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HONOUR KILLING AND HUMAN RIGHTS

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Abstract

Honour killings, which are deeply rooted in cultural norms and misunderstandings, are a significant infringement of fundamental human rights. This study seeks to relation between honor killings and human rights, emphasizing the cultural foundations that sustain this abhorrent act and the legal structures established to counteract it. Honour killings often entail the homicide of a family member, primarily women, who are believed to have disgraced or dishonored the family by activities such as refusing arranged marriages, participating in disapproved relationships, or asserting personal independence. These actions are motivated by a misguided understanding of honor that confuses individual self-worth with public perception, resulting in extreme actions taken to regain family honor. The study examines the definitions and global viewpoints on honour killings presented by organizations like as Human Rights Watch and the World Health Organization, highlighting the broad acknowledgment of these actions as grave violations of human rights. Honor killings are a serious violation of human rights that require a comprehensive and varied approach. Societies can work towards eradicating this inhumane practice and protecting the fundamental rights of all individuals by promoting a culture that values individual rights and equality, and by ensuring that those who commit such acts are held responsible under strong legal systems.

Keywords: Honour killing, Human rights, legal, family

1.1 Introduction

Traditional arguments place cultural norms for appropriate social behavior at the root of the multi-faceted concept of honour. For most people from all walks of life and all cultures, honor is simply the acceptance of one's place in one's community or society. Identity is greatly impacted by how well one is recognized by the public.¹ Respect from one's peers serves this function. Confusing one's reputation with one's honour can lead to the development of a false sense of pride, which

¹ J. Pitt-Rivers, "Honour and social status." In J. Peristiany (Ed.) 21 (1965).

is a social need that everyone has. Contrary to popular belief, one's reputation consists of what other people know and respect about them, while one's honor consists of what one knows and respects about oneself. The idea of seeing Honour as a valuable gem whose value is diminished by a single imperfection arises from this long-standing misunderstanding of the dignity. Therefore, you should not do anything that can bring disgrace upon you, as doing so is widely condemned in society, and those responsible for such actions should face appropriate consequences. Because of this, the horrific practice of honour killings has become more common in society.²

Honour killing

Establishing a precise definition of "Honour Killing" is the first and most important step in recognizing this heinous crime and developing a legal framework to combat it. This is due to the fact that every nation has its own unique concept of honor and its own set of rules for what constitutes a serious betrayal of honor warranting severe punishment. As a result, it is crucial to be familiar with the various international definitions of honour killings.

The murder of a family member for reasons such as failing to enter an arranged marriage, being in an unapproved relationship, having sexual relations outside of marriage, being raped, dressing inappropriately, having non-heterosexual relations, or giving up one's faith is known as an honor killing or a shame killing. The killer often believes that the victim has brought shame or dishonor upon the family, community or religion.³

Human rights watch defines "Honour killing" as –

"Honor killings are when male relatives exact deadly revenge on female relatives whom they believe have brought shame on the family. Family members can become violent toward women for many reasons, such as when they refuse to be married off in an arranged marriage, when they are victims of sexual assault, when they seek a divorce (even from an abusive husband), or when they are accused of adultery. It only takes one person to think that a lady has done something that "dishonors" her family for her life to be threatened."⁴

World health organisation (WHO) states that –

² "Culture of Discrimination: A Fact Sheet on 'Honor' Killings," Amnesty International USA, 2012.

³ Sneha Annavarapu, "Human rights, honour killings and the Indian law scope for a 'right to have rights'" Economic and Political Weekly (2013).

⁴ Human Rights Watch, Violence against Women and "Honor Crimes," 2001.

“Murders of women in order to "preserve the family honor" are a terrible example of the pervasive and socially sanctioned prejudice that girls and women face.”⁵

Human Rights

Human rights are defined as "the rights you have simply because you are human" or "a right which is believed to belong to every person."

Modern civilization can trace its origins back to the work of English philosopher John Locke, the "Father of Liberalism" (1632–1704), who established human rights as inalienable claims to one's own life, freedom, and property.⁶

George Mason's most famous proclamation of human rights, included in the 1776 initial draft of the Virginia Declaration of Rights, states that –

“The right to life, liberty, and the pursuit of happiness and safety, as well as the means to acquire and possess property, are inherent rights that human beings are born with and cannot be taken away from them through any agreement or compact.”⁷

According to the United Nations as stated in the Universal Declaration of Human Rights 1948 –

“Everyone has the same fundamental human rights regardless of their gender, race, religion, country, language, or sexual orientation. Every person has the inherent right to exist, to be free from enslavement and torture, to freely express themselves, to have an adequate means of subsistence (including education and employment), and to a host of other rights. These rights are universal and should not be discriminated against.”

