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HONOUR KILLING - A CONTINUING SHAME OF INDIA

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Abstract

There was a time in 7th century when women folk practiced Sati Sahagamana, wherein a widow jumped either voluntarily or under compulsion into the burning pyre of her deceased husband as it was thought that there is no life after the death of the husband. The practice of Jauhar, a historic Hindu Rajput practice, prevalent in northwest regions of India, involved a practice of mass self - immolation by the women and the girls to avoid capture, enslavement or rape by the Islamic invaders during the war times. These practices were followed and enjoyed the support of society owing to the prevailing conditions then. These practices mainly helped the women escape from the humiliation and mutilation of their dignity at the hands of the perpetrating men. In a way they were also honor killings but were resorted to voluntarily by the women. On the other hand, today we are witnessing the other kind of honor killings by the family members of a female, in case she gets married without their consent to a man who is not of the same caste or social status or financial status as theirs. Honor killings are nothing but homicide for a petty reason. Though law allows the persons who have attained the marriageable age to get married without the consent of the parents and guardians, the marriage against the wishes of the family members sounds a death knell for them. Marriage, which is supposed to bring joy in one's life becomes fatal. The Judiciary has been proactive in curbing this menace. Society ought to be sensitised against this malicious practice which was erstwhile prevalent mainly in rural pockets but has now made inroads even to the urban areas. This Research paper mainly focusses on the judicial response to the social evil of honor killing.

Introduction

There was a time in 7th century when women folk practiced Sati Sahagamana, wherein a widow jumped either voluntarily or under compulsion into the burning pyre of her deceased husband as it was thought that there is no life after the death of the husband. The practice of Jauhar, a historic Hindu Rajput practice, prevalent in northwest regions of India, involved a

practice of mass self - immolation by the women and the girls to avoid capture, enslavement or rape by the Islamic invaders during the war times. These practices were followed and enjoyed the support of society owing to the prevailing conditions then and they mainly helped the women escape from the humiliation and mutilation of their dignity at the hands of the perpetrating men. These voluntary deaths were one genre of honour killings resorted to by the women to save their honour. On the other hand, today we are witnessing the other kind of honour killings by the family members of a female, in case she gets married without their consent to a man who is not of the same caste or social status or economic status as theirs.

Honour killings are nothing but homicide for a petty reason. Though law allows the persons who have attained the marriageable age to get married to whomever they want, without the consent of the parents and guardians, the marriage against the wishes of the family members sounds a death knell for them. Marriage, which is supposed to bring joy in one's life becomes fatal. Traces of honour killing can be found in the Codes of Hammurabi¹ (1792 BC) and the Assyrian Law (1075 BC)². In these periods, the husband had the Right to kill his wife in case she was found unchaste and involved in adultery, which is again a different kind of Honour killing but by the husband. The Judiciary has been proactive in curbing this menace. Today, consensual sex between two adults has been decriminalised, though this can be a ground for divorce between the couple.

On December 10th 2023, a 42-year-old woman from a Dalit community in Belagavi at Karnataka was stripped, beaten and paraded naked and tied to an electric pole for 4 hours by the mighty and influential family members of a girl who had eloped with her son. Poor woman was oblivious of what her son had done but she had to bear the brunt of the son's act. When people were numbed by this incident and the woman was still nursing her bruises and suffering from gnawing pain and the public memory of this incident still raw and fresh, another similar incident repeated. On 30th December 2023, at Rampura village in Arasikere taluk of Hassan district where a man allegedly killed his wife by slitting her throat for wearing modern clothes which the husband disliked and had warned her against it constantly. The wife was going out in a modern attire and the husband opposed the same and advised her to wear traditional

¹ The Code of *Hammurabi* was one of the earliest and most complete written legal *codes*. It was proclaimed by the Babylonian king *Hammurabi*.

