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Honour Killing

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ABSTRACT

In this modern Era where women are objectified and their every act is monitored, any minute act of them puts a question mark on the upbringing, or the family background. Women are considered to be pure if they maintain their virginity or sexual purity and this factor of them carries honor of the family. Honor killing refers to the killing of the couple or the girl who marry within the same sub-caste or against the will of the family. As a consequence of promotion of the pride in this modern era, various crime incidents of honor killing were noticed. This resulted in the framing of various laws and regulations implemented by the government, as to where they should be implemented, how and why? It also raises a big question mark on some of the provisions of the Hindu Marriage Act. Certain provisions backed with criminal statute with certain objectives to be fulfilled or achieved are framed to help in the dilution of such acts. A society patriarchal in nature, where the human just wants provisions have been framed to provide safeguards against the crime.

Keywords: Honor Killing, Women, Human Rights, Laws, Family Pride.

I. INTRODUCTION

Caste System has been prevailing in the Indian society since ages. In such a society, the activities of women and girls are monitored closely. They are considered pure on the basis of their sexual purity. In this, 21st century, also India becoming the largest democracy, families still hold this thinking to kill their kith and kin in the name of the honor. This concept of doing anything what a man feels like; provided that he may not injure the legal freedom of any other is in the legal theory of law. The principles of Ethics and Law vary among different people and time just like the principle of existence. A close connection between social morality and legal order enables an inseparable connection of both. Historically an ideological order is observed into legal orders. And when in the traditional more or less custom bound society the flow was essentially in one direction the gradual transformation of social behaviour into legal custom and free custom into legislative prescription in the contemporary highly articulate and organised society, the law becomes in turn increasingly a major factor in the formation of social

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morality. However sometimes, the rule of law is overlapped by the act of the society in order to preserve morality or honor of the clan.

Honor killing refers to the murder of the woman or girl by male family members, claiming that the victim has brought dishonour upon the family name or prestige. It is an act of violence, including murder, predominantly committed by male family members against female family members who are perceived to have brought dishonour on their families. It is alleged that they had open conversation with men who are not related to them or having sex outside marriage. They may be targeted for some other reasons like refusing to enter into arrange marriage or seeking divorce even from an abusive husband which may probably going to damage her family's name. It all depends on man's feeling or perceptions rather than the objective truth. There has been no tradition which describes this type of custom or tradition but should be considered as a barbaric killing. People are killing their own loved ones or family member in the name of honor. Most of the credit goes to the Khap Panchayat which played an important role in widespread of this sort of killing in the civilized society represented by a so-called "urban India" or "shining India" phrases. According to such panchayat, marriage between people of the same village is considered incest as they are siblings and hence these marriages are not valid. They order the murder of the couple and hangs their bodies in the village crossing as to set an example to other straying couples. Although this crime is not new to the rural India especially in the regions of Haryana, Uttar Pradesh and Rajasthan. Also, these are not restricted to the rural but are connected with the parts of Delhi and Tamil Nadu, Kerala, etc. However, such crimes went underreported, the United Nations Population Fund it is estimated that around 5000 women are killed annually irrespective of the religion or faith.

India being a country with selective development, made it a country to shine brighter. But the deeper dark secrets of this nation include young couples killed by their own family members to save their honor because of several reasons. Their crime may include: living in the same village and getting married. We are living in such a society where they are objectified and are considered as property and vessel of family's honor. And an act which blot the family's prestige enables an absolute right to the male members to murder the girl, as this will win them back their honor. These crimes and criminals are well nourished under the political blessings of the political parties mainly interested in the vote banks of these villages and holding the right hand of the Khap Panchayat. Even the Hindu Marriage Act, 1955 prohibits the marriage between the degrees of prohibited relationships including brother and sister also, marriage between sapinda-people within the third generation in the line of the ascent through mother.

The main difference between the Gotras and Sapindas need to be reviewed for the main crux

of the discussion.

- **Sapindas means:** Regarding any person, it extends as far as the third generation (inclusive) in the line of ascent through the mother, and the fifth (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation. ²
- **Gotra means:** A Gotra is the lineage or the clan assigned to a Hindu at birth. It is a Sanskrit term regarding a much older system of tribal clans. It was initially used for the identification of the lineages. In general, these lineages mean patrilineal descent from the sages or rishis in Brahmins, warriors and administrators in Kshatriyas and ancestral tradesmen in Vaishyas.

It is stated that marriage between close relative or a person who is the Sapindas of the other is considered to be an invalid marriage as it is socially unacceptable, is included under the purview of prohibited relationships and also leads to inbreeding depression.

In case of gotras, the lineage of the person is traced out from the single rishi and the other person belonging to same gotra is considered to be sibling. In today's world, the upgraded generation do not consider such things and even it is impossible to trace out an unbroken ancestral lineage to one of the eight rishis.

