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Honor Crimes: The Ruthlessness of Indian Society

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ABSTRACT

I. INTRODUCTION

According to Nelson Mandela, "To deny people their human rights is to challenge their very humanity." Besides, the cherry on the top is, dispossessing the life of someone is the most heinous crime on this planet. The world has already witnessed two World Wars and plenty of others which have proven to be devastating for the whole of mankind. Further, the Universal Declaration of Human Rights (UDHR), 1948 declared some fundamental human rights which needed to be protected globally. The most prominent of these fundamental rights was the "Right To Live". Quoting the words of Mother Teresa, "The right to life does not depend, and must not be declared to be contingent, on the pleasure of anyone else, not even a parent or sovereign."

Honor Killing is one of the most ruthless crimes that ever existed. According to Oxford Dictionary, Honor means the respect from other people that a person, country, etc. gets because of high standards of behavior and moral character. Honor killing is killing a person by a family member, maybe a male or a female who chooses her marital partner according to his/her wish. Thinking about the honor of the family, the supreme authority of the family looks into the reputation and status of the family but forgets about the love and affection towards the members of the family.¹

According to Dr. Aarti Mohan Kalnawat, In terms of criminal orientation, one can treat honor as a precious and unique property possessed by each individual. It cannot be seen with bare eyes but its presence is so powerful that it encompasses the whole human behaviour. When we weigh honor as property, the measuring scales can be in terms of female behavior, sexual and other aspects. So here women are centric on holding such property or rather the parameter of honor hovers around the essence and presence of women.

Therefore, if any person tends to lower the standard and honor of the family, he/she would be considered as a stigma against such honor. Besides, to maintain the symbol of honor, respect,

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and dignity of the family, such a person is killed. The Orthodox society believes that killing such a person would neutralize the disgrace brought upon the family.

Honor killing is a homicide by family members when a person violates the notion or beliefs of the family. According to a ruling on honor crimes by the Supreme Court of India, Honour killings are committed in the following situations

1. Losing one's virginity before getting married.
2. Pregnancy before marriage.
3. Infidelity
4. Having relationships that are not approved.
5. Turning down an arranged union.
6. Demanding a divorce.
7. Demanding child custody following a divorce.
8. Leaving the marital or family home without permission.
9. Spreading rumors or scandals in the neighborhood.
10. Being raped.

Most of these are due to triggers done by relatives, family members, and neighbors. Honor killings or honor crimes are not strange to our country. It is sinful that haunts many other societies also. Honor killings are mainly reported in northern regions of India like Punjab, Haryana, and Uttar Pradesh. Even after 70+ years of independence, people still believe in the caste system and they prefer caste above life. ²

In India, most of the marriage ties between two persons are held by considering the status and reputation of the families. If the family is found honorable, only then marriage could be settled. In most cases, the knots of marriage tend to discontinue, if either family finds any sort of disgrace on the other family. This disgrace could be brought by any of the family members. In Indian society, The sign of dishonor is not easy to rectify. To counter the humiliation in society, such a person is believed to be eliminated. Which is disastrous!

Furthermore, women in Indian society have been scrutinized as a mark of honor and respect. According to ancient Hindu scriptures, no religious rite can be performed with perfection by a man without his wife's participation. Moreover, there are many Goddesses which are widely worshipped. The position of a woman is quite respectable in Indian society. Therefore, they have to maintain the honor of their respective families. In case, any woman is observed having

male friends, a love relationship, marrying the partner of her wish, inter-caste marriage, etc. this would be considered as lowering the pride of the family. Hence, these women are killed in the name of honor.

II. WHY IS INDIA STILL SEEING THIS CRIME AS A TREND?

1. Not taking up the matter to the courts - Even though there is a large number of cases where couples are killed just because they have brought 'dishonor' to the family name or community or religion, mostly these cases are reported. The few that are reported get buried under the long list of pending cases in the honorable courts.

2. Negligent Governments - The State is a mute spectator. The government never took this crime seriously. Corruption had been playing a vital role in the government's negligence. When shall the State awake from its slumber [and] for how long can Courts provide solace and balm by disposing of such cases?"³

3. Influential People - The police officials got threatened many times as the accused had hands in gloves with the big influential families of the region. Furthermore, the accused usually suppress the voice of the witnesses by threatening calls or by money. And thus justice is denied to the victims.