² An ancient legal code developed between 1450 and 1250 BCE in the Middle Assyrian Empire where the penalties for offenses were generally more brutal.

clothes. But she did not relent. In the guise of dropping her wherever she wanted to go, he took her to a forest area and killed her. The year 2025 is infested with occurrence of Honour killings. In July, in Tamilnadu, a 27year old software engineer from Scheduled Caste, was murdered by his wife's brother because their inter caste marriage was not approved by the family. In September, a 17year old girl who was in a relationship with a boy was shot dead by her father and her minor brother. In November, in Maharashtra, a Scheduled Caste man was murdered by the family members of his girlfriend who was from other backward class community. But, the most reprehensible part of this incident was, the girl symbolically 'married' the corpse at the funeral. The most recent case of honour killing occurred in Karnataka and Telangana in the month of December 2025. In Karnataka, an upper caste 19year old pregnant lady was brutally murdered by her father and his accomplices because she had married a dalit man. In Telangana, a 16year old girl was allegedly strangled to death by her parents because she had a love affair with a married man. Initially the parents tried to project it as a suicide, but the police investigation revealed it to be a murder. These incidents triggered widespread protests by dalits and other progressive organisations, thumping for a specific legislation to tackle honour killings. Regrettably, India does not have a specific legislation which crystallises honour killing as a separate category but, prosecutes it under general criminal laws.

These killings took place in an effort to save the 'honour' of the family or an individual. These killings may be termed as 'Honour Killings' or 'Shame Killings', an honourless act to save the supposedly family honour which in essence is a planned murder. It is imperative that the above-mentioned killings are different kinds of murders or suicides but the common factor is to save the honour. There is no legal terminology as 'Honour Killing', but owing to the purpose for which they are committed they came to be termed this way. Honour killings are not unique to India. The Report of the Special Rapporteur to U.N.in the year 2002 about the 'Cultural Practices in the Family that are Violent Towards Women', depicted that apart from India, the honour killings were reported in Turkey, Jordon, Morocco, Lebanon, Pakistan, Yemen, United Arab Republic, UK, Germany, France and other Persian Gulf countries³.

If we look at the incidence and occurrence of this barbaric killings, northern parts of India seem to be the epicentre, mainly Punjab, Rajasthan, Haryana, Uttar Pradesh. But, to our dismay, south India also seemed to have caught up with this trend of honour killings. Many

³[http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/42e7191fae543562c1256ba7004e963c/\\$FILE/G0210428.pdf](http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/42e7191fae543562c1256ba7004e963c/$FILE/G0210428.pdf)

such killings go unreported because it is frequently committed by a family member and the mindset of other family members will be in sync with the accused because of which they cover up the wrong committed. Quite a few cases of honour killings from rural pockets and urban areas go un noticed as they are unreported. A report of the National Crimes Record Bureau for the year 2020 revealed that 25 cases of these killings were reported in 2019. In November 2019, 'Evidence', a Madurai based NGO working for Dalit rights revealed that 195 known cases of honour killings were reported from Tamil Nadu alone in the past five years. But the data is inadequate to verify the actual number of honour killings that are committed every year.

Meaning of Honour Killing

Most often than not, honour killing involves the murder of an individual by his/her own family members, who has gotten married against the wishes of the family members. In most of the honour killings, a girl will be murdered by her family members in case she gets married or got into a relationship with a boy of a different caste/ different religion, may be a lower caste or same caste but from a different economic background. Of late, we have gotten to witness the other side of this killing where a boy will be murdered by the family members of the girl whom he got married to. The killers do not exhibit any sense of guilt/remorse but on the other hand, substantiate and justify their action by alleging that the victims brought dis honour or disrepute to the family and ambushed the family's name and status. In fact, the perpetrators proudly claim that they have done 'something credible' to protect the prestige of the family, caste or religion. In principle, honour killing is nothing but a planned homicide of a family member by his/her own family members or by the family members of an individual to whom he/she got married to. The family members may think that the victim violated the community norms and for the fear of being out casted and humiliated by their own community or their family members, they kill the victim.

In India, The Prohibition of Child Marriage Act, 2006, which has uniform application across all religions, has stipulated the marriageable age for boys at 21 years and for girls 18 years. Once an individual attains this marriageable age, he/she need not obtain the consent of his/her parents to get married to a person of his/her choice. Erstwhile some of our personal laws allowed child marriage wherein the parents or guardians had to consent, but the Child Marriage Restraint Act, 2006 has done away with this custom. Indian Majority Act, 1875 prescribes that an individual on an attainment of 18years of age becomes a major and can take independent decisions. Section 5(vi) of Hindu Marriage Act, 1955, stated that where the bride

was below 15 years, the consent of her guardian was necessary. But, this provision has become defunct in the light of Prohibition of Child Marriage Act, 2006 which strictly prohibits the child marriage because of which consent of the family members or guardians is not necessary.

Honour killings though are the violations of basic human rights they are also the violation of the Fundamental rights guaranteed under Articles 14, 15, 19, 21 and 39(F) of the Indian Constitution. Currently, there is no specific central legislation addressing honour killings. The crimes and wrongs related to honour killings are dealt under different provisions of the Bharatiya Nyaya Sanhita, 2023 namely Sections 45⁴, 61⁵, 62⁶, 66⁷, 98⁸, 99⁹, 101¹⁰, 107¹¹, 109¹², 114¹³, 115¹⁴, 116¹⁵, 121¹⁶, 123¹⁷, 124¹⁸, 125¹⁹, 129²⁰ and 136²¹. If the victim in an honour killing belongs either to a Schedule Caste or Schedule Tribe, the SC/ST (Prevention of Atrocities) Act, 1989 is being applied. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted by the Parliament of India, to deter atrocities against people belonging to Scheduled Castes and Scheduled Tribes. The motto of the Act was to aid the process of social inclusion of the Dalits into the main stream in the Indian society. This Act mainly protects the basic human rights of the Dalit community. The Act can also be linked to honour killings as there are numerous instances of honour killing where Dalits are involved. The main aim of the Protection of Human Rights (Amendment) Act, 2006, is to protect the basic individual rights of human beings. It also provided for the setting up of National Human Rights Commission, State Human Rights Commission and for setting up of Human Rights Courts too for the better protection & implementation of the human rights of the individuals. The Special Marriages Act, 1954 was enacted to provide for the marriage between individuals belonging to different castes and different religions without getting converted or giving up their

⁴ Abetment of a thing

⁵ Criminal conspiracy.

⁶ Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment

⁷ Punishment for causing death or resulting in persistent vegetative state of victim.

⁸ Culpable homicide

⁹ Murder

¹⁰ Punishment for murder

¹¹ Attempt to murder

¹² Organised crime.

¹³ Grievous hurt

¹⁴ Voluntarily causing Grievous hurt

¹⁵ Voluntarily causing hurt or grievous hurt by dangerous weapons or means

¹⁶ Causing hurt by means of poison, etc., with intent to commit an offence.

¹⁷ Act endangering life or personal safety of others

¹⁸ Wrongful restraint

¹⁹ Wrongful confinement

²⁰ Punishment for assault or criminal force otherwise than on grave provocation

²¹ Abduction

original caste or religious identity. The intention of the Act was to establish marriage as a secular institution across all the people and permitted the couples to solemnise the marriage through a valid civil contract.

Judicial Response to Honour Killings

In 2006, the Supreme court in *Lata Singh vs State of Uttar Pradesh*²², confirmed the Right of the Petitioner to marry any person of his/her free will and censured honour killings as barbaric acts of murder committed by the people with feudalistic and patriarchal mindsets. The Division Bench of the Apex Court remarked that “*no offence has been committed by the couple marrying outside their caste as there is no bar to an inter-caste marriage under the [Hindu Marriage Act](#) or any other law*”. The Court further directed the police personnel to ensure that the couples whose marriage is inter-caste are not subjected to any kind of victimisation or violence and in the event of such an incident, to institute criminal proceedings against the perpetrators.

The Manoj-Babli case is a landmark case of honour killing in India in which the perpetrators were given death sentence and life imprisonment. In June 2007, Manoj Banwala and Babli, who had married for love, eloped. The family members complained to the Khap Panchayat²³. The families brought back the couple and they were killed by their family members on the direction of the Khap Panchayat and the dead bodies were thrown into a canal which was infested with crocodiles. The case resulted in a historic conviction for honour killing. In March 2010, five of the family members of Babli who were involved in killing were sentenced to death by a court in the Karnal District, Haryana. The head of the Khap panchayat was sentenced to life imprisonment for conspiracy, the driver of the vehicle that was used to bring the couple was sentenced to 7 years for abducting the couple.