In order to know the nature of the crime it is necessary to understand the human psychology behind it. The core attitude towards such crime involves the fact that incest is considered as a taboo in our culture. Our parents have made us conscious of our relationship with our siblings from the very beginning because our culture has been framed in such a manner. Even a minute thought of marrying or having a relationship with them gives out impure thoughts or is considered to be vile that it becomes a heinous crime sometimes leading to honor killing. In certain cases where the marriage is commenced between two people of same gotras then either the family boycotts the couple or the whole family is boycotted by the society. This leads to depression for the family members and thus directing them to kill themselves or the couple.

II. WORDS OF LAW

Various amendments and provisions are proposed by the Government of India in various cabinet sessions for the removal of this increasing trend of killing. The bill has to be proposed in each house of the parliament and passed by them. Later on, suggestion was welcomed from every state based on their territorial conditions regarding the preparation of the deterrent law

² Hindu Marriage Act (25 of 1955) S. 3(f)(i)

to deal with this crime.

However, this will make any sense or difference in the ideology of the society or not is yet to be scrutinized. This become virtually impossible to track the victim as huge mob is sent after the couple to be pelted with stones and to be killed. Hence no definite accused is recognised. Also, the dominance of Khap Panchayat in the village restricts the cop to take any action towards the same. Even some the cases went unreported and are hushed by the family and panchayat. Thus, the government in order to prevent such crimes passed a proposal to revoke the 30 days' notice period presently required under the Special Marriage Act³ for the inter-community marriages, because that time is taken by the families as an advantage to track down, kill and forcibly separate couples. Though every religion condemns honour killings yet the cultural set up display it as an essential ingredient of religion. Also, it has the strongest support of the masses: religion.

The Indian Legislation has finally given importance to such cruelty and has recognised it as a "distinct offence"⁴. Honour Killings are homicide and murder which are heinous crime under the Indian Penal Code, Section 299 of the IPC, dealing with the culpable homicide while Section 300, dealing with the culpable homicide amounting to murder. Article 14 of Indian Constitution provide the fundamental right to every citizen. It guarantees the right to equality before law or equal protection of law. Every person, whether he is rich or poor or of any gender or rank is equal in the eye of law and is subject to the jurisdiction of the ordinary courts. Honour killings are directly against this constitutional right violating their fundamental right of providing protection to the citizens. This crime is directed straight towards women giving rise to gender inequality. This concept of gender inequality violates the Article 15 of the India Constitution.

Article 15(1) prohibits the state from discriminating against citizens on grounds only of religion, race, sex, caste, place of birth or any of them. The right under this clause is conferred on a citizen as individual, and is available to him being, against his being subjected to discriminations in the matters of rights, privileges and immunities pertaining to him as a citizen generally. In many nations including India, wives or daughters are considered to be subordinate to their fathers and husbands, and even their own sons.

The main aim of such amendments was to break the innocence of the Khap panchayat members- and this includes not just the charge of the murder but also being an abettor or

³ Section 5- Special Marriage Act 1954 (Act no 43 of 1954)

⁴ Vibha Sharma (28 March 2010); "Who gave the Khaps the right to kill; PC" (The Tribune)333

instigating someone to kill the other person (instigating the families of the couple to kill them) or humiliating them; including stripping or boycotting them from the society. These amendments made the Khap Panchayat accountable for the murder.

III. JUDICIAL REVIEW

Enormous discussion was held on the issue of the gotras and societal acceptance. Numerous reviews by the judicial body was carried passed out to make it a valid or invalid concept or not. In the case of *Madhavrao v. Raghavendrarao*⁵, it was said by the court that marriage between the same gotra was considered to be valid. The work of very famous author PV Kane, the eminent author of “The History of Dharmashastra” was also referred where he said: “The mass of material on ‘gotra’ and ‘pravara’ in the sutras, the puranas and digest is so vast and full of contradictions that it is almost an impossible task to reduce it to order and coherence.” The text of Manu and Yajnavalkya were consulted where it was observed that the requirements on the gotra were recommendatory not mandatory. Therefore, the court held that:

“It was impossible to accept the suggestions that in reference to the Brahmin families of today, their gotras and pravars represent anything like an unbroken line of the descent from the common ancestors indicated by the names of their respective gotras and pravars.”

The most recent case dealing with the same issue was the case of *Kaithal Murder Case*⁶ decided on 29th March 2010. The landmark judgment in this case was given by the Additional District and Session Judge Vani Gopal Sharma. Five of Babli’s family members—her brother Suresh, uncles Rajender and Baru Ram and cousins Satish and Gurudev—were ordered to be hang until death for the killing of the couple (Babli and Manoj) on 15 June, 2007. The leader of the Banawala Khap, Ganga Raj was awarded life sentence for hatching a conspiracy to kill a couple just because they had married against the will of the elders who has termed them “brother and sister.” The seventh accused, Mandeep Singh, driver of the Scorpio used in the crime, to seven years of jail for kidnapping and conspiracy.