Inherent human rights are those that no one has the right to take away from any person; these rights are basic freedoms that everyone has just by virtue of being human.⁸

Objectives

- To study honor killing and human rights.
- To study relation between honor killings and human rights.

⁵ WHO, Understanding and Addressing Violence against Women.

⁶ Korab-Karpowicz and W. Julian, “A History of Political Philosophy: From Thucydides to Locke” Global Scholarly Publications, New York 291 (2010).

⁷ The Virginia Declaration of Rights, [First Draft, ca. 20-26 May 1776].

⁸ UNITED NATION, Universal Declaration of Human Rights 1948, 2015.

Methodology

This study utilizes a qualitative methodology to investigate the intricate matter of honor killings and its correlation with human rights. The study utilizes a variety of secondary sources, such as legal documents, international human rights reports, and research articles, to offer a thorough comprehension of honor killings in many cultural and legal contexts.

Indian Legal Framework of Honour Killing

The Indian Constitution is the fundamental law of the country, outlining the rules for government and safeguarding individual liberties. It is protected from honour killings by the following constitutional provisions:

1. Article 14 (the Right to Equality),
2. Article 15 (1) and (3) (Prohibition of Discrimination on grounds of religion, race, caste, sex or place of birth),
3. Article 17 (Abolition of Untouchability),
4. Article 19 (1) (the Freedom to Speech and Expression),
5. Article 21 (the Right to Life and Personal Liberty).

The India Penal Code, 1860 and Code of Criminal Procedure, 1973:

People who commit honour killings are, as mentioned earlier, essentially murderers. Criminals may go unpunished for a while since communities tend to cover up homicides, but it's not impossible. Section 300 of the Indian Penal Code, 1860, allows the offender to assert that his actions were a reaction to an extreme and unexpected provocation, rather than being part of a deliberate plot. It was dishonorable for the victim to respond only on what he saw, but he lost control because the victim's conduct was so moving. The following sections are also examined in order to determine if an act constitutes murder: Sections 300 and 302 on murder and its punishment; Sections 304 and 307 on attempt to commit murder; Sections 120A and 120 on criminal conspiracy; and Sections 34 and 35 on common intention. Only two sections of the Indian Penal Code—section 302 for murder and section 304 for culpable homicide—authorize the registration of such crimes.⁹

Indian evidence Act, 1872

The Indian Evidence Act of 1872, which punishes those who help to conceal information before,

⁹ Dr Aarti Mohan Kalnawat, "Indian legal framework on honour killing," 1 Symbiosis Law School Nagpur Multidisciplinary Law Review 1–25 (2021).

during, or after an accused crime, must be the basis of any case that is to be proven. Noteworthy and instructive in this regard is Section 13 of the Act, which reads as follows: "Facts relevant when right or custom is in question."¹⁰

The Indian majority Act, 1857:

For legal purposes, this Act addresses the subject of a person's major age; section 3 states that, absent provisions to the contrary in personal law, the age of majority is 18 for all persons domiciled in India. However, the majority age for a guardian assigned to such a child will be 21 instead of 18. This Act is applicable in instances of honour killings when khap panchayats have arbitrarily divorced spouses who are otherwise qualified for remarriage based on age or other elements. Consequently, it helps shape the mindset and disdain for the law among khap panchayat members. Such situations clearly constitute a breach of the terms outlined in this Act.¹¹

Hindu Marriage Act, 1955:

According to Section 5 of the Hindu Marriage Act, 1955, the basic requirements for a valid marriage are stated. Certain forbidden degrees of relationship must be preserved in order for a marriage to be legally recognized, as stated in the clause. Criminal law imposes severe penalties for violations of marital relationships, while civil law offers suitable remedies. Both systems work together to protect married partnerships. The Act does not impose any restrictions on the choice of spouse, suggesting that Hindus are free to marry outside of their caste.¹²

Special Marriage Act, 1956:

This law ensures that Indian citizens can get married according to their preferred method, regardless of their caste, class, or religion. This law makes it easier to recognize and record weddings between different castes. Since India's social structure is firmly rooted in the caste system, inter-caste marriages are more common in India's cities than in rural areas. The Act specifies that the couples cannot be in an illegal relationship, but it allows for the solemnization of a marriage to take place if one of the couples' traditions permits it.¹³

¹⁰ DR. Smita Samapathy, "Honour killing as a crime in India," 6 International Journal of Law Management & Humanities (2023).

