

A PAPER ON LEGAL ASPECTS OF HONOUR KILLING

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Abstract: *Societies established in India are multicultural and pluralistic society in which the life of an individual is governed by a lot of values and faith. In a traditional culture women are seen as bearers of the family's dignity. This idea is so well rooted that any effort by females to claim their rights is perceived and vigorously resisted as an assault on the community's societal beliefs. There have been millions of offenses of honour around the nation in contemporary times. It ranges from hundreds of murders, rape and mass murder cases for the sake of defending dignity of particular community. There exist no clear laws on such nature of killings, to prosecute the offenders, some other clauses of legislation are employed. This paper explores the legal aspect and need of proper legislation on honour killing.*

Keywords: *Honour Killing, Crime, Assassination, Fundamental Right, Societal issues, Law and Order.*

Introduction

Killing Honor is the assassination of an individual called Honor. To set is as an example for the rest of the society or performed out of frustration and resentment, such a murdering is undertaken to preserve the reputation of a family or done, there can be several motives. Some of the major factors are caste marriage, divorce, marriage by preference, homosexuality, premarital pregnancy, improper dressing, etc. It is regarded as worldwide occurrence. It is very hard to assess the frequency of honour killings and figures differ widely [1]. The level of honour killing ranges from nation to nation and also from state to state. In lieu of becoming one of the top ranked countries in terms of honour killing, India is still not engaged in this cruel activity in all its states, except for (Punjab, Haryana, Rajasthan, Delhi, Bihar etc). In India, Punjab is the most infamous state having maximum incidence of honour killing due to the involvement of 'Khap Panchayat' or 'Caste panchayat' in this respect.

The topic of honour killing captured headlines when the demise of Nirupama Pathak took place. A journalist working in Delhi. She was allegedly murdered by her family. The reason as stated was that she was pregnant and wanted to tie the knot with a person beyond her caste. . This was followed by two more incidents in the capital of alleged murder of honour (see here and here). Although incidences of honour killing are a rare occurrence in the city, in the northern states of India, such as Punjab, Haryana and Uttar Pradesh, such occurrences are frequent. The belief that the honour of a community is coupled to the chastity of a woman is the underlying explanation backing honour killings. A vast array of triggers, such as marital unfaithfulness, pre-marital sex,

having unpermitted relationships, denying an arranged marriage or even rape, may therefore trigger honour killing.

Initially, the killing of honour is the result of a specific social relationship between people in society who assume in a powerful patriarchal culture and can therefore be treated as a patriarchal term. It is a common method of patriarchy enhancement and propagation. In their activities, honour killings are isolated from murders. The basic philosophy of an honour culture rules them differently, and the killings are enhanced by this principle of honour morality. Therefore, the significance of guilt and honour has distinct origins in international cultures. The root of honour killing is deeply ingrained in antiquity and it has been identified with prevailing patriarchal systems in human cultures by various philosophers

DEFINITION OF HONOUR KILLING

“Honour killings” is an act of abuse, usually murder that is executed by male representatives of the family targeting female members of the family who are believed to have dishonoured their community as per Human Rights Watch. For a number of purposes a woman can be abused by her relatives, including: not giving consent for an arranged marriage, becoming the survivor of a sexual attack, obtaining a divorce or separation even when husband is abusive towards her or potentially committed to adultery. A simple belief that a female has acted in a way that her family has suffered "dishonours" are enough to cause an assault on her life.¹

Causes and Methods pertaining to Honour Killing

There are different causes of honour killings, and several variables communicate with each other, such as:

1. Desire to break or trying to leave an arranged marriage or trying to marry by own preference; turning down to enter to an arranged marriage is also a cause of killings of honour. If the wedding does not continue, the community which has pre-arranged the marriage has a risk involving shame.²
2. In some communities, accusations and rumours regarding family members: an accusation against a female is adequate to ruin the credibility of her family, and to cause an honour killing, there is tremendous fear of the family being ostracized by the group.
3. Lacking the permission of the husband, a wife attempts to get a divorce or separation can lead to honour killing. A cause for honour killings may also be stretched family. In societies where unions are organised and goods among families are often traded, the willingness of a woman to obtain a divorce is often seen as an embarrassment to the men who initiated the contract.
4. An accusation against a female could be sufficient to overshadow the credibility of her family, and the family's concern of becoming ostracised by the group is immense to cause an honour killing.