4. No Separate Legislation - There is no separate legislation for covering the scope of honor crimes. Predominately, these cases are tried under the provisions of the Indian Penal Code, 1860 viz. Section 299-304 (Culpable Homicide and Murder), Section 307 (Attempt to murder), Section 120A-120B (Criminal Conspiracy), Section 34 and 149 (Common Intention and Object), etc. Therefore, no strict punishments are there against the degree of this crime.

5. Existence of Khap Panchayats - However, in certain parts of the country, Khap Panchayats pass stringent judgments, most of which are based on ancient customs and beliefs. Thus, despite rulings by the Supreme Court, opposition from Khaps to obstruct a marriage between two consenting adults becomes illegal. They will call for a diktat (an order or decree imposed by someone in power without popular consent) against couples. Diktats are not justifiable before any court of law, but they are acceptable by communities and are directed towards bolstering a feudal order.⁴

6. Illiteracy - The global literacy rate is estimated to be 86.5 percent by UNESCO whereas the average Indian literacy rate in 2023 is 77.7%. It portrays that one in four Indians remains unable to read or write (compared to about one in eight people worldwide⁵). Furthermore, the least literate states are also the red zone for honor crimes-

(a) Bihar - 61.8% (b) Uttar Pradesh - 67.68% (c) Jharkhand - 66.4% (d) Rajasthan - 66.1%

7. "Self-made" Honour - "Honour (ijjat)" of a family is used to measure the 'purity' of women. Individuals with this mindset are supposed to have no autonomy of choices or autonomy in their lives, they are governed purely by an honor code set by their family. Extensively, there is a perception that an inter-caste couple brings shame to the family, by infringing societal norms. According to former CJI Dipak Misra, "How could depriving someone of his life could bring honor to the family?" Besides, he quoted in his judgement, *Shakti Vahani v Union of India*, 2018 "There is no honour in honour killing."

8. Caste System - Indian society is highly divided into various castes. This division of castes tends to create a difference in the minds of the public. For instance, Brahmins are considered the clergymen, and the Shudras/Vaishyas as the lower castes to date. If a marriage is held between a Brahmin and Shudra, this would result in dishonoring of Brahmins. This racist gap between two human beings is condemnable in light of human rights. Article 14 of the Indian Constitution states that there should be equality before the law and equal protection of the law available to every citizen of India. There should be no distinction between caste, color, creed, sex, region, religion, etc.

III. LATEST HEADLINES RELATED TO HONOUR CRIMES

1. Tarn Taran Killing April 3, 2023 - Family members of the woman he was dating murdered 23-year-old Ranjit Singh. The father, mother, grandmother, grandfather, and the villagers were all charged under Section 302(Murder), 148(Rioting, armed with a deadly weapon), and 149(Unlawful assembly) of IPC. (Source: *The Times of India*)

2. Prayagraj(Allahabad) Killing March 27, 2023 - Due to a romantic relationship with a young man from Mirzapur, Lallan Ali, 58, killed his daughter, 19, and had her buried in the village cemetery. Lallan Ali was booked under sections 302 (Murder) and 201 (Causing disappearance of evidence of offense) of IPC. (Source: *The Times of India*)

3. Noida Killing, March 22, 2023 - On the evening of March 8, Sartaj and Shahrukh lured their sister Najma to a deserted location in the Bisrakh region, where they strangled her to death. When they were finished, they dumped the dead body into the Hindon River. Their sister had separated from her husband and was living apart, according to both of their brothers. Because of this, there were many discussions about his character taking place in society. They killed Najma because they were sick of the conversations in society. (Source: *www.opindia.com*)

4. Kanpur Killing, March 21, 2023 - The E-Rikshaw driver strangled her 16-year-old daughter with a data cable. In front of his son, this was done. Her alleged relationship with a local boy led to her death. The wife came back and informed the police based on the son's information. Having admitted to the crime, the suspect was taken into custody right away.

5. Agra Killing, March 15, 2023 - After 10 months of marriage, Raj Kumar, 25, was shot and killed at home by Shiv Shankar, the brother of her spouse. Due to the fact that the girl's family was opposed to the marriage. The girl was also eight months along with her pregnancy and was due in a few days.

