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HONOUR KILLING IN INDIA

Authored by – Aarti Rawal

Abstract

Honour killing is a barbaric practise in which a family member, particularly a woman, is killed because it is thought that the family's honour has been violated. Despite being against the law, it is nonetheless common throughout the nation, especially in India's northern parts. Honour killing is becoming more and more prominent as a result of the complicated social and cultural issues. Honour killing is the act of killing a person—a male or female—who chooses his or her partner in consonance with his or her wishes. The head of the family, who is willing to uphold the family's honour, prioritises the image and reputation of the family, but completely ignores the individuals' feelings of love and affection. This research paper is to examine the key reasons and affects of honour killing and targets to educate the society and bring out the seriousness of the crime. It is hard to believe that today in the 21st century that too in the largest democracy of the world, Families killed their children for the sake of saving their so called Honour. And the Question still remain the same as to Is there any honour in killing ?

BACKGROUND

Honour Killing is characterised as Death given to a man or a woman by members of their own family as punishment for being married against their Will or having a relationship prior to getting married or getting married within the same gotra or getting married outside their caste. The mindset of those people are such that they are not willing to accept the fact that their children can marry according to their own choice. Quite often, it's go beyond the issue of caste and religion, in certain scenarios a family would kill just because they do not want to be associated with the tag of love marriage. I believe that the phrase “Hamare Ghar ke Izzat” adequately conveys the fundamental reason for this horrible action. When their daughter chooses to marry in accordance with their own choice, their alleged honour reduce. Their daughters are forced to carry the weight of their Honour. The step of a woman or a man in choosing a life partner according to their choice beyond the community norms is regarded as dishonour.

HONOUR KILLING IN INDIA

An Honour killing or Shame killing is the killing of an individual by a stranger or a family member, they are doing so in an effort to preserve what they believe to be their own or their family's honour and dignity. Religion, caste, and other forms of hierarchical social structure are strongly associated to honour killings. This kind of behaviour is violent and forbidden and caused because of certain triggers of the society. The study reveals that honour killings have turned into a prevalent crime in India, where we claim about having the world's largest constitution and democracy, as well as the right to life and personal liberty, but as we can see, this horrific act of honour killing was caused by caste, society and the people's narrowmindedness. The Supreme Court ruled against honour killing, declaring it to be unlawful and punishable. It is prohibited to kill or physically harm a girl or woman over her choice to marry a boy who is not supported by the girl's family. In India, the states of Haryana, Punjab, Rajasthan, and Uttar Pradesh see a higher rate of honour killings.

CAUSES

The Fundamental cause of the offence is that the members of majority caste reject inter-caste relationships in order to preserve the dignity of their community or the social standing of their family. When the issue involving the same Gotra came up, the honour killing too occurred. The Offence is committed in order to regain the dignity and respect that the family has lost as a result of a member falling in love with someone from a different caste. There are many reasons for which honour killing occur and some of them are mentioned here :

- Wearing clothes in a manner which are deemed to be inappropriate and unacceptable to the communities;
- Refusing to enter into or wanting to end or wanting to marry one's own choice, If prearranged marriage does not take place the family could face embarrassment and lead to honour based violence;
- Societies where families frequently exchange gifts and marriages are arranged, a woman's desire to obtain a divorce is often seen as an disrespect to the men who arranged the marriage, the women are perceived as dragging the family to public dishonour by disclosing their marital issues outside of the family;
- The fear of the family being abandoned and rejected by the community as a result of an accusation against a girl will be enough to damage the family's image and lead to an honour

killing;

- Rape victims often experience violent punishment from their family and other relatives including honour killing. Women who have already been sexually assaulted are frequently regarded as having brought dishonour or disgrace to their families. This becomes especially true if the victim gets pregnant;
- Engaging in homosexual activity, wherein women and girls die often more frequently than men. There are reports suggest that families often perceive homosexuality as justification for killing someone in the name of honour. Violence can also result from actions that are viewed as inappropriate gender expressions such as a man acts or dresses in a feminine way which can raise suspicion and lead to honour based violence.

HONOUR KILLING AS VIOLATION OF HUMAN RIGHT

In the guise of class honour or distorted individual perception of honour, human rights are violated and fundamental rights are destroyed. The honour killing incident put the rule of law into a terrible position. The law on Human rights has always placed a major emphasis on safeguarding people against abuse in the public domain and their relations with the government. Thus, there are numerous type of violence against women. First most Fundamental human right – “Right to Life” – is expressly guaranteed by all major human rights instruments and other conventions that are specifically geared towards women. Honour killing as manslaughter or culpable murder, clearly violates this right. Honour killings is a gross violation of equality rules ecause they are predominantly gendered crimes, and many countries law treat men and women differently by giving males who commit these crimes pardon. As a result, law is applied differently to men and women. There are numerous other human rights which violates such asthe prohibition against torture and other cruel treatment, the right to personal liberty and security of person, the right to privacy, the right to health, the right to marriage, the right to social security and inheritance. The Right to Life and the prohibition against discrimination arethe two human rights that should be examined in regard to honour killings the most because they are consistently violated in this crime.

