westernization and Progressive legalization. Article 21 gives us right to live with dignity, personal liberty which includes right to privacy as well. We have article 19 which talks about right to freedom of speech and expression. We have article 14 which guarantees the right to equality. We have statutes and legislation like Special marriage Act, 1954, laws relating to Human Rights protected under Protection of Human Rights Act, 1993 i.e., Universal rights which we acquire since the time we are born. In spite of having these paramount fundamental rights and human rights with us marrying or living in with a person of your own choice becomes a life-threatening punishment to most of the couples or one of the partners in our culturally diverse country.

Keywords: Culturally diverse, secularism, honour, sacrament, social deviant, Orthodoxical, divergent, Progressive Legalization, Prestigious.

INTRODUCTION

Different Communities and different societies have enormous frames of reference and conceiving the concept of marriage. But unambiguously the popular concept of marriage is that it is a union between a man and a woman, like in the words of anthropologists like **Lowie**, **Murdock** and **Westermarck** mainly emphasize on social sanction in the union & how these are masterly accomplished by performing different rituals and ceremonies or functions.ⁱ sanctions marriage Religion, Caste, Verna, Gotra are the rigid stratification in India which have their dominancy over personal choice or preference since years specially during marriage period. There is a division of society on the basis of class, race and ethnicity as well. Some Castes are superior somewhere whereas some class of people are superior to other class. There is also concoction of so-called prestige in society if the son or daughter of an individual follows **endogamy and exogamy rules** during their marriage. In India earlier Child Marriage or Sati Pratha was prevalent. After the abolition of these evils from the society although Child Marriage are still being solemnized in some areas but definitely the number decreased. Now it's the period of globalization where women are going outside even abroad for their studies to fulfill their passionate dreams or at different workplace as they are becoming more independent. They are recognizing their rights. On mutually agreed having **consensus ad idem** i.e., meeting of mind affectionately, Cordially, amicably and affably male and a female if comes into live in relationship or tie the knot breaking the societal barricade of Caste, Creed, religion or gotra they are not any offender in the eyes of law but they are a high-profile lawbreaker in the evil eyes of honor seeking society. Honour killing in true sense is a murder or a class of murder in order to impose the idea of within the community, within the caste, outside the gotra marriage or not standing in the parameter of measurement of maintainability of status marriage. Although every person in India is said to have the right of choosing his or her own marital ties living and enjoying the beautification of the representative democracy maintaining the very essence of our dearest Constitution and paramountcy of fundamental rights the very beautification of the rights are being crushed of by these kind of brutality by their own Consanguine. Even in the era of literate society of 21st century this communal

agitation murder is very high.

DEFINITION

Honour killing can be defined as deliberate killing of a man or woman by his/her own family members for marrying the partner of his/her own choice within the gotra or outside the caste just to protect and their ostensible or so-called status in the eyes of society. Mostly they murder their girl child justifying that she has crossed the threshold or Laxman Rekha i.e., the limits set by the patriarchs.ⁱⁱ

RIGOROUS PUNISHMENT FOR COMMITMENT OF NO OFFENCE

The patriarchal Pre-conceived notion or hypocrisy that if the girl loses the virginity before the marriage or solemnize marriage with the guy of her own choice in lieu of the choice of their father, elder brother or any male member of the society she becomes impure, loses her chastity, purity, faithfulness and considered as stigma on her clan. The Maiden or spinsters are considered as the symbol of honour of the whole family. This harsh and rigorous imposed confinements and restrictive limits are not only limited to women even the innocent men are being brutally murdered specially by the father or any dominated man from the woman's side. Their narrow thought ignites them to kill the couple as they think the girl has ruined their name and fame and the boy tried to malign the character of their family.