In the case of *State of U.P. v. Krishna Master and others*; the SC punished the three members of the family awarded life sentence in an honour killing case, in which six members of the family were gunned down, but said the accused deserved capital punishments. The apex court however refrained from awarding death penalty to Master Krishna, Ram Sewak and Kishore as the incident was two decades old and slammed the High Court for acquitting them by rejecting the testimonies of a child and another witness.

⁵ AIR 1946 Bom 377

⁶ “Five to hang for Khap death dikat”: The Times of India 31 March 2010

Another case was the case of *Lata Singh v. State of U.P & others*, where the two Judge Bench expressed concern over the several instances of harassment, threats and violence against young men and women who marry outside their caste and held that “such acts or threats or harassment are wholly illegal and those who commit them must be severally punished.” It was observed that inter-caste is positive for the society as they are destroying the caste system. Court observed that a man or women can marry whomsoever he feels likes on becoming major. On the disapproval of the marriage between the two by the family members, the most possible solution for that on part of family is to just cut off the social relations with the couple. The court also directed the administration/police authorities throughout the country to keep a check on the inter-caste or inter-religious married couples, regarding the harassment, commitment of act of violence by himself or by the instigation of someone; and if someone does, then he/she’ll be charged for the criminal proceedings and stern actions will be taken as provided by the law.

The biggest problem with such crimes is that they went reported and if reported are buried under the pile of enormous cases pending in the judicial bodies. Justice K.S. Ahluwalia of the Punjab and Haryana High Court observed while simultaneously hearing 10 cases pertaining to marriages between young couples aged 18-21: “The High Court is flooded with petitions where judges of this Court have to answer the right to life and liberty to married couples. The State is mute spectator. When shall the state awake from its slumber and for how long can courts provide solace and balm by disposing of such cases?”⁷

The fact of the matter therefore lies that the state machinery is highly immobile in cases of honor killings. The state machinery i.e. the police have to be more proactive rather than reactive to the horror killings. Many a times the cases are reported as suicide and thus nothing goes through, in order to be tried in the courts.⁸ The Police officials are known to be threatened and many a times hand in gloves with the big influential families of the religion and thus justice is denied to the victim.

IV. CONCLUSION AND SUGGESTIONS

The eradication of such crimes requires a serious interruption of the state. Gender biasness still exist in the society and which results in in equality and violence in name of the honour. In this male dominating society, the male section enjoys special benefits enabling them to do whatever they feel like irrespective of the societal ideology or perspectives. Therefore, it’s the responsibility of the state and the society to protect the citizens or human rights, and to avoid

⁷ Ravi Kant, Honor killing and the need for new legislation, Law Resources, India.

⁸ Freedom in the World: India 2010, Freedom House.

such crimes and provide a safe, secure environment for living. Social, Economic, Political, Cultural aspects have to be sensitised regarding the same and to tackle the problem. For immediate assistance required for the same include police officials, law enforcement agencies, setting up women police station for counselling women victims and civil administrations.

Constitutional law and International provisions are failing to tackle this menace, it also fails to clearance as to why this act is prevailing in this society even when there are provisions for the individual's protection. Sometimes, this barbarous act is committed in the general public as to set an example for the other women within the community. In the name of tradition this crime has been rooted in the minds of the people. This patriarchal mindset will have to be challenged in order to maintain the stability in the society.

Caste system has converted into a social evil that too at a very big level. Women have come to the forefront to ensure that they are honoured and protected in the society. They walk through the corridors of the court in order to ensure the troubled caused to the victim and what was being honoured in their action. State must support these women and provide them the justice they are struggling for. These women have broken all the barriers and are convinced to not to tolerate any act in the name of honour committed by those who themselves are a dishonour for the family.

There is nothing against the traditional belief system in India. Many innocents have lost their lives in the name of tradition or belief. Measures are required at the state and societal level. These measures include:

- No room for ambiguity should be left out and a uniform, clear definition of the same should be framed.
- Special Police tasks must be assigned with a several help lines numbers and special cells over the affected area, and an immediate assistance must be provided for the eradication and development of social evils as matter of top priority.
- Instead of prioritizing the Panchayati Raj Institutions, the societal benefit must be prioritized.
- Mass awareness camps must be launched in the civil society to educate the general society about the evil and also to educate the society about the development of the evil and its rooting.
- Active police, government must be framed for the achievement of the same.
- Reformed marriage laws are to be framed and strict laws dealing with the crime must be prevailed.

At the end social activists, educated women political leaders, government all must integrate their efforts towards this common cause and struggle for the right of integrity.