¹ <http://www.manupatra.com/roundup/337/Articles/Honour%20Killing.pdf>

² https://www.researchgate.net/publication/306091212_Study_on_Honor_Killing_as_a_Crime_in_India-Cause_and_Solutions

5. Rape survivors face extreme brutality in many communities, including honour killings by their relatives and friends. Women who've been assaulted are deemed to have given "dishonour" or "disgrace" to their respective families in several regions of the community. This is particularly the situation if the victim gets pregnant.
6. Engaging in heterosexual activities beyond marriage, or perhaps because of their family's supposed rejection of a non-sexual arrangement.

Legal Aspect of Honour Killing

1. Constitutional Violation:

Much of the killings of honour centered on females but very few upon men and therefore contribute to brutality which is based on gender. The right to express the option of a woman or a man is restricted and this repression eventually adds to such killings infringing the person's basic rights. Also as grounds for "dishonour," the criminals use religion or ethnicity to aim to justify such killings. This conduct is contradictory to the Constitution entirely. Although the Directive Principle of State Policy (DPSP) is not enforceable, democratic accountability of the country can be assumed.

Article 39(a) aims for the State to ensure that sufficient sources of nutrition are established for all residents. But in most instances, the killing of honour absolves the life of a woman. And Article 39(e) and (f) specifies that the State shall guarantee that infancy and adolescence are secured from abuse and from ineffective and increasing abandonment.³ Considering that many young and married partners are oppressed because of this ancient practice of honour killing, they are put in a vulnerable position. It is therefore the responsibility of the State to defend such helpless citizens from this evil activity and defend their safety.⁴

2. Other Legislations:

i. Special Marriage Act, 1954:

The purpose of this Legislation is to furnish Indian people and also Indians dwelling in foreign countries with an unique form of marriage. Marriage is carried out regardless of the caste, religion or beliefs of the parties planning to marry. However, counter to this view, the normal tradition of honour killing is performed in infringement of this Legislation. Since the registration system is a lengthy one, the couple can be exposed to brutality during this very time.⁵

ii. Indian Majority Act, 1859:

³ Puneet Kaur Grewal, Honour Killings and Law in India, IOSR Journal of Humanities and Social Science, Vol.5, Issue 6, 2012

⁴ *Ibid.*

⁵ Jyothi Vishwanath and Srinivas.C Palakonda, Patriarchal Ideology of Honour and Honour Crimes in India, International Journal of Criminal Justice Sciences, Vol. 6 Issue 1,2, 2011

As per the conclusion laid down in case of *Surjit kumar v. Uttar Pradesh & Ors State*,⁶ the freedom to marry is a fundamental right permitted by Article 21 and, by virtue of Section 3 of the Indian Majority Act, 1857, as soon as the individual who is a citizen of India, completes the age of 18 years, he attains majority. An individual who is a major, if wants to marry a person belonging to another caste or inter-community wedding, it is not forbidden under law and any honour killings committed on this ground are illegal and serious steps must be taken.

iii. Domestic Violence Act, 2005:

Under this Statute, a woman when prohibited for marrying the individual of her desire results as the woman being emotionally abused.

iv. Protection of Human Rights (Amendment) Act, 2006:

In order to secure the aforementioned goal, this Act advocates for the preservation of human rights of all persons and the establishment of Commissions and Courts. Despite such laws, rituals of honour killing are still widespread, leading to severe abuses of human rights.

Conclusion

There is no question that the perception of individuals and community has shifted in several respects, but as the origins of the history are indeed in the heads of individuals who often fluctuate their actions and refute their own claims. It is a widely acknowledged truth that everybody has the freedom to live his/her life in his/her own direction. But then the same persons who reinforce the reality say that when they have caused dishonour and restored that dignity, an individual has the authority to murder his/her relatives. While there exist no clear laws on such nature of killings, to prosecute the offenders, some other clauses of legislation are employed. As a consequence, such offences go unreported as well as uninvestigated or are written off by the family and friends responsible as suicide or natural fatalities. The remedy to this issue lies primarily in the elimination of misconceptions in people's heads. They require to be told about the rules of the Hindu Marriage Act and also what forms of unions are currently deemed void. This should be clarified to everyone since the notion of Gotras and Sapindas are distinct from one another.⁷ It is moment that India has actually evolved in the realistic way. It is not really growth to create malls and to raise the quality of life of the average citizen. Cases such as these indicate that more than half of Indians still lead lives inside the caste structure powerful crutches, and even today, young people do not have the authority to make life choices.⁸

⁶ 2002 (456) ACC 79

⁷ <http://www.legalservicesindia.com/article/271/Honour-Killing.html>

⁸ *Ibid.*