

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 4

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Honour Killing

RIYA RAGINI¹

ABSTRACT

Honour killing basically means the killing of a relative, especially a girl or woman, who is perceived to have brought dishonour on the family. Honour killing is killing a person, maybe a male or a female, who does not accept the marriage arranged by the family or chooses to move her marital life as per her or his wish just because it brings down the honour of the family. The supreme authority of the family looks after the name of the family but forgets to think about the love and affection shared with the member of the family.

Life is so unpredictable. No one knows the next minute of life. In such case, every human has the right and wish to live the life up to their willingness. No person shall be compelled to live a life for the benefit and name of others. This type of killing happens because of certain triggers which are also discussed with the role of law in honour killing. No person can be left free if they violate the law and in such case this is a crime violating many provisions set up for the protection of the citizen. When the husband is of low range, it eventually reduces the status and caste of the female family which induces the male members of the family to kill the girl. But they forget that the girl is their child where status can be gained and but girl life can never come back and caste is not precious than the life and love spent by the girl with them.

Keywords: Honour Killing, India, Punishment.

I. INTRODUCTION

Honour killing basically means the killing of a relative, especially a girl or woman, who is perceived to have brought dishonour on the family. Honour killing is killing a person, maybe a male or a female, who does not accept the marriage arranged by the family or chooses to move her marital life as per her or his wish just because it brings down the honour of the family. The supreme authority of the family looks after the name of the family but forgets to think about the love and affection shared with the member of the family.

Life is so unpredictable. No one knows the next minute of life. In such case, every human has the right and wish to live the life up to their willingness. No person shall be compelled to live

¹ Author is a student at Symbiosis Law School, Pune, India.

a life for the benefit and name of others. This type of killing happens because of certain triggers which are also discussed with the role of law in honour killing. No person can be left free if they violate the law and in such case this is a crime violating many provisions set up for the protection of the citizen. When the husband is of low range, it eventually reduces the status and caste of the female family which induces the male members of the family to kill the girl. But they forget that the girl is their child where status can be gained and but girl life can never come back and caste is not precious than the life and love spent by the girl with them.

II. HONOUR KILLING IN INDIA

Honour killing is an act of shame caused to the family for which it is otherwise called as shame killing. It is an act of killing when the person does not accept for arranged marriage, marrying a person disapproved by the family, doing inter-caste marriage which is against the wish and will of the family. In India, this type of killing is been carried over since many centuries. From the olden days this has become a practice. It has become a common practice for our country. Supreme Court had brought a decision based on honour killing that, „killing or physical assault being made over young men/women who marries against the wish of the family is illegal. This type of killing is a brutal and barbaric activity made by the member of the family. However, in our country, honour killing has been made a separate provision having severe punishment. In India, mostly in places of Punjab, Uttar Pradesh, Haryana and Rajasthan practice of honour killing is more. Due to the complex socio-cultural problems the crime of honour killing is divulging more and more. The prime factors of honour killing is the high caste members do not accept inter caste marriage to maintain their caste and in case if anything occurs to bring their status down, they would feel such thing need not exist and in that case if the female /male gets married to that person of low status they feel the person need not exist instead of leaving down their status. Even in case the status and “gotra” is the same, the parents do not accept if the victim wants to go for love marriage. This killing is done to restore their honour which would be reduced due to the act of the young male/woman. In India, honour killing is practiced due to merciful act also. The parties who had committed the act of honour killing ca plea on the circumstance of grave and sudden provocation. Such an idea was been indulged when the act was formed as the act of honour killing is prevailing since ages. Honour killing is a crime which has become predominantly equal to other rigorous crimes. Culture is important for a family but still the young male/female that had been brought up by the family since years are also to be considered by the family. The level of importance given to the culture and status is not given to the members of the family. They think about the society and neighbours and the allegations and news spreading about the victim and get triggered to commit honour killing but does not

seek remedy to safeguard the victim. This has become a spreading crime in our country.²

III. SIGNIFICANCE

Sati is a practice since the olden days where the female wife of the family would be made to jump into fire alive. This is a practice followed as devotion by the family. The wife has to finish off her life by herself if her husband is dead. She is not allowed to face the society without her husband. This is to be made by the female whatever old she may be. If her husband does as a love and devotion to her husband she has to end her life by burning herself alive. This is different from honour killing as honour killing is done if the female or the male does not listen to the members of the family or if they bring down the status and culture of the family irrespective of the fact of the women that her husband is alive. Both the male and female who violated the custom would be killed by the members of the family. However, in India the practice of Sati is completely banned but the practice of honour killing is still being followed. But both the crimes are committed only by triggering. (Reddy 2014) Homicide and honour killing are closely related but are not the same as honour killing is a new concept but both are the act of killing the victim. The role of mens rea plays an important role in both the crimes. In case of homicide, the killers are motivated by monetary means while in case of honour killing, it is a permanent elimination of the member to bring back the honour of the family. The accused in case of homicide is the third person who does the crime for money or may be the member of the family but in case of honour killing it is the member of the family who commits the crime. The family is no way dishonoured in case of homicide, but in case of honour killing it is made because of the dishonour caused to the family. Similarly, in the case of honour killing, it is completely made because of the triggering of the family members or neighbours or relatives whereas in case of homicide it is a plan made by certain person to commit the crime.

