

# WHY HONOUR KILLING BE A PARENTAL PERTRAYAL; ‘PROTECT THE FAMILY HONOUR IN THE NAME OF RESTORING THE LOST HONOUR.’

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## **ABSTRACT**

*Honor killing probably occurs in order to protect the family's honor which they believed that honour has been damaged. Honor killings are pre-meditated and be carried out by parents and family members.Honor violence focuses on the family especially by parents.It is clearly a violence against human dignity and equality.This paper focused on the research questions like, what is the concept of honour killing? . what are the various kinds of definitions to honour killing? What are the factors behind the crime? How it impacts the society at large? This paper based on the various reports and research studies . This article tries to explore the role played by the judiciary in India.This Article further focuses on the discussion on honor killings: what they are, the psychological and sociological rationale behind them, their justifications, and the extent to which they are normative in Indian cultural and customary defence is a growing phenomenon of Indian jurisprudence.*

## **Keywords**

Honour-Based Violence, Right to life, Right to marriage, Honour , Patriarchal society.

## **Objectives of the study**

1. To understand the concept of honour killing

2. To analyse the present legislative and judicial approach in regarding with honour killing in India.
3. To analyse sociological rationale behind the heinous crime.

### **Review of Research Literature:**

Many articles and websites related to honor-based violence were reviewed for this Article.

### **Introduction**

Honour killing is a notions of patriarchy oriented phenomenon. Egalitarianism and equality among the people are the very fundamental scenario of Indian constitution and that should be ensured to all sect of people. In a traditionalistic society like India this kind of Honour based violence in the communities has been historically institutionalized and enshrined a convenient social norms. Traditionally and socially embedded and culturally and customarily followed at large in continuously. These manifestations continue to be tolerated appreciated and even justified in the name of protecting the honour. States' responsibility in this regard i.e immediate action with due diligence. Honor is more valuable and precious than than that of their own flesh and blood.

### **Concept of honour killing:**

The prominent reason behind this kind of crime is that the victim brings dishonour to the family and the honour killing, therefore, be taken place in order to restore the honour of the family. The majority of victims were/ are females. The majority of reported killings have been carried out by the family members of the victim. Female members the victim's family played both active and passive roles as they believe that the victim brings shame and dishonour, there is also immense pressure put on all family members to guard the 'honour' of the family.

*The English conception of "natural honour" was defined as:*

*[T]he good opinion of others founded in the assumption that the person honoured by the good opinion was morally worthy of such esteem and respect. It was distinguished from acquired honour by the fact that, whereas acquired honour had positively to be earned, natural honour was established negatively: it was simply one's due*

*if one had not failed in any principal virtue (particularly courage).*<sup>6</sup>

This practice is thought to be “rooted in patriarchal norms of male superiority and control and female inferiority and obedience, encased in familial and social and economic structures of inequality, terrorizing women and perpetuating gender conformity and oppression<sup>7</sup>.

Honor killings are a worldwide phenomenon as it is occurring not only

In Indian cultures, but also in Western cultures. In recent years honor killings have been increasingly reported in world wide including the United States, Britain and Canada

### **Society, family, justification and honour killing :**

In patriarchal society the honour lies on the women and women only who are under the control of a man., Adultery, premarital relationships, love with man belonging to other caste and victim of rape are some of the factors contributing the elements deciding the honour of the concerned family. Murder of the women in order to restore ‘honour’ has occurred and the factors behind this are the social and cultural forces by affecting family members emotionally and socially. Honour is a collective affair a the honour of the and entire family depends on every member particularly the conduct of women. The concept of honour may depend on an individual’s own feeling of self-worth; or it may be depended upon the assessment of the person’s worth in the eyes of others; or by the actual opinion of the individual held by others or even by a complex interaction of all three (Council of Europe Committee on Equal Opportunities for Women and Men, 2003).

The Council of Europe Committee on Equal opportunity (2003) defined HK as:

‘The murder of a woman by a close family member or partner as a result of (suspected or alleged) shame being brought on a family by the action (a suspicion or allegation will be enough) of the woman’ (Council of Europe Committee on Equal Opportunities for Women and Men, 2003, paragraph 10).

<sup>6</sup> .Jeremy horder, provocation and responsibility 26 (1992).

<sup>7</sup> Rhonda Copelon, International Human Rights Dimensions of Intimate Violence: Another Strand in the Dialectic of Feminist Lawmaking, 11 AM. U. J. GENDER SOC. POL’Y & L. 865, 872 (2003).

Kevorkian's approach helps us to understand the concept. She defined femicide as: 'All violent acts that instill a perpetual fear in women or girls of being killed under the justification of "honour"' (Kevorkian, 2000, p. 7)

Both Kardam (2008) and Andersson (2003) emphasized that the honour/shame ethic is a system that subordinates women from the day they are born. Andersson (2003) emphasized that since the woman connects with shame, she must be wary of bringing shame onto her family (Andersson, 2003). Therefore, locating honour on the bodies of women and the control of their sexuality by men legitimizes HK in people's minds, especially when the women have committed adultery.

Justifications for Honor Killings and considered the issue as private issue are deep rooted in the community mentality. The clear case of murder of women in the name of family "honor" is a gender-based form of discrimination and human rights violation. It is a world wide phenomenon that the Governments are failing in their responsibility to protect and ensure the human rights of the women. "Honor" killings should be considered as a violence against women, as well as a serious human rights violation

### **International protection**

❖ **Article 1 of the UN Declaration on the Elimination of Violence against Women** proclaims "the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

❖ **The Convention on the Elimination of Discrimination of All Forms Against Women (CEDAW)** concludes that "...State Parties [should] take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

❖ **CEDAW General Recommendation 19** clarifies that traditional public and private ideologies that regard women as “subordinate to men” and seek to “justify gender-based violence as a form of protection or control” deprive women of mental and bodily integrity.

❖ **The Platform for Action on Women’s Human Rights from the UN Fourth World Conference on Women** calls upon states to “take urgent action to combat and eliminate violence against women, which is a human rights violation resulting from harmful traditional or customary practices, cultural prejudices and extremism.”

❖ **The International Covenant on Civil and Political Rights (ICCPR)** asserts that “every human being has the inherent right to life” in addition to “the right to liberty and security of person”.

#### **International perspective on right to marriage:**

Right to marriage is the fundamental rights of every human being irrespective of age ,sex, race ,religion etc. This fundamental human right is recognized in worldwide irrespective of north west east and south .But unfortunately this heinous is crime having ironically famous in all countries without shame .

The right to marriage is also stated under Human Rights Charter within the meaning of the right to start a family. The right to marry is a universal right and it is available to everyone.

The Universal Declaration of Human Rights (UDHR) urges member nations to promote a number of human, civil, economic and social rights asserting these rights as part of the "foundation of freedom, justice and peace in the world. Article 16 of UDHR gives right to freely choose a spouse and to enter into marriage only with their free and full consent.

Article 23 of the International Covenant on Civil and Political Rights 1966 defines that The right of men and women of marriageable age to marry and to found a family shall be recognized and No marriage shall be entered into without the free and full consent of the intending spouses.

Article 10 of the International Covenant on Economic, Social and Cultural Rights 1966 defines that marriage must be entered into with the free consent of the intending spouses. The European Convention on Human Rights (ECHR) states that all men and women, who have reached the age at which they can legally marry, have the right to get married and to start a family.

Article 12 defines that men and women of marriageable age shall have the right to marry and to found a family, according to national laws governing the exercise of this right.

Women victims of violence should have immediate means of redress and protection, including protection orders and access to legal aid. CEDAW also recommended that measures be taken to provide shelters for women victims of violence in sufficient numbers and to ensure that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women. CEDAW further recommended that Albania systematically collect data on violence against women, including domestic violence, and undertake awareness-raising measures through the media and public education programmes to make such violence socially and morally unacceptable. Finally, CEDAW noted its concