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# **HONOUR KILLINGS IN INDIA: A CRITICAL ANALYSIS OF SOCIO LEGAL ISSUE**

*Authored by- Akhilesh R Narayanan*

## **Abstract:**

The issue of honour killings has become extremely problematic in the twenty-first century, which is known for ensuring the rights of each and every individual. The Indian caste system, which claims and targets women, is a major contributor to the male-dominated society. History teaches us that keeping the family's wealth within the family has led to child marriage and the rejection of love marriages with outsiders, particularly with a boy of a low caste or community. Instead of wanting the best for their kids, parents kill their daughter on purpose so that their family won't feel ashamed. This paper highlights the problems associated with honour killing and it brings out practical solutions to lessen this evil so as to secure women's rights without deviating from tradition. In some nations, honour killing is a severe social issue that has not yet been effectively explained and addressed. We begin by reviewing the notion of this phenomenon before going over its prevalence throughout the world. The researcher presents the analysis of honour killing as a form of unofficial social control and contend that honour killing illustrates the "dark side of modernity" in which systematic marginalisation of social groups and minorities have caused them to rely more on traditional honour codes as a form of unofficial social control, aggravating honour crimes. This paper explains how a more effective approach to combat honor killing requires not only addressing the issues of sexism and religious fundamentalism, but also the systematic exclusion and stigmatization of local groups and minorities.

**Keywords:** Cast, Community, Honor Killings, Marginalisation, Social control, Stigmatization

## **INTRODUCTION**

Honour killing is regarded as a vicious act committed by a member of the family in order to bring purity to the family. It is a murder committed by a family member to bring honour to the

family and to remove the disgrace and dishonour caused by the family member. The family murders the female member who has violated the family's desires and honour. In a society where citizens are equal and without discrimination, honour killing brings discrimination because a family member is considered to bring dishonour by choosing a path of dishonour. The goal of the study is to learn about honour killing and to highlight the seriousness of the crime, as well as to analyse the triggers of honour killing.

## **Research Objectives:**

- 1) To investigate which section of society is more vulnerable to honour killing
- 2) To examine the consequences of such acts.
- 3) To ascertain whether there is need for specific legislation to prevent this heinous crime

## **Research Methodology:**

Research undertaken is purely doctrinal and the data collected is primary source which includes statutes, legislations, case-Laws etc. Secondary source includes books, journals, articles etc.

## **Research Question:**

- 1) What is the impact of honor killings in the Indian society?
- 2) What are the reasons this crime has been increasing?
- 3) Whether law enforcement is effective in curbing these crimes?

## **Magnitude of the Offence:**

Despite the widespread outcry in the society, the threat of honour killing, persists even now. Unfortunately, some disrespect all state laws and see it as a matter of honour. It is terrible to think about how we have failed to stop this deadly phenomena from occurring in our society. This violent tradition from long ago still affects our culture today. This custom dates back thousands of years, when individuals killed one another out of respect for their honour. No one has the right to murder someone on their own will, even if they are guilty of engaging in an unlawful relationship for which they may face legal consequences. Since a long time ago, society has been enslaved by this retrograde trend. That justification can be used to prevent

women from fulfilling their crucial role in society. As women are slain on the pretence of honour on a regular basis, women strive to limit their movement or even avoid carrying out their daily tasks outside the home out of concern that they too would fall prey to this trend on the basis of a simple false charge of honour killing. Due to their pessimistic outlook, some of the male members are also hesitant to send their female members outside the house. As a result, women are confined to the four walls of their house.<sup>1</sup>

## **ORIGIN OF HONOUR KILLING:**

It is not acceptable to exploit the concepts of honour and shame as an excuse for violence and murder. In numerous literary works and historical events that took place in various countries killings for honour have existed since the time of the Romans, when the pater families, or head of the family, a daughter who was not married but engaged in sexual activity or an adulterous wife. When early Jewish law was legislated in mediaeval Europe, honour-based crimes were known to occur for an adulterous wife and her partner, execution by stoning.

In India, killing for honour has a long history. Since the beginning of time, people have death of a member of their family and claim that these killings were done to uphold honour of the household. Since the past, gender-based crimes, such as honour killings, have been employed as a tactic to maintain patriarchal authority over women in society. Though this does not imply that the man is immune to the evil in any way. Then there are occurrences of killings of males, primarily because they engaged in gay behaviour or possibly as a result of the arrange marriage refusal. However, there are numerous instances in which the majority of the time, killings of spouses, daughters, daughter-in-laws, etc. are caused by talking to having an affair with another guy, engaging in extramarital affairs, or getting married on their own will, etc.

## **International Conventions:**

India has both signed and ratified the 1979 United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The provisions of CEDAW can be used to argue that the custom and practice of punishing people for having erroneous ideas about dishonouring the family constitute institutionalised discrimination against people. This places

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<sup>1</sup> <https://dailytimes.com.pk/471492/the-heinous-offence-of-honour-killing/>

a legally binding obligation on India, as a State party to the convention, to take all necessary steps to put an end to all forms of the practice of honour killing and make sure that all discrimination against women in matters relating to marriage and family is eliminated.

The right of everyone to the enjoyment of the greatest quality of physical and mental health is guaranteed by Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR 1976), and state parties are required to take all reasonable measures to protect this right. The right of women to the best possible quality of health is obstructed by crimes of honour that entail sexual abuse, mental violence, or physical or mental torture. India is therefore required by law to make sure that people and others who have been harmed by crimes of honour are allowed to exercise this privilege.

Two important UN texts demand an end to honour killings. Working toward the Eradication of Crimes against Women Committed in the Name of Honour and the Declaration on the Elimination of Violence against Women (1993) both refer to the elimination of violence against women (2003). However, the elimination of any such occurrence, such as honour killing, necessitates a significant change in the current situation. Violence committed in the name of honour still occurs, and there are still no equal gender relations. The entire system is insensitive and patriarchal.

## **Legal Scenario in India:**

Honour killings occur when families assassinate members who are believed to have tarnished the family's honour and reputation. These are instances where a male family member kills a female relative to restore the family's honour. The deliberate pre-planned murder of a person, usually a woman, by or at the direction of that person's family is another definition of the phrase prompted by the idea that she has brought dishonour on the family. India has ratified laws and conventions that protect such offences.

The Indian Constitution has many sections that guarantee an individual's freedom of expression regardless of caste, religion, or gender as well as protection from crimes involving honour, such as honour murders. These murders also contravene Articles 14, 15 (1) & (3), 17, 18, 19 and 21 of the Indian Constitution. Every individual has the right to equality before the law or equal protection under the law, according to Article 14 of the Indian Constitution. The regular

courts have jurisdiction over everyone, regardless of their position or circumstances.

Honor killings are under the purview of Sections 299 and 300 of the Indian Penal Code since they include the murder of a specific individual, usually a woman. Additionally, it violates Articles 19 and 21 of the Constitution. The Protection of Women from Domestic Violence Act, 2005 ensures that the rights of women, provided by the Constitution, who are the targets of violence of any sort that takes place inside the family and for matters connected therewith or incidental thereto, are protected more effectively. The Protection of Human Rights (Amendment) Act, 2006 includes provisions for the protection of individual human rights as well as the establishment of human rights courts, a national human rights commission, and state human rights commissions.

## **Judicial Response to Honour Killings:**

### **Bhagwan Dass v State (NCT of Delhi),<sup>2</sup>**

The case at hand involves an honour killing. In this case, the Supreme Court ruled that honour killings committed for any cause fall within the category of the rarest of rare occurrences and therefore carry the death sentence.