In *Arumugam Servai vs State of Tamil Nadu*²⁴, the Supreme Court while dealing with a case of caste conflict, observed that the “Khap Panchayats” are akin to Kangaroo Courts and issuing decrees against inter-caste couples are “wholly illegal and has to be ruthlessly stamped out”. In *Bhagwan Dass vs State (NCT of Delhi)*²⁵, in an appeal filed by an accused against

²² (2006) 5 SCC 475

²³ A religious [caste](#)-based council among [Jats](#).

²⁴ (2011) 6 SCC 405

²⁵ (2011) 6 SCC 396

his conviction in the Supreme Court, for killing his daughter, the Supreme Court held that honour killing comes under the “*rarest of rare*” category so that it deserves a death punishment which acts as a deterrent for such outrageous acts. In ‘*Re: Indian Woman says gang-raped on orders of Village Court*’²⁶ published in Business & Financial News dated 23.01.2014, the Supreme Court took Suo-moto cognizance of a gang rape of a 20year old woman on the orders of community panchayat for having a relationship with a man from a different community, in West Bengal. The Court echoed that the State is duty bound to protect the freedom of choice of marriage of an individual, which is an integral aspect of Article 21 of the Indian Constitution.

In *Vikas Yadav vs State of Uttar Pradesh & others*²⁷, the court while deciding about the quantum of punishment in a case of honour killing of a sister for her choice of partner in a marriage, the Court emphatically concluded that ‘the freedom and independence of a woman cannot be violated by self-assumed Honour’. In *Shakti Vahini vs Union of India*,²⁸ the Supreme Court reiterated that the consent of neither the community nor the family is necessary for two adult individuals to marry and further observed that the Khap Panchayats have no authority to interfere in the exercise of this Right. In the judgement, the court observed that despite previous attempts and the recommendation of the Supreme Court, a specific law to curb this social evil has not materialised. Hence, it enjoined upon the legislature to bring a law on this matter.

Conclusion

We all should hang our head in shame because the vilest crimes are committed in the pretext of defending and protecting the family honour. Laws alone may not be adequate to curb this as long as the feeling of superior caste exists. In the offence of murder or homicide, the victim is killed but not necessarily and always by the family members or by the siblings. But in the case of honour killings, the killers are always the family members because of which such killings should be denounced as heinous crimes. The legal framework consisting of UN Convention on Elimination of all forms of Discrimination against Women (CEDAW) 1979, Article 12 of International Covenant on Economic, Social and Cultural Rights (ICESCR)1966, Special Marriages Act, 1954; Constitution of India, SC and ST (Prevention of Atrocities) Act,1989; Protection of Human Rights (Amendment) Act,2006; Protection of women from Domestic Violence Act, 2005 and different Provisions under the erstwhile

²⁶ (2014) 4 SCC 786

²⁷ (2016) 9 SCC 541

²⁸ (2018) 7 SCC 192

Indian Penal Code 1860, have miserably failed to bring down the incidences of Honour killing and on the contrary they are on the rise. We are yet to witness the efficacy of Bharatiya Nyaya Sanhita (BNS) which came into effect from 1st July, 2024 and replaced Indian Penal Code, 1860 in reducing the incidences of Honour Killing.

Union between two individuals, be it the same gender or different gender or Marriage or Live in relationship or Open relationship should be a voluntary choice of an individual. ‘Those who torment us for our own good will torment us without end for they do so with the approval of their own conscience’²⁹, in the guise of parenting, the parents or the family members ought not to criminalise the Right to choose one’s partner. We have made tremendous progress in several social domains, nevertheless our mindset is plagued by the status and pride of our castes, sub castes and the religion that we belong to. An effort should be made to change the mindset of the people from a conservative outlook towards a liberalised thinking and it is the moral responsibility of the society to curb such honour related crimes. At the outset, the legislation abolishing the caste system should be strengthened. As observed by the apex court in *Lata Singh vs State of Uttar Pradesh*³⁰, if the parents or the guardians or the family members of the boy/girl do not approve of such marriage, the parents may cutoff the social ties completely from the children than going to the extent of killing them or getting them killed. The increase in the number of honour killings may also be attributed to the failure of our governance to reach the common masses.