IV. REASONS THAT TRIGGERED HONOUR KILLING

Following are the specific reasons for which honour killing is been made³:

(A) Refusal of an arranged marriage

The member of the family be it a male or female member of the family, if refuses to accept the marriage arranged by the family, they would be triggered to be killed for the welfare of the family. It is a kind of shame the family members feel when the person does not accept the marriage arranged by the family. Seeking a divorce: The victim of honor killing would be a

² Cate et al. 1992

³ Reddy 2014; Singh 2013

married party and would have been divorced due to family issues in their marital life. Seeking divorce by the member would bring down the prestige of the family where they feel the victim would rather die than being alive and they themselves kill the person.

(B) Allegations and rumours about family members

The victim may be subjected to allegations or wrong talks by the neighbours or other members in the society. In that case knowing the true fact or not, the members of the family for their status and prestige would kill the member. Killing the victim according to them brings an additional prestige and status to the family.

(C) Homo-sexuality

It has become natural where love comes between the people of the same sex. When a couple of the same sex wants to live together the family or the society does not permit it and in turn creates more and more allegations and triggers the members of the family. Victims of rape: In a society where women should be protected, they are being raped. In that case it is the duty of the family to accept such victims but the family feels it as a shame and feels the life of the girl is gone and she is completely useless to the society and the family and thus she would be killed by them.

(D) Inter-caste marriage

Marriage done by the victim with another person of the different caste brings down the caste of the party who seek their caste as their soul and important than their member of the family. In such case, the member who is of higher caste would kill the victim than living by lowering their caste. In case where the victim is of lower caste, and the caste is the heart and soul of their prestige, they do not care about the victim and would kill them despite of the fact that they belong to their family. Not only their family members become the victim the other party with whom they want to live also becomes a victim.

V. EFFECTS OF HONOUR KILLING

Honour killing is not gender biased. Honour killing is not constrained to one gender. Men are also brought as a victim of honour killing. It is inappropriate that the victim is a man or a woman, if they had violated or brought down the name of the family, they are subjected to be killed by the members of the family. However, honour killing are focused on the women, it is not restricted so. It extends to men too. When the men violate the customs, the family members of the women or the male family members tend to join hands to kill him. For the execution of honour killing, the role of male is more. In case to commit the crime, the male descendants of

the family form a group to kill the victim and especially if the victim is a girl, the male members would kill the victim. It does not matter about how close and love they had on the victim, they kill the victim if they cross the limits of the family. In certain cases, women also play a part in commission of honour killing. They join hands with the male descendants in executing the crime. They play a role in ensuring the limits of sexual regulations and plan to kill the victim, if the victim is her daughter. However, male are also victims of the crime, the female are been affected a lot as the allegations and comments by the society would be more rigorous in case of the women which would trigger the family of the women causing them to commit the crime. In certain cases, the male and the female would be killed without any love. This crime is also considered as merciless crime as they kill the member of the family without any mercy.⁴

VI. LEGISLATIVE APPROACH

There are certain provisions which are been violated due to this crime. Article 14, 15(1), 15(3), 19 and 21 of the Constitution of India. The Indian Constitution has many provisions to protect each and every citizen. Each and every human has their own rights with which they are protected. Rights are vested in every citizen irrespective of their caste, religion, gender and are protected from honour killings. In case of honour killing, it is similar to that of homicide. Section 299 and 301 of the Indian Penal Code, 1860 which means culpable homicide amounting to murder because the act of killing the victim is made with the intention to kill them to bring the honour to the family.⁵

Article 14 and 15 of the Indian Constitution deals about equality before law and equal rights before law which means each and every citizen of India shall be treated equally without any discrimination on the grounds of caste, sex, creed, race etc but in the case of honour killing, the women is been murdered which forms gender violation. Article 19 and 21 of the Indian Constitution deals about Right to Freedom and Right to life and personal liberty respectively. In the case of honour killing the right to freedom is been violated. It is the freedom of every citizen to choose their life where no person has the right to infringe and compel the citizen to act as per the wish of others. Every citizen has the right to life and liberty which is the most important fundamental right. No person has the right to take away one's life. People are created by god and the supreme authority lies only to him to take away the life of his creation. In case of honour killing, where the victim is been killed, it is subjected to violation of the right to life and liberty to live of the citizen.⁶

⁴ Husseini 2009

⁵ Agarwal 2008

⁶ Mandela 2013

Section 3 of the Hindu Marriage Act, 1857 states that every citizen shall become major after attaining the age of 18 years. However later, the Supreme court had amended the Act and changed that every citizen shall attain majority at the age of 21. According to the Hindu Marriage Act every citizen has their right to choose their life partner after attaining the age of majority. In that case, honour killing is a violation of it as it kills the victim for choosing their life partner. No person shall be compelled to marriage and the same is done in honour killing. If the victim does not accept the marriage arranged by the family, they are subjected to be killed in the name of dishonour to the family.