¹¹ Seied Beniamin Hosseini and C Basavaraju, Study on Honor Killing as a Crime in India-Cause and Solutions ADR Journals, 2015.

¹² Reema Sahu, "Legal and judicial approaches of honour killing in india: an analysis," 10 International Journal of Multidisciplinary Research Review 25 (2024).

¹³ Yogesh Dharangutti and Rhea Bazaz, "Prevention Of Honor-Killings Via The Special Marriage Act," 6 Journal of Positive School Psychology 3235–3246 (2022).

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:

In an effort to reduce crimes against Scheduled Tribes and Castes, the Indian Parliament enacted this law. Facilitating Dalit assimilation into mainstream Indian culture was the principal objective of the Act. Forcing a SC/ST person to leave their family or community, sexually exploiting a SC/ST woman, assaulting, dishonouring, or outraging her modesty are all examples of atrocities covered by this Act. Given the prevalence of honour killings in which religious and caste tensions play a central role, it is reasonable to assume that this Act addresses this issue. An Act to Safeguard Women Against Domestic Violence, 2005¹³ More robust safeguards for women's constitutionally protected rights are provided under the Protection of Women from Domestic Violence Act, 2005. It appears that all of these women have been victims of domestic abuse, whether that be physical or psychological, for reasons related to or unrelated to the problems at hand.¹⁴

Protection of Human Rights (Amendment) Act, 2006:

Establishing commissions and courts to ensure the protection of human rights is one of the many purposes of this Act. Honor killings, which constitute serious human rights crimes, persist notwithstanding these norms.

Honour killing and Human Rights

The "honour killing," which has diverse connotations in different cultures, usually describes the assassination of a female family member who is seen as a shame to the family. Reasons for this view include rejecting an arranged marriage, being in an unapproved relationship, having sexual intercourse outside of marriage, being a rape victim, dressing inappropriately, or deciding to change one's religion. Murdering the "offending" family member is the only method, according to the perpetrators—typically male relatives—to restore the family's honor. Cultural standards that govern appropriate social conduct are the bedrock upon which honour killings are based. An individual's honor is strongly related to their standing in society and the level of respect they are shown by their peers in many cultures. A distorted sense of pride and the conviction that any perceived stain on one's honor must be removed, often through extreme actions like murder, result from this misunderstanding, which frequently equates personal honor with public repute. Human rights advocates view honour killings as heinous abuses of people's basic rights, especially women's. Thinkers like John Locke and texts like the Universal Declaration of Human Rights

¹⁴ Pranabindu Acharya and Prachi Acharya, "An Analysis of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989" SSRN Electronic Journal (2021).

(1948) have argued that human rights are intrinsic and inherent. Everyone has the inherent right to life, liberty, and security of person, and no one has the right to have these rights violated because of their gender, color, religion, or culture. In its Universal Declaration of Human Rights, the United Nations states that all people have the inherent right to exist, be free from slavery and torture, and enjoy full legal protection. By executing people—mostly women—according to subjective and unfair standards with their origins in patriarchal and cultural biases, honour killings blatantly go against fundamental ideals. There are a number of national and international legal systems in place to address honour killings. The need for a worldwide effort to raise awareness and take legal action against honour killings is highlighted by the fact that both the World Health Organization and Human Rights Watch have acknowledged these practices as serious abuses of women's rights.

Conclusion

Honour killings, which are deeply rooted in cultural norms and myths, are a grave infringement of fundamental human rights. They are motivated by a mistaken concept of honor that links personal integrity with public standing, resulting in extreme actions like homicide to regain what they regard as familial honor. These abhorrent crimes unfairly focus on women, exposing them to violence and death for defying patriarchal and societal norms, such as refusing arranged weddings, being in relationships, or asserting personal independence. Honor killings are an important violation of human rights that calls for a concerted effort to end them through changes in legislation, social norms, and global collaboration. This savage practice can be eradicated and the basic rights of all people protected if countries promote a culture of equality and respect for individual rights and hold offenders accountable through strong legal systems.

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