6. Udaipur Killing, November 18, 2022 - Sonu Singh, 28, and Rahul Meena, 30, were found murdered in the Rajasthan city of Udaipur. Rahul came from a tribe, while Sonu was a member of the Rajput community.⁶

7. Ballari Killing, November 9, 2022 - In the Karnataka district of Ballari, a father allegedly drowned his child. He had previously forewarned her against continuing her relationship with a man (addressing typical issues in a relationship). She was pushed into a body of water when she refused to listen to him.⁷

8. Thanjavur Killing, June 14, 2022 - Sakthivel (age 31) murdered his sister Saranya (age 24) and her husband Mohan (age 31) in Kumbakonam, Thanjavur, Tamil Nadu. Saranya was a Dalit, while Mohan was of the Naicker caste. It has been said that Sakthivel wanted his sister to wed his friend Ranjith (age 28). He, however, invited the couple to dinner and hacked them to death after they got married without his consent.⁸

9. Hyderabad Killing, May 6, 2022 - Nagaraju, a 25-year-old Dalit man, was married by Sayed Ashrin Sultana aka Pallavi. Her Muslim family in Hyderabad murdered her husband. She reportedly told the police the entire tale.⁹

IV. INFAMOUS CASES OF HONOUR CRIMES

- 1. Manoj-Babli Case (June 2007)¹⁰** - The Manoj–Babli honor killing case was the honor killing of Indian newlyweds Manoj Banwala and Babli in June 2007 and the subsequent court case which historically convicted defendants for an honor killing. The accused in the murder included relatives of Babli. The killing was ordered by a khap panchayat in the Karora village in Kaithal district, Haryana. The Khap passed a decree prohibiting marriage against societal norms as they both belonged to the same gotra. Nevertheless, the couple went ahead with their marriage, following which they were abducted and killed by Babli's relatives. In March 2010, a Karnal district court sentenced the five

perpetrators to death, the first time an Indian court had done so in an honor killing case. The chap head who ordered but did not take part in the killings received a life sentence, and the driver involved in the abduction had a seven-year prison term.

2. **Bibi Jagir Kaur's Case**¹¹ - as the first woman President of the SGPC (Shiromani Gurdwara Prabhandak Committee), Punjab, was a high-profile minister in the then ministry of Prakash Singh Badal. Early in 2000, her pregnant daughter Harpreet, who married Kamaljeet, a mona (shaven) Sikh from a different caste, secretly and against her mother's wishes, was killed after a forced abortion, allegedly at the instance of Jagir Kaur. Bibi Jagir Kaur is held as an example of one who 'justifiably subscribed to violence against daughters if they transgressed boundaries.

V. INDIAN CONSTITUTION ON HONOUR CRIMES

1. **Article 14** - There should be equality before the law or equal protection of the laws available to every citizen within the territory of India. This provision states that everyone is equal in the eyes of the law. Moreover, everyone shall be subjected to the same jurisdiction i.e. equals are to be treated equally and there must be no discrimination among them.
2. **Article 15** - The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them. The state should provide equal opportunities to its citizens to maintain the essence of Equality in the nation. Therefore, marriage ties cannot be held on the distinction of caste, color, creed, region, and religion. No person shall be discriminated against on the above grounds while tying the knot of the marriage.
3. **Article 17** - The abolition of Untouchability in the country is mentioned in this article. The enforcement of any disability arising out of "Untouchability" shall be an offense punishable by law. This provision deals with the inequality of castes and status. In contrast, the caste and status of the persons are the leading causative agents of honor killings. Therefore, a person cannot be discriminated against while having a love relationship, marriage, or even friendship.
4. **Article 19** - Article 19(1)(a) states that all the citizens of India have the right to freedom of speech and expression. All citizens have the right to express and manifest their views and opinions related to their marriages, relationships, personal affairs, etc. Whereas, Article 19(1)(d) guarantees the right to freedom to move freely throughout the territory of India. No authority can bar any individual or couple (who has eloped from their

relatives) from moving or entering any city or state. Furthermore, Article 19(1)(e) portrays the freedom to reside and settle in any part of the country. For instance, if a couple has performed court marriage (against the will of their families) and has eloped from their homes for safety purposes, they can reside and settle in any territory of India without any barriers.

5. **Article 21** - This provision provides the most crucial, Right to Live to the citizens. No person shall be deprived of his life or his liberty. This provision usually stands against the offenses affecting human life under IPC (Section 299 - 318).

No authority or person can deprive any individual of his life. The right to live is one of the basic human rights. It was held in *Kesavananda Bharti's Case*, that this provision is immortal, i.e. this provision can never be withdrawn or taken back even in the emergencies like war. Because it falls under the scope of the basic structure of the Constitution, which can never be amended.

In contrast to Honour crimes, killing any individual just to prevent dishonor on the family is a merciless violation of Article 21. Furthermore, no couple or individual could be detained illegally if they have married against the wish of the families. In addition, Illegal detention also stands against the essence of liberty mentioned under the provision. Article 21 of the Constitution guarantees the right to marry the person of one's choice.

It was held in *Puttaswamy v. Union of India 2017*¹², the Right to Privacy was declared a fundamental right by the Supreme Court. Hence, live-in relationships, love relationships extra-marital affairs, marriage divorces, etc. are part and parcel of privacy.

6. **Article 25** - Right To Freedom of Religion is the title of this provision which states all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate any religion of their choice. No religions are to be compared with each other. All religions are carrying equal importance in the eyes of the law.

Therefore, inter-religion marriages are legal and are the choice of the individuals. For instance, if a Muslim girl wants to marry a Hindu boy, this choice wholly depends upon the couple which religious rites are to be followed to perform the marriage. No other individual has got the right to interfere in this matter including their parents. Hence, fixing marriage by the parents against the wish of the individuals is also *ultra vires* Indian constitution.

VI. PENAL PROVISIONS FOR THE OFFENDERS

1. **Section 299 - 304, IPC** - The offenses of Culpable Homicide and Murder are defined under these sections of the Indian Penal Code. Further, the provisions of punishment to the guilty of

murder as well as culpable homicide not amounting to murder are mentioned too. The punishment for murder under Section 302 is either death sentence or life imprisonment. Whereas, the guilty of culpable homicide not amounting to murder is punished with imprisonment which may extend up to ten years or a fine, or both under the provisions of section 304.

2. Section 307, IPC - Section 307 defines and penalizes the offense of Attempt to Murder. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

3. Section 308, IPC - The attempt to commit culpable homicide (not amounting to murder) falls under Section 308. For instance, Daughter has been caught having an affair with a boy, Father in grave provocation fires a bullet at her daughter. Somehow she was injured but not killed, this would amount to an attempt to culpable homicide not amounting to murder. The punishment for this offense is imprisonment for up to 3 years, with a fine, or with both. If it causes injury, the person shall be imprisoned or fined for up to 7 years, or both.

4. Section 120A - 120B, IPC - These sections define and prescribe the punishment for the offense of criminal offense. Section 120A states that when two or more persons agree to do an illegal act, such an agreement is designated as criminal conspiracy. The illegal act could be any offense defined under the provisions of the Indian Penal Code, 1860. Usually, honor crimes are performed through a conspiracy by family members. In addition, the involvement of Khap Panchayats in such crimes also falls under the scope of criminal conspiracy. Even in the case of Manoj and Babli, Khap Panchayat members were also booked under Section 120B of IPC. Whereas Section 120B provides the punishment for criminal conspiracy i.e. death or rigorous imprisonment for a term of two years or more.

5. Section 34, IPC - Section 34 portrays the offense of common intention. The language of the section is read as, "When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone." If a family jointly participates in the honor killing of an individual, each of them would be liable for murder equally. This provision is based on the assumption as if the crime is committed in an individual's capacity.

6. Section 319-338, IPC - These sections deal with the allocations of bodily damages to a person which could be either hurt or grievous hurt. Not in every honor crime, the killing of the subject is done. In many cases, people generally beat their children, causing them physical

injuries which could be either temporary or permanent. Therefore, causing bodily injury is also an offense under IPC.

Hurt is an offense that constitutes -

- Bodily Pain
- Infirmity
- Disease

According to Section 323 of IPC, The accused of the offense of hurt shall be punished with imprisonment of either description for a term that may extend to one year, or with a fine which may extend to one thousand rupees, or with both.

Whereas, Grievous hurt comprises -

- Emasculation
- Permanent injury to eyesight or either of the eye
- Permanent deafness or injury to either of the eye
- Privation of any member or joint (loss of limb)
- Impairing of Limb
- Permanent disfiguration of the head or face
- Fracture or dislocation of a bone or tooth
- Any hurt which risks life or which causes the victim to be during the time of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Whereas, under Section 325 of IPC, a person causing grievous hurt shall be punished with imprisonment of either description for a term that may extend to seven years, and shall also be liable to a fine.

VII. JUDICIARY ON HONOUR CRIMES

Lata Singh v State of U.P. & Anr., (2006) 5 SCC 475 ¹³, The Court stated that if parents are against the choice of partners of their children, they can only cut off social relations with them. Furthermore, the police throughout the country ensure that inter-caste couples are not subjected to any kind of violence. Strict criminal proceedings for such persons should be levied.

Arumugam Servai v State of Tamil Nadu, (2011) 6 SCC 405 ¹⁴, the SC 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”. SC scrapped the decree by the Khap

panchayats. Khap panchayat has no authority of law with the intervention in the personal matters of the public. Harsh punishment was recommended for those brutal and feudal-minded persons who committed atrocities in the name of castes. The Law Commission of India in its 242nd Report suggested the legal framework for the Prevention of Interference with the Freedom of Matrimonial Alliances in the name of Honour and Tradition.

*Shakti Vahini v Union of India, 2018*¹⁵ - A petition was filed by an NGO viz. Shakti Vahini to sought directions to the state and Center for curbing honor crimes. The petition was mainly about the interference of khap panchayats which usually prevent the consenting couples from marrying. The judgment states, "The criminal cases related to honor shall be tried before the designated Court/Fast Track Court earmarked for that purpose. The trial must proceed on day to day basis to be concluded preferably within six months from the date of taking cognizance of the offense. We may hasten to add that this direction shall apply even to pending cases. The concerned District Judge shall assign those cases, as far as possible, to one jurisdictional court to ensure expeditious disposal thereof."

The judgment also says that Khap panchayats should not take the law into their hands and cannot assume the character of a law implementing agency for that authority has not been conferred upon them under any law.

Articles 19 and 21 of the Constitution provide to consensually choose each other as life partners. The Court issued a slew of detailed preventive, remedial, and punitive directions to deal with honor crimes which included identification of districts where honor killings are prominent, providing shelter for the couple for a month, banning unlawful assembly, taking appropriate departmental proceedings against officials, sensitization of law enforcement agencies, and setting up 24-hour helpline numbers among others.

*State of Maharashtra v Eknath Kisan Kumbharkar, (2019)*¹⁶, is also known as Pramila's Honour Killing. Pramila, married Deepak out of their caste which was unacceptable to her father, Eknath. Pramila was strangled by her father when she was already 9 months pregnant. The girl and her fetus were declared dead at the nearby hospital. Nashik Sessions Court held him guilty under sections 302, 316, and 364 of the Indian Penal Code, and the accused was sentenced to suffer death. He was also sentenced to suffer 10 years of rigorous imprisonment and to pay a fine of Rs.5000/- for the offense punishable under Section 316 of the Indian Penal Code, in default he was sentenced to suffer six months of simple imprisonment. The accused was further sentenced to suffer life imprisonment for the offense punishable under Section 364 of the Indian Penal Code.

Ravi Kumar v State Of Haryana, 31 August 2021¹⁷ - Supreme Court held that 'honor' killings have become commonplace in many parts of the country, particularly in Haryana, western U.P., and Rajasthan. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. In Lata Singh's case (supra), we have held that there is nothing 'honorable' in 'honor' killings, and they are nothing but barbaric and brutal murders by bigoted, persons with feudal minds._

VIII. CONCLUSION

Last, but not least, I conclude my article with the famous quote by Jimmy Dean, “I can't change the direction of the wind, but I can adjust my sails to always reach my destination.” Eventually, it's high time to mend our laws according to the present scenario of honor crimes in Indian society. Recently, CPI(M) urges the Tamil Nadu government to enact separate laws against ‘honor’ killing.

Instead, we must look to the Supreme Court judgment in Shakti Vahini v. Union of India which places the security of the young couples at the center and as an accountable duty of the State at the local and national levels. It directs the identification of districts with a history of honor crimes and the establishment of Fast Track Courts and Special Cells that offer counseling.¹⁸

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