

ISSN :2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 6

www.ijlra.com

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HONOUR KILLING IN INDIA: AN ANALYSIS ON INDIAN STATUTES

Authored By- K. Vikas

Abstract

Honor killing is defined as killing for honor, a death for women or men by their own family members for marrying against their wishes or having a pre-marital relationship, marrying within the same gender, or marrying outside their caste, indicated by her or his wish which lets down the honor of the family so, The individuals from the family care for the name of the family, end up in killing the victims for the sake of honor. This is practiced all over the world on a widespread scale. This kind of killing occurs because of explicit triggers which are moreover inspected with the assistance of law in an honor killing. No individual can be left free if they misuse the law and in such a case, this is bad behavior dismissing numerous laws set up for the existence of the resident. Women of our nation are the significant casualties of this activity. Not just individuals including in marriage circumstances succumb to this wrongdoing yet additionally different circumstances, for example, young women assaulted, looking for a divorce, or at times even homosexuality succumb to this wrongdoing. In this paper, I have featured the laws against honor killing and some significant case laws relating to it, this paper additionally stresses on the constitutional system against this act how women suffer and furthermore some inquiry emerging whether honor killing goes under the purview of culpable homicide amounting or not amounting to murder, how come it is practiced in our day by day and the background behind this, and furthermore I have mentioned some details that show where and when honor killing is practiced in India.

Keywords: Gender, Honor Killing, Marriage, Laws

Introduction:

Honor killing might be portrayed as a murder of a family member that is respected with a woman of the group to wedding against the parent's desires, extramarital, early connections, wedding inside the equivalent family or outside one's position or wedding a cousin from a substitute position. Honor killing has arisen as sex-based wrongdoing. There are consistently occurrences about honor killing of a little girl and child in-law and never about male honor killings. Most honor killings occur in countries like India where the concept of women is considered as a representation of the family reputation. In 2000 it isun-estimated, that there are 50000 honor killings per year worldwide (united nations 2000).Indeed some argue that this figure is reasonable to estimate the prevalence of honor killing in Pakistan alone.The individuals who take an interest in honor killing regularly legitimize their demonstration by expressing that their activity will give prevention to others and will keep them from submitting such a demonstration which will carry shame to their family and society. From the past, the cost to insure the honor of the family was constantly paid by lady people, who were viewed as powerless and ward, are carried with the obligation to keep up withthe honor of the family. The principal explanations for the event of honor killings incorporate resisting the clothing regulation given by the local area to females, refusal to organize marriage, wedding individuals outside the station or religion, taking part in lesbian and gay connections, or participating in early or extramarital sexual action whether consensual or non-consensual. Many young people in India have been done to death every year owing to 'Honor Killings. It is because so-called honor killings are based on the belief, deeply rooted in Indian cultures, which consider women as objects and commodities, and not as human beings endowed with dignity and rights. Most honor killings occur in countries like India where the concept of women is considered as a representation of the family reputation. ¹

Research Objective

1. To analyze the concept,historical background, reasons
- 2.To research different issues and measurements identified with honor killings in India
- 3..What are the constitutional and statutory laws pertaining to the issue”?
4. Whether honor killing amounts to murder or culpable homicide?

Definition Of Honor:

"Honor killing" is the homicide of an individual by a family member or an employed executioner upon the doubt or implication that the individual has undermined their ethicalness and hence stained the family's honor (or at the end of the day, upon the doubt or hint that one has been engaged with something unethical and consequently, shamed their family).The casualties of honor killings, too as the culprits, can be male or female; the offense might be done for various illegal motives. In the cases roused by apparent sexual offense, the objective of an honor killing might be the person in question or the culprit (i.e., attackers, survivors of assault, gay people).Numerous youngsters in India have been done to death consistently because of 'Honor Killings.' It is on the grounds that alleged honor killings depend on the conviction, well established in Indian societies, which think about the ladies as articles and products, and not as people blessed with pride and freedoms. Most honor killings happen in nations like India where the idea of ladies is considered a

¹ Robert ermers , Honor related violence,pg.190-193,2018

mirror of families.²

Historical Background:

Honor killings have been known since the Roman period, when the pater families or senior males inside a family, held the option to kill an unmarried however sexually active girl or a two-faced spouse. Honor-based violations were known in medieval Europe where early Jewish law commanded demise by stoning for a two-faced spouse and her accomplice. Honor killing in India has had its starting point since ancient ages. Since ancient times, individuals submit crimes of their relatives and depict these killings as a demonstration done to ensure the honor of the family. Honor killings since the past have arisen for the most part as sexual orientation-based wrongdoing and have been utilized as an instrument to hold male-centric strength in the general public over ladies people. In any case, this doesn't imply that the man has been left totally untouched by this evil. There are moreover incidents of killing of men society generally for the explanation of them taking part in gay demonstrations or might be a result of refusal for organize a marriage. Be that as it may, an abundant of cases can be seen where little girls, girl parents in law, spouses, and so forth are being killed generally for reasons like conversing with another man, including in two-timing connections, early issues, wedding all alone will, and so forth. Honor killings are accepted to have begun from ancestral traditions.. However, all kinds of people submit and are casualties of honor killings, in numerous networks adjustment to moral guidelines infers diverse conduct for people, including stricter principles for chastity for women. accepted to have begun from ancestral customs. They are predominant in different regions of the planet, just as in outsider networks in nations that don't, in any case, have cultural standards that support honor killings Honor killings are regularly connected with the country and ancestral regions, yet they happen in metropolitan regions too.³

Factors Influencing:

In spite of the fact condemned by laws and human rights organizations, honor killings are regularly practiced supported by different communities. There are many reasons and intentions behind this evil act, these thought processes are developed in people's minds which are unavoidable in nature. The principal idea which remains behind this is a patriarchal society where men will, in general, be more prevalent than women in the general public which at last prompts male control and at the present circumstance, women need to pay attention to men. Secondly, the religious-based or caste-based society, religion, and caste play a prominent role in performing the act, The concept of dominant religion or caste is that a caste is dominant when it is numerically higher than the other castes and religion. In a country like India people are asked to marry within the religion or caste, if not it is an assumption that this might affect the family members' name and fame in the society. Thirdly is the illiteracy in most people in urban areas who are not aware of doesn't and doesn't.

² Robert Ermers, Honor related violence ,pg.190-191,2018

³ Amir H.Jafri ,honour killing dilemma,ritual,understanding, pg.18-21

Factors Triggering:

This evil act is triggered or provocations the killers by some acts by the victims, these said acts are believed to bring dishonor to the family. The acts include intercaste or inter-religion marriage where the victims marry the bride or bridegroom from another caste or religion, Honor killing is most widely practiced due to this reason which instigates the family members to attempt this kind of act because marrying another caste which is lower than the respective caste or religion brings dishonor to the family members. Other factors include women seeking a divorce from their husband which therefore affects the deal within the family, rumor or allegations on the victim, victims of rape, homosexuality like these there are numerous reasons that could trigger but the above-mentioned acts are the most performed.

Case Law:

Manoj- Babli Honour Killing Case (2007):

Manoj and Babli's families lived in the Karoran Village of Kaithal. Manoj was the only earning member of his family. Manoj and Babli fell in love and decided to marry but they were restricted by the members of the village on the ground that they belonged to the same clan and marrying in the same clan is considered to be incest in the village. Manoj and Babli fled from the village and did court marriage and when the news broke out to the people in the village, the leader of the Khap panchayat who was the relative of Babli, murdered both of them in June 2007. In March 2010 a Karnal district court sentenced the five perpetrators to be executed, the first time an Indian court had done so in an honor killing case. The khap head who ordered but did not take part in the killings received a life sentence, and the driver involved in the abduction a seven-year prison term. According to then Home Minister P. Chidambaram, the UPA-led central government was to propose an amendment to the Indian Penal Code (IPC) in response to the deaths of Manoj and Babli, making honor killings a "distinct offense."⁴

Shakti Vahini V Union Of India, 2018[2]

The State of Jharkhand has filed its response stating, inter alia, the measures taken against persons involved in such crimes. Apart from asseverating that honor killing is not common in the State of Jharkhand, it is stated that it shall take appropriate steps to combat such crimes. A counter affidavit has been filed on behalf of the NCT of Delhi. The affidavit states that Delhi Police does not maintain a separate record for cases under the category of Honor Killing. However, it has been mentioned that by the time the affidavit was filed, 11 cases were registered. It is urged that such cases are handled by the District Police and there is a special cell functioning within Delhi Police meant for serious crimes relating to internal security and such cases can be referred to the said cell and there is no necessity for constitution of a special cell in each police district. Emphasis has been laid that Delhi Police has sensitized the field officers in this regard so that the issues can be handled with necessary sensitivity and sensibility. The Department of Women and Child Development has also made arrangements for rehabilitation of female victims facing the threat of honor killing and efforts have been made to sensitize the society against the commission of such crimes. A circular dealing with the subject Action to be taken to prevent cases of "Honour Killing"

⁴www.iblogpleaders.in

has been brought on record.⁵

In March 2016, a young Dalit man in Tamil Nadu, Shankar, was brutally hacked to death at a public crossroads in the presence of his wife Kausalya – Kausalya’s parents had ordered the hit because she was from the dominant Thevar community. Kausalya also was badly injured. But when she came out of the hospital, she refused to return to her parents. Instead, she has become a committed anti-caste campaigner, traveling on her motorbike addressing talks against caste and patriarchy, and offering support to other women in similar situations, whose spirit is in danger of being broken. But the Tamil Nadu state government has just issued a circular making women like Kausalya extremely vulnerable to violence: it makes parental consent mandatory for marriages to be registered. In a state where right-wing parties are running a campaign instigating violence against inter-caste marriages, especially those where the man is Dalit, such a circular is dangerous.⁶

Laws Against Honor Killing

Constitutional Framework:

The Constitution of India has articles stating rights of a person to go his/her wish irrespective, of religion or sex and assurance from honor-related violations including honor killings. Such killings likewise violate Articles 14, 15 (1) and (3), 17, 18, 19 and 21 of the Constitution of India. Article 21 states that “No person shall be deprived of his life or personal liberty except according to a procedure established by law.”⁷ This right articulated in the Indian constitution gives the right of a person to live and this right cannot be taken unless a procedure is established by law.

1. A.K Gopalan vs. the State of Madras, 1951: The Supreme court has taken a narrow interpretation of Article 21 in this case. It held that the protection under Article 21 is available only against arbitrary executive action and not from arbitrary legislative action. This means that the state can deprive a person of the rights available in Article 21 based on a law.⁸
2. Maneka Gandhi vs. UOI, 1978: In this case, the SC overruled its judgment of the Gopalan Case by taking a wider interpretation of Article 21. It ruled that the right to life and personal liberty of a person can be deprived by law on the condition that the procedure prescribed by that law is reasonable, fair, and just. Further, it clarified that the right to life does not merely mean animal existence. It held that all those aspects of life which go to make a man’s life meaningful, complete, and worth living will be included in this.⁹

This is the basic overview of Article 21 of the Indian Constitution

⁵www.legalserviceindia.com

⁶www.legalservice.com

⁷www.indiankanoon.com

⁸ AK Gopalan v state of madras AIR 1950 sc 27

⁹ Maneka Gandhi v union of india AIR 1978 SC 597

Under Indian Penal Code:

Under the Indian Penal Code (IPC). Section 299 of the IPC deals with culpable homicide not amounting to murder while Section 300 deals with murder. Section 299 .culpable homicide-Whoever causes death by doing an act with the intention of causing death,or with the intention of causing such bodily injury as is likely to cause death,or with the knowledge,that he is likely by such act to cause death,commits the offense of culpable homicide.

The essential ingredients of culpable homicide are:

- 1.there must be a death of a person
- 2.the death should be caused by an act of another person
- 3.The intention must be to cause death or bodily injury
- 4.reasonable knowledge that such action would cause death.