LAW RELATED TO HONOUR KILLING IN INDIA

As of today, there is no specific legislation in India which is addressing the issue of Honour killings; crimes related to Honour fall under the various other legislation. These are as follows:

- Section 299 & 304 Indian Penal Code (hereinafter 'IPC') : Penalise for Culpable Homicide not amounting to Murder.
- Section 307 IPC : Punishment for Attempt to murder upto 10 years of Imprisonment and fine and if a person gets hurt the punishment can extend upto life imprisonment aswell.
- Section 308 IPC : Penalise Attempt to Commit culpable Homicide
- Section 120 A & 120 B IPC : Anybody who takes part in criminal conspiracy should be punished.
- Section 107-116 IPC : Penalise people for abetment of an offence.
- Section 34 & 35 IPC : Penalise criminal activity carried out by a group of people with common Intention.

Apart from IPC, cases of Honour killings can be covered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which deals with the atrocities committed against Dalits & Tribals.

HONOUR KILLING AND CONSTITUTION OF INDIA

The said killings in the name of Honour violates Article 14, 15(1) &(3), 19 and 21 of the Constitution of India. According to Article 14 & 15 of the Indian Constitution, all people of India will be treated equally before the law irrespective of their caste, creed, sex, race or religion but there are no equality before the law when Honour Killings are done more commonly against female family members than against male family members- a discrimination occurs when a woman is murdered. It's give rise to violence based on Gender.. Article 19 & 21 respectively discuss the rights to freedom and life. Honour killing violate both the rights of victim. Each person has the right to live and choose their life Partner. No one has the right to violate another person's freedom of life. Our Constitution also states that India is a secular nation and we have the right to adopt and practice any religion and gives the Right to choose life partner as well. Such rights have the sanction of the constitution and once it is recognised then that need to be

protected and it can not surrender into concepts like class honour which are based on the ideas that are totally unjustified and baseless. A person's freedom of choice is an essential component of their dignity since dignity cannot exist in a situation where freedom of choice is being destroyed. Granted, the same is subject to the constitutional limitation principle, but in the absence of such a restriction, no one shall be allowed to interfere with the success of the said Choice.

STATISTICS

Figures do not often provide a complete picture because many instances of violence or killings go unreported. In India, mostly the cases of honour killings are reported from the states of Haryana, Uttar Pradesh, Rajasthan. According to National Crime Record Bureau (NCRB) 2020 statistics, there were total of 25 cases of Honour killing in India, 27 cases of casteism, and 1558 cases of illicit relationship. The Union Ministry of State for Home Affairs told the Lok Sabha that between 2017 and 2019, there were 145 cases of honour killing were reported in India. However, Non-Governmental Organisation (NGO) that works to protect the human rights of Dalits and Tribal people in the state of Tamil Nadu reported in November 2019 that there were 195 cases of honour killings from Tamil Nadu alone in the past five years, these data clearly indicating that high number of cases goes unreported due to various factors like Social stigma, fear of retaliation and lack of trust in the authorities etc.

JUDICIAL PRONOUNCEMENTS

- In the case of **Lata Singh vs. State of Uttar Pradesh (2006) 5 SCC 475**, the apex court observed that the couple has not broken any law by getting married outside of the castes there is no bar to an inter-caste marriage under the Hindu Marriage Act, 1955 or anyother law.
- In the case of **Arumugam Servai vs. State of Tamil Nadu (2011) 6 SCC 405**, the apexcourt said that khap panchayats are akin to kangaroo courts and issuing decisions against inter-caste marriages are entirely illegal and it must be removed with severity.
- In the case of **Bhagwan Dass vs. State (NCT of Delhi) (2011) 6 SCC 396**, An accusedfiled an appeal against his conviction for killing his daughter, the apex court held that honour killings falls under the category of 'rarest of rare' so that it prevents such heinousactions by acting as deterrent.
- Finally in the case of **Shakti Vahini vs. Union of India (2018) 7 SCC 192**, the SupremeCourt

declared that honour killings are a kind of honour crimes and acknowledged that any kind of violence or ill-treatment that amounts to loss of choice of an individual pertaining to love and marriage by choice is illegal and cannot be allowed a moment of existence.

RECENT PROGRESS

Rajasthan Prohibition of Interference with the freedom of Matrimonial Alliances in the name of Honour and Tradition Bill was passed by the State of Rajasthan in 2019. The legislation Mandates a life imprisonment without the possibility of bail or the death penalty for honour violence and accompany with fine upto ₹5,00,000/-. Rajasthan becomes the first state to pass a legislation specifically against Honour killing.

There are few and inhumane conditions in the shelters run by the government for couples in danger. The Non-profit organisation operates more than 500 shelters across India in response to this. They help troubled couples obtain restraining orders and marriage licenses in addition to providing safety from honour violence.

CONCLUSION

Honour killings remain a serious issue in India despite numerous laws and progressive Judicial decisions. For the awareness among the society about the evils of this practice the government must launch extensive awareness campaigns. In order to ensure the Justice the authorities and Judicial System must make a strong stand against the criminals who commits such crimes. Honour killing is abhorrent behaviour that has no place in present day. It is the time for India to strongly condemn this Heinous conduct and try to ensure that responsible persons are held accountable. More stricter legislation are required to tackle these murders and punish those who break the law and take young innocent people's live. The Time has come for the khaps to modernise and adapt to the new scenario.