While we have Bharatiya Nyaya Sanhita (BNS), 2023 to deal with offences against human body, we also have specific legislations to combat specific kinds of social wrongs, namely, Dowry Prohibition Act,1961; Domestic Violence Act,2018; Protection of Children from Sexual Offences Act,2012, The Prevention of Sexual Harassment Act, 2013, etc,. We have also witnessed that after these specific legislations were enacted, the wrongs committed under them dwindled down. In-spite of the repeated instances of honour killings, it is appalling to know that we do not have a specific law to deal with honour killings thus encouraging the perpetrators & catapulting the number of incidences of honour killings further. ‘Nullum crimen sine lege’ and ‘Nulla poena sine lege’ which means ‘no crime without law’ and ‘one can only be punished for doing something if a penalty for this behaviour is fixed in criminal law’ respectively. These phrases connote that these honour killings cannot

²⁹ C. S. Lewis

³⁰ Supra Note 14

be punished unless we have a specific law criminalising these killings and prescribing a punishment for the same. The general criminal law is not able to tackle the primary and underlying motive for such killings-honour.

The Law Commission of India in its Report No 242 on “Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework”, has suggested for an enactment of a new legislation to end the social scourge of Honour killings. The growing number of honour killings is a testimony for the need to have more stringent specific law where the burden of proof heavily lies only on the accused and the benefit of doubt should be weighed in favour of the victim. State Paternalism³¹ and Parens Patriae³² demand that there be a specific legislation to combat ‘Honour Killing’. As Law is an instrument of social change, the specific legislation should provide for the following. The term ‘Honour Killing’ should be defined explicitly and should also include circumstances where,

1. In India, there are instances where A woman is killed by her husband or by her in laws for giving birth to daughters as it is believed that having sons is a matter of pride & honour and daughters only bring penury.
2. Where children on attaining adolescence turn out to be LGBTQ who don't identify with the gender that they were assigned at birth, are killed by the family members as the family members fear that such persons bring dishonour to the family.
3. Provisions should be made to
 - a. provide for police protection to the couple who wishes to marry outside their caste, religion or community.
 - b. protect the couple from intimidation, harassment, coercion, assault, confinement, etc that the victims of honour killing typically undergo before they are killed to save the falling honour of the family.
4. Provision should be made for banning and abolishing Khap Panchayats and other similar outfits or setups in turn crippling them & rendering them defunct. This measure diminishes their clout and influence on the people and helps to resolve the matters through a fair deal by appropriate authorities.

³¹ State paternalism is a situation in which the state intervenes in the activity of a citizenry within its jurisdiction to promote, modify, hinder or abolish that activity with the justification that such intervention is for the benefit of the individuals or groups or even the whole society

³² It refers to the public policy power of the state to intervene against an abusive or negligent parent, legal guardian, or informal caretaker, and to act as the parent of any child, individual or animal who is in need of protection.

5. The minimum punishment for honour killing should be life imprisonment till death which may be increased to death sentence and the same, not commuted later in the appeal.
6. Owing to the inadequacy of conclusive evidence, it is difficult to prove honour killings in the court, which results in the perpetrators going scot-free. This warrants the amendment of Bharatiya Sakshya Adhiniyam 2023, placing the burden of proof on the accused. Thus, it will be the burden of the khap panchayat or similar bodies or the perpetrators to prove their innocence.

On the other hand, if the state thinks that enacting another legislation may not serve the purpose as we have seen that ‘Laws too gentle are *seldom obeyed*; too severe are *seldom executed*’³³, the existing Criminal Laws need to be modified and strengthened further although it demands minor amendments in terms of definition of honour killing and punishment for the same. The legal formalities under the Special Marriage Act, 1954, should be expedited and the time gap between the date of giving notice and the registration of marriage should be done away with. **“Prepare and Prevent rather than Repair and Repent”**, should be the immediate move of the state by enacting a fool proof and impermeable legislation to put an end to this continuing shame of India. All persons who are planning to perpetrate ‘honour killings’ should know that the gallows await them³⁴. Laws ought to protect the innocents from the most dishonourable deaths in the name of “HONOUR”.

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³³ Benjamin Franklin

³⁴ Supra Note 17