In India earlier Child Marriage or Sati Pratha was prevalent. After the abolition of these evils by enforcing acts like Widow Remarriage Act, 1856, The Child Marriage Restraint Act, 1929 from the society although Child Marriage are still being solemnized in some areas but definitely the number has decreased. Honour killing stands on the same pedestal which is adversely impacting the status of truly dignified community, society, state as well as nation. Now it's the period of globalization where women are going outside for their studies or at different workplace as they are becoming more independent not only the women rather the innocent men who has just attained the age of majority and became eligible to be called as men transforming from boys are the victim and are given rigorous punishment by taking their life away for no crime they committed. They are recognizing their rights. Therefore by mutually

agreeing a male and a female if comes into live in relationship or ties the marital knot breaking the societal barricade of caste, religion or gotra they are not any offender in the eyes of law but they are a high profile criminal in the evil eyes of honorseeking society.

GLANCING AT SOME LEGAL INSTANCE ON THIS HEINOUS CRIME

There is **not specific law on honor killing in India**. But it is a punishable offence as it is violative against our paramount fundamental right to live with dignity and right to privacy enshrined under **article 21** of our constitution. The couple if elopes due to fear of society and tries to reside somewhere they are followed and murdered here also their right to freedom and to reside and settle cherished under **article 19** of our Indian constitution is snatched. The right to equality before laws and no discrimination on the grounds of religion, race, caste, sex or place of birth given under **article 14 and 15** respectively are completely infringed of the couples. Since women the Spinsters or maiden are mainly said to be the preparators of the crime which in actuality is not a crime they are looked up as the sinner and as abettor to the male partners as well she is forced to either lead a life being boycotted by their paternal family, their in laws family and in the society the National Commission for Women instituted as per The National Commission for Women Act, 1990 could take up the cases seriously either on looking into the complaint or taking *suo moto* regarding the matter as it also falls within the arena of deprivation of rights of women and many others ease provided and area defined under **Section 10 (1) (f) of The National Commission for Women Act, 1990**.ⁱⁱⁱ

Section 299 and 300 of Indian Penal Code can be applied to the murderer which talks about Culpable homicide and murder.

In *Sujit kumar and ors. V. State of U.P. and ors.* A major Jat boy and a Tyagi from caste girl were in love with each other so married by Arya Samaj rites. The father of the girl alleged that the boy persuaded his daughter to go with him. The girl alleged that her father is threatening to kill her. The couple also alleged that their parents are pressurizing to divorce each other otherwise will kill them. So, they sought for protection from the state. The court declared that under **section 3 of Indian Majority Act, 1875** a person who is major knows his/her welfare and interest very well. So, he/she can marry whomever they want of any caste or community. The court clearly said inter-caste or inter-community marriages are totally acceptable by the

court and it should be promoted to eradicate the great evil and curse of our country the caste system. It will also curb the rampant evil of dowry.^{iv}

WIDESPREAD AREAS & CHIEF FACTORS OF HONOR KILLING

Prime factors of crime of honor killing are:

- A harsh khap Panchayat- They are a kind of Socio -political group, where few villages are united together and mainly governed by the upper caste community. The members of khap panchayat on the name of tradition and custom give barbarous punishment to the couples who opt for love marriage. In *Shakti Vahini V. Union of India*^v The hon'ble chief justice of India Dipak Mishra clearly said that deciding the legality of marriage is totally on court not on any other person or group. The court opined no-one has right to harass the couple and restored the relaxation of sapinda relationship should be removed by 5th generation in the line of ascent to father and three (3) generation in the line of ascent through the mother and same gotra marriage as per **section 5 of Hindu Marriage Act of 1955**.^{vi} In the landmark **Manoj-Babli case**^{vii} the couple loved each other so eloped and tied the knots with each other. On finding by the order of khap panchayat for marrying within the same gotra the couple were brutally murdered by the family of Babli. Later on the Punjab Haryana High court awarded death penalty to the convicts.
- Trigger from society for losing the so-called caste status: -Even our religious texts give the prime supremacy to the deeds but our society is still not accepting the truth and living in darkness they are killing those rays of sunshine and obstructing their way by blocking and wiping out their existence from this planet forever while they have no such right to do so.
- Lack of specific statute or law on this particular crime.
- Rigid patriarchal mindset.
- Narrow and conservative thoughts of society.