Under this there are two circumstances

- 1.culpable homicide amounting to murder
- 2.culpable homicide not amounting to murder

1. Culpable homicide amounting to murder(section 300) is where a death is caused with proper intention and motive(men'srea) and executed with a pre-planned act(actusrea) This is explicitly called murder as mentioned in section 300 of IPC and the punishment for committing such act is imprisonment for life or death penalty which is mentioned in section 302 of the Indian penal code

2. culpable homicide not amounting to murder(section 304) is a circumstance where death is caused due to sudden provocation of mind where the accused mind was out of control,or because of external factors such as bodily injury, etc.

Under this circumstance, there is an exception that the death was unintended and not planned but it is a burden on the accused to prove,the punishment for such act is mentioned in section 304 of IPC which is life imprisonment or imprisonment for the description of a term which may extend to ten years.¹⁰

Honor killing amounts to culpable homicide amounting to murder because the acts are done with the intention of murdering the victim ,as they have purportedly brought dishonor upon the family. The perpetrators can be punished as per Section 302 of the IPC which is life imprisonment or the death penalty

Case law:

Vasanth vs State Of Maharashtra :

In this case, there was enmity between the accused and the deceased,both of them were seen indulging in physical fights later they both were stopped by the public but later the accused rammed the deceased with his car at a high speed.In this case, the supreme court held, that this was done intentionally and amounts to murder under section 300 of IPC.¹¹

In the case of *Reg. v. Govinda* (1877) ILR 1 Bombay 342), the accused had knocked down his

¹⁰ KI Vibhute ,psa pillai's criminal law ,pg.no.781-792,2008(2008)

¹¹ Vasanth vs state of maharashtra AIR 1998 sc 699

wife, kept a knee on her chest, and gave two to three violent blows with the closed fist on her face. This act produced extraversion of blood on her brain and afterward, the wife died due to this. The act was not committed with the intention of causing death and the bodily injury was not sufficient to cause death in the ordinary course of nature. The accused was liable to culpable homicide not amounting to murder.¹²

Other Statutory Laws In India:

1. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted by the Parliament of India, in order to avert atrocities against Scheduled Castes and Scheduled Tribes. The Act is linked to honor killings because numerous incidents of honor killing are in relation to caste and religion.

2. The Protection of Human Rights (Amendment) Act, 2006 makes the provision for the protection of individual rights of human beings and the constitution of a National Human Rights Commission, State Human Rights Commission, and Human Rights Courts for better protection of human rights of individuals.

1. The Protection of Women from Domestic Violence Act, 2005 provides for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.
2. Dowry prohibition act 1961

Women's Being A Victim Of This Inhuman Act(Statistical Data):

violence against women in all matters and particularly in issues of sexuality and marriage is one of India's most widespread and tenacious forms of sex brutality – and furthermore the most unperceived. It is a type of violence that hides by not really trying to hide. violence (against all types of people) to keep women from practicing their decision in affection and marriage isn't as expected reported since India doesn't have a particular law against "honor" killing. To spot such brutality and go up against it, you wanted to look underneath the surface and set out to find the real story of accessible documentation. Women in between caste and religion connections are exposed to enormous assault pressure on account of their families, their networks, and progressively, traditional and fundamentalist ideological groups in India. By and large, they surrender to the tension and abandon the relationship – particularly if their partner has been killed. Political associations near India's Hindu majoritarian administering party are releasing coordinated savagery against between confidence connections in which a Hindu lady adores a Muslim man – they term such relationship.