VII. EXISTING PENALTIES UNDER INDIAN PENAL CODE

- **Sections 299-304:** Penalises any person guilty of murder and culpable homicide not amounting to murder. The punishment for murder is life sentence or death and fine. The punishment for culpable homicide not amounting to murder is life imprisonment or imprisonment for upto 10 years and fine.
- **Section 307:** Penalises attempt to murder with imprisonment for upto 10 years and a fine. If a person is hurt, the penalty can extend to life imprisonment.
- **Section 308:** Penalises attempt to commit culpable homicide by imprisonment for upto 3 years or with fine or with both. If it causes hurt, the person shall be imprisoned for upto 7 years or fined or both.
- **Section 120A and B:** Penalises any person who is a party to a criminal conspiracy.
- **Sections 107-116:** Penalises persons for abetment of offences including murder and culpable homicide.
- **Section 34 and 35:** Penalises criminal acts done by several persons in furtherance of common intention.

VIII. ANALYSIS

In India, honour killings take place if a couple marries outside their caste or religion. Khap panchayats also oppose and mete out punishments to couples who marry within the same gotra (lineage) or transgress other societal norms. A recent judgement by a sessions court in Karnal for the first time awarded the death penalty to five men for murdering a young couple who had married against the diktats of a khap panchayat. It gave life sentence to a member of the khap panchayat who declared the marriage invalid and was present when the killing took place. On June 22, the Supreme Court issued a notice to the centre and eight states to explain the steps taken to prevent honour killing. Taking a cautious approach the government rejected Law

Minister, M. Veerappa Moily's proposal to amend the Indian Penal Code and rein in the khap panchayats (caste based extra constitutional bodies). It however decided to constitute a Group of Ministers to consult the states and look into the scope for enacting a special law that would treat honour killing as a social evil. Experts are divided over the proposed honour killing law. Some experts argue that the existing laws are sufficient to deter honour killing, if implemented properly while others feel that more stringent and specific provisions are required to tackle the menace of honour killings.

(A) Arguments Favouring the Law

Making the crime of honour killing a separate offence would help bring more clarity for law enforcement agencies. Also, one of the proposals is to amend the Indian Evidence Act to put the burden of proof on the accused. Thus, the khap panchayat or the family members would be responsible for proving their innocence. There would be joint liability under the proposed new law. The khap panchayat (or any group ordering honour killings) and the person who carries out the killing would be jointly liable for punishment.

(B) Arguments against the Law

The existing penalty for the offence of murder is sufficient if they are implemented strictly and effectively. A new set of laws would not deter honour killings because the basic issue is social sanction for acts committed to curtail same gotra marriage, inter-caste marriage, inter-religion marriage. Need for creating awareness among traditional communities through education. Holding khap panchayats collectively accountable can be detrimental to members who do not support such killing. Also, it could be misused for vindictive agendas.⁷

Manoj Babli case⁸ is one of the most serious case related to honour killing. Manoj and Babli were the victims of the case. They had loved each other and thus eloped and got married to each other. The family members on knowing this got furious and found the victims. The family had taken the case to the khap panchayat who initially stated that any person who has contact with the victim would have to pay 25,000 and hence no person should contact them. After finding their whereabouts, the family had brought them before the khap panchayat who was also against the marriage. They gave the decision against the victim because the victims belonged to different caste. The decision was religious- caste based for the interest of the

⁷ Sources: "Define honour killing as 'heinous crime': Experts", Hindustan Times, May 12, 2010; "Legal experts divided over proposed honour killing law," Indian Express, Feb 16, 2010; "Legal Tangle," Indian Express, July 10, 2010; and "Honour Killing: Govt defers decision on Khap Bill," Indian Express, July 8, 2010; "Honour Killing: Govt considers special law," Indian Express, July 9, 2010.

⁸ Smt. Chandrapati vs State Of Haryana And Others on 27 May, 2011

society. The khap panchayat was also the accused who involved in killing of the victim due honouring of the family. Relatives of babli were involved in the murder as babli's grandfather was the khap leader. Nevertheless, the victims were abducted and killed by them.

However, when this matter went before the court of karnal district, they had sentenced five perpetrators who were involved in the murder to life sentence. This is the first honour killing case hitting as landmark judgment on giving life sentence to the accused of honour killing. The driver who involved in the abduction was sentenced to imprisonment of seven years. Honour killing is also considered as the most serious offence.

IX. CONCLUSION

We have so far discussed at length various aspects of law related till present time over the issue of honour killing. Also, we have seen the various ought to be rules and laws to strengthen our judiciary over this most dishonourable practice. Normally, in a country where there is a rule of law, the customary law should not be given much value over the codified laws in matters of such heinous crimes like 'honour killing'. Hence the penal actions should be imposed seriously over the perpetrator with the help of various provisions mentioned in Indian Penal Code. These measures will definitely help to reduce the spate of honour killings.

If some person in the family is not happy with the marriage done by the young men and women, the maximum they can do is to cut off the social relationship with them and honour killing does not bring any honour to the family. But the people in the family do not understand this fact. Life is a creation of god, birth and deaths should be decided by him. Where a person is brought in the earth by the god, it is in his hands to take away from this earth. Family is important but family by killing a member is not important. It is very much secured to stop honour killing as it is the life decided by the couple and it is in their hands to either live together or get separated. No person has the right to take away the life and liberty of another. It is always good to live the life to the maximum with full of joy and happiness because the next moment of life is not predictable.

Honour killing is done for saving the honour of the family but there is no such honour in killing any person "religion" and "culture" cannot and must not be invoked as excuse for the killing of women because religion and the laws which derive from it are always subjective interpretations. No 'culture' has the right to kill and harm women based on their perceptions of morality of honour. The freedom of belief does not mean freedom to kill. Everyone has the right to life with full dignity and equality. Hence active laws are the only antidote to such dishonourable practices.

X. SUGGESTIONS

There are many rights and laws brought against honour killing but still the practice of honour killing has become a wide spreading issue. The accused knowing that there is rigorous punishment for such a crime still practices it with a mindset that honour of the family is more important than the victim. They are ready to face the consequences of punishment than facing the consequence of bringing dishonour to the family. Education about the importance of life of every citizen in this earth should be brought out. The people in the rural and urban areas should be educated and the consequences of the heinous crimes should be known creating awareness to them.

XI. BIBLIOGRAPHY & WEBLIOGRAPHY

1. AALI (2001) Choosing a Life..... =Crimes of Honour,, in India: the Right to If, When and Whom to Marry, a view from Uttar Pradesh and Rajasthan, available at www.soas.ac.uk/honourcrimes
2. Ali, R. (2001) The Dark Side of =Honour,,: Women Victims in Pakistan, Arqam, Lahore.
3. D. Bhugra.Sati: A Type of Nonpsychiatric Suicide.Crisis: The Journal of Crisis Intervention and Suicide Prevention (July 2005), 26 (2), pg. 73- 77
4. Shafi, S. and Masood, M., 2021. *Honour Killing Research Papers - Academia.edu*. [online] Academia.edu. Available at: https://www.academia.edu/Documents/in/Honour_Killing [Accessed 21 July 2021].
5. En.wikipedia.org. 2021. *Honor killing - Wikipedia*. [online] Available at: https://en.wikipedia.org/wiki/Honor_killing [Accessed 21 July 2021].
6. The Hindu. 2021. *Love in the time of honour killings*. [online] Available at: <https://www.thehindu.com/news/cities/Delhi/love-in-the-time-of-honour-killings/article22725108.ece> [Accessed 21 July 2021].
7. The Indian Express. 2021. *honour killing*. [online] Available at: <http://indianexpress.com/about/honour-killing/> [Accessed 21 July 2021].
8. Global News. 2021. *honour killing | News, Videos & Articles*. [online] Available at: <https://globalnews.ca/tag/honour-killing/> [Accessed 21 July 2021].
9. “Crimes of honour”, Violence against Women (2005) by Sen, Purna.
10. “Honor and Shame” by Pierre Bourdieu (1991) International Journal of Pure and Applied Mathematics Special Issue 1535
11. The dark side of „Honor“ by Ali (2001)
12. “Shame, not honour” by Dr.Syeda Hameed.
13. “Honour Killing – A study of the causes and remedies in socio-legal aspect” by Alka Bhatia
14. “Honour Killing and Aggressive Behaviour” by Eisner M and Ghuneim.L (2013)
15. “Murder in the name of Honour” by Rana Husseini (2011)
16. Honour related Violence: A new social psychological perspective” by Robert Ermers (2018)

17. Dr.Lakshmi T and Rajeshkumar S “In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes”, *International Research Journal of Multidisciplinary Science & Technology*, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
18. Trishala A, Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study”, *International Research Journal of Multidisciplinary Science & Technology*, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.