- Sensing the prestige in the name of caste, gotra, religion only over humanity.
- Impact of some horrifying cases like Shraddha Walkar case murder case where her long term living partner Aaftab Poonawala murdered his live in partner brutally and shockingly chopped her into 35 pieces keeping some of them in the refrigerator. This extremely brutal incident has been wrongly making headlines only with the communal conflict reasons of being different religions rather accepting the other factors of such heinous offence.^{viii}

Widespread regions of honor killing can be: -

- It is almost spread in every part of Indian Society but mostly in north eastern Rajasthan, eastern Haryana and western Uttar Pradesh.
- Now it is developing in modern cities like Delhi as well where if the class or standard of the couple do not match they are murdered.
- It is happening in the state of Bihar well.

RECOMMENDATIONS OR STEPS NEEDED TO STOP THIS BRUTALITY

- Eradication of **Khap Panchayat** from the society.
- **Punishing rigorously** the murderers along with the members of the khap panchayat who pass order against the couple.
- A strong and specific legislation is needed in fact mandatory to curb this heinous crime.
- Awareness of right to choose life partner of his/her own choice is essential.
- Cases need to be reported because most of the cases are even not reported.
- Government must appoint some authority at grass root level to report the crime related to honor killing.
- Civil society organizations along with NGOs must work on it.

CONCLUSION

Even our hon'ble Supreme court considers honour killing as the **strange brutality**. There is undoubtedly no defence of shielding for the feigned honour or reputation and consequently executing horrifyingly the atrocious cruelties called honor killing. Everyone has to right to life and privacy which includes right to marry the partner of his\her own choice. Even our statutes and legislations have taken step forward towards liberal and progressive approach breaking the attenuated wall confining the limits of endogamy, exogamy through enacting Special Marriage Act, 1954 to legalize inter-religious marriages and to validate the fact that the marriage is a secular institution lacking all religious formalities to form an association called family beyond religion. This commendable step towards validation of inter-caste or inter-religion marriage doubtlessly glorifying the very word secular enshrined in the preamble i.e., the mirror of our Constitution through 42nd amendment. Nobody is entitled to snatch this right except the procedure established by law. It is really strange a country where the symbol of love Lord Radha & Krishna, Sita and Rama, Shiv and Parwati are worshipped where movies like Heer Ranjha, Manjhi the Mountain man are favoured, the discussions and chapters of Swayamvar i.e., self- selection of groom are depicted in the religious texts of different religions initiating from the Vedic era only the human couple rather we can say humanity is brutally being murdered, Human being punished for the offence they never committed without being adjudged in the court of law.

ENDNOTES

ⁱ Ram Ahuja, Indian Social System, 117(1st ed. 1993)

ⁱⁱ Raghu N. Singh, "Honor Killing", Encyclopedia Britannica, 3 Aug.2016
<https://www.britannica.com/topic/honor-killing> retrieved on 3 April 2023

ⁱⁱⁱ The National Commission for Women Act, 1990, No.20, Acts of Parliament, 1990(India).

^{iv} M Katjii, Sujit kumar and ors. V. State of U.P. and ors. On 6 May, 2002, Indian kannon
<https://indiankanoon.org/doc/1406726> retrieved on: 4 April 2023

^v Shakti Vahini V. Union of India, (2018) 7 SCC 192

^{vi} Krishnadas Rajagopal, Khap cannot interfere in marriage of consenting adults, rules Supreme Court , The Hindu, 27 March 2018 11:55 IST
<https://www.thehindu.com/news/national/supreme-court-says-khaps-cannot-intervene-in-marriage-of-consenting-adults/article23361800.ece> retrieved on 4-03-23.

^{vii} Smt. Chandrapati vs State of Haryana and others on 27th May, 2011

^{viii} Kriti Bhargava, Shraddha Walkar Murder Case: All that has happened so far, Outlook India, 22 Nov 2022 at 3:44 pm , <https://www.outlookindia.com/topic/shraddha-walkar>