In 2014, The Hindu followed 583 assault cases chosen by New Delhi's district courts in 2013. It tracked down that the single biggest classification of cases (almost 40%) involved consenting couples who had run off, after which the guardians (as a rule of the womens') had documented instances of assault. This surprising reality implied that assault are really something different:

¹²www.mondaq.com

intimidation and aggressive behavior at home against ladies' sexual independence.. Severe curfews, prohibitions on utilizing cell phones, disciplines for being found conversing with a man, clothing standards forbidding "improper" or "western" garments, illuminating a lady's folks in case she is found being cordial with a man – these are only a portion of the "security" rules forced on ladies in instructive organizations and work environments that assist with keeping up with the biological system wherein "honor" wrongdoings occur.¹³

In mid-2007, according to a ¹⁴Delhi-based survey report of the Indian Population Statistics Survey (IPSS), almost around 655 homicidal cases of honor killings have been registered in India. As per the graph above, in Uttar Pradesh, the honor killing percentage is 25% which is comparatively low as compared to Haryana where the honor killing percentage is as high as 35% and in total North-Western India region is 40%. This graph compares honor killing rates of two North Indian States which are ill-famous for their high honor killing records. As per this survey, around 40% of honor killing occurs in northwestern parts of India. ¹⁵

The Indian government did not record honor killings until 2014. Due to a lack of specific honor violence laws, the killings were often reported as homicides or suicides. For example, India's Supreme Court recorded 288 honor killings in India between 2014 and 2016. However, Evidence, a non-government organization, found that between 2012 and 2017 there were 187 cases in the state of Tamil Nadu alone. This misinformation leads the government to believe that honor killings are under control, making them reluctant to pass new laws to address the problem. Federal government initiatives meant to protect at-risk couples from honor killings are nonexistent or ineffective. In 2018, the Supreme Court moved to create call centers for at-risk couples. However, the government assigned no budget or personnel to these call centers. ¹⁶



¹³ Karl Anton Roberts, Honour based violence, pg.no.-9-11,

¹⁵ www.timesofindia.com

¹⁶ The Modern Face of Honor Killing: Factors, Legal Issues, and Policy Recommendations 2010
Author(s): Vitoshka, Diana Y;

Conclusion:

Honor killing being one of the most exceedingly terrible social evil in the general public which took numerous blameless existence of young women and young men since ages similar to the issue of integrity of the family or of the society. It has been trailed by the individuals from the general public and as an issue of pride, while doing this the part's thinks to clean the transgressions being submitted by other part by conflicting with the normal practices. India there are no different enactment comparable to wrongdoing of honor killing, Indian courts applies the segments of Indian Penal Code in attempting instances of honor killing which is thus observed to be insufficient. There has been numerous ideas connection to presentation of new separate laws in towards honor killing however governing body till date proved unable make any law or separate enactment in such manner. The explanation of non-presentation of new laws or then again enactment might be because of wistful part of the individuals from the general public, as honor killing is being drilled since ages and the lawmakers might be feeling that presentation of new law against those social traditions might make pressure among the general public. Yet, in any case to the unsteadiness, the arrangement of honor killing ought to be destroyed from the general public as it is seen that more than huge number of people lose their lives following this practices. Besides, it comes as an obstacle to arrangements of Fundamental freedoms gave under the Indian Constitution. To Culminate instances of honor killing there ought to be a presentation of new demonstrations or enactments which ought to be extremely severe and get the degree to each individual whoever carries out this wrongdoing, punish them with severe discipline so it makes a dread in the personalities of individuals who attempts to submit it. Severe laws will debilitate individuals in acting or carrying out such appalling wrongdoing. Amending existing laws to ensure stringent action against those involved in honor crimes. The Haryana government changed its mind on honor laws on crime. In the first affidavit, the State fully agreed with the Center to amend the Indian Evidence Act, the IPC, etc. for serious action against the accused then filed a counter-affidavit to erase the reference to its earlier pro-center stance. making honor killings a separate offense under the IPC to make law enforcement agencies aware. Another idea was to amend the Indian Evidence Act to put the burden of proof on the accused. The solution to this problem mainly lies in the eradication of myths in the minds of people. Cases such as these show that more than half of the Indians still lead lives within the strong crutches of the caste system and even today youths don't have the power to make decisions regarding their own lives. To see that even today, people blindly commit such barbaric crimes and consider it as an act of sanctifying the impure shows that India has really not modernized. Development has to be from the very base to the core.