According to the case's circumstances, the appellant was extremely enraged with his daughter since she had divorced her husband and was now cohabitating with her uncle. This infuriated the appellant, who thought that his daughter's actions had defamed his family. As a result, he strangled her to death. The appellant was found guilty by the trial court, and the High Court affirmed this finding. So, the current appeal was submitted. Circumstantial evidence was used in this instance. The only person in the home who might have committed a crime was the appellant, and he also had a motive for doing so. Additionally, the appellant attempted to carry out the deceased's last rites without telling the authorities in order to obliterate the strangling evidence. The appellant's mother informed the police that her son had confessed to killing his daughter. She became combative when called as a witness for the prosecution before the trial court, nevertheless, and she vehemently denied making any statements to the police. However, because she plainly had second thoughts and would have wished to preserve her kid, the court did not trust her denial when she submitted a statement to the police that was later acknowledged. The appellant's confession to his mother was accepted as an extrajudicial confession, which further demonstrated his guilt. The appeal was turned down. According to the Supreme Court, there is strong circumstantial evidence that the accused committed the act because he was furious with his daughter and believed that she had dishonoured him. Therefore, the court determined there was no justification to overturn the lower courts' ruling and affirmed the appellant's conviction.

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<sup>2</sup> (2011) 6 SCC 396

## IMPACT ON SOCIETY:

The belief that a man's honour is tied to his wife and might be compromised by her behaviour is the foundation of the honour killing issue. This idea led to the first limitations being placed on women. Man acquired ownership of woman and her sexuality. Later, when this concept was linked to the caste system, clans, or gotras, it led to opposition to intra-gotras or inter-caste marriages. Marriages are a factor in the majority of honour killing occurrences. Any social change is perceived as undermining the honour of the family, tribe, or community, and individuals believe that the only way to restore such honour is by killing a member of their own family in the cause of honour.<sup>3</sup>

### Khaph Panchayats-

While it also occurs in other parts of India, the Khaph Panchayat is a grouping of a few villages that is mostly found in North India. They have recently become quasi-judicial entities that impose severe penalties based on ancient norms and traditions, frequently approaching retroactive solutions to contemporary issues. Traditionally, these gatherings resolve conflicts between people and villages. However, there is no legal or constitutional foundation for these entities. Their choices are obviously illegitimate and unconstitutional, and they operate under unwritten laws. They enforce self-created rules supported by sanctions in upholding society's morals and values without following the law or according to their whims and desires. Any marriage that defies these rules is punished harshly and harshly, and these institutions are seen as the arbiters of village life. These punishments include forcing the girl to get a divorce from her husband, proclaiming the married pair to be siblings and severing their marital ties, excluding the families and ordering murders, physical punishment, religious atonement, and excommunication. One of the harshest ways that violence is expressed is through executions by caste panchayats. Violence and death are typically regarded as being preferable than accepting or tolerating a mixed marriage.

In the Satrol Khaph Panchayat in the Haryana hamlet of Narnid changed a 600-year-old rule and permitted intercaste marriage. According to the head of the Khaph Panchayat, this decision was

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<sup>3</sup> HONOUR KILLING IN NORTH INDIA –Neelam Kejriwal  
[https://www.probono-india.in/Indian-Society/Paper/92\\_honor%20killing%20by%20Neelam.pdf](https://www.probono-india.in/Indian-Society/Paper/92_honor%20killing%20by%20Neelam.pdf). (Last Visited 15th October 2022)

made in response to shifting societal norms and the State's diminishing female ratio. Over the past 10 years, Khap Panchayat has developed a wicked reputation and transformed into a group of people who would stop at nothing to feed their ego. Khap Panchayat, however, has undergone a subtle transition over time, and in the near future, it could be recognised as an organisation that opposes rather than supports honour murders.<sup>4</sup>

## Reasons of Honour Killing:

There may be many justifications offered for the commission of such horrible crimes, but these justifications will not alter the fact that such attitudes still dominate our society today and has views that link sexual relationships to family honour, killing members of their own family in the cause of preserving honour. However, a few explanations for why honour murders occur include:

- **Stratification:** According to sociologists, the caste system's ongoing rigidity is what drives the practise of honour killing. People who perpetrate such horrible crimes do so because they are afraid of losing their caste.
- **Lack of Governance:** The inability of official governance to reach rural communities is the main factor contributing to the rise in honour killings. Saying that one should start from scratch in order to get better is not incorrect.
- **Mentality:** Up to this day, society is still unable to recognise marriages that take place inside the same gotra or outside of it. The culture still views the freedom to choose one's spouse negatively and supports this position with nebulous arguments like caste mobilisation or restrictions on other castes interfering.
- **Khap Panchayat:** Khap Panchayats were largely used by wealthy and higher caste individuals who wished to strengthen their status and influence in India in the 14th century. They have largely been ruled by men. The ruthless administration of the unlawful and unconstitutional panchayat is caused by the absence of established institutions like Panchayat Smiti or a constitution gathering. Decisions made by these Khap Panchayats may have been relevant in the past when there was no express recognition of individual rights, but now that

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<sup>4</sup> Facets Of Contemporary History, Google Books

[https://books.google.co.in/books?id=3HCbDwAAQBAJ&pg=PA342&lpg=PA342&dq=touching+another+person%27s+feet+shaving+one%27s+head+drinking+dipping+one%27s+nose+another+person%27s+urine+beating+providing&source=bl&ots=DvgQ7rX4oO&sig=ACfU3U2C9j2lO8PnBeUmEz2rySkuXftXQ&hl=en&redir\\_esc=y#v=onepage&q=touching%20another%20person's%20feet%20shaving%20one's%20head%20drinking%20dipping%20one's%20nose%20another%20person's%20urine%20beating%20providing&f=false](https://books.google.co.in/books?id=3HCbDwAAQBAJ&pg=PA342&lpg=PA342&dq=touching+another+person%27s+feet+shaving+one%27s+head+drinking+dipping+one%27s+nose+another+person%27s+urine+beating+providing&source=bl&ots=DvgQ7rX4oO&sig=ACfU3U2C9j2lO8PnBeUmEz2rySkuXftXQ&hl=en&redir_esc=y#v=onepage&q=touching%20another%20person's%20feet%20shaving%20one's%20head%20drinking%20dipping%20one's%20nose%20another%20person's%20urine%20beating%20providing&f=false).(Last Visited 15th October 2022)

there are laws protecting individual rights, there is no longer a need for such an organisation in society.<sup>5</sup>

## Conclusion:

Honour Killings does not bring any honour to the family by killing their spouses, but it does bring disgrace to the society. Through these cries it is seen that there is lack of proper implementation of legislations. It is seen that most of these crimes are happening in the northern part of India where people are less educated. Therefore education also becomes an important issue why people commit such crimes. Since there is no specific law in India dealing with the crime of honour killing, Indian courts use portions of the Indian Penal Code, which are considered to be insufficient, to trial these cases. Numerous proposals for the adoption of new, distinct laws against honour killing have been made, but the legislative branch has not yet been able to do so. Since honour killing has been done for a very long period, the lawmakers may have felt that introducing new legislation that prohibits it may cause conflict in the community. This sentimentality of the community's members may also be a factor. But despite the unrest, the honour killing system has to be abolished since it is clear that hundreds of people die each year as a result of these customs. The implementation of new laws that are extremely stringent, bring all those who perpetrate this crime within the purview, and punish them severely is necessary to abolish the ills of honour killing. This will instil dread in the hearts of those who would attempt it. People will be deterred from acting or committing such a horrific crime by strict regulations.

## Suggestion:

Even though there are several rights and regulations that forbid honour killing, the practise continues to be a widespread problem. Even when the accused is aware that the offence will result in severe punishment, they continue to act in ways that put their family's honour over the needs of the victim. They are willing to accept punishment rather than the repercussions of bringing shame on the family. Every individual of our planet has to be educated on the value of their life. Both rural and urban residents should be informed, and they should be made aware

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<sup>5</sup> Neelam Kejriwal- HONOUR KILLING IN NORTH INDIA

[https://google.com/url?sa=D&q=https%3A%2F%2Fwww.probono-india.in%2FIndian-Society%2FPaper%2F92\\_honor%2520killing%2520by%2520Neelam.pdf](https://google.com/url?sa=D&q=https%3A%2F%2Fwww.probono-india.in%2FIndian-Society%2FPaper%2F92_honor%2520killing%2520by%2520Neelam.pdf) (Last Visited 15th October 2022)

of the terrible repercussions of the crimes committed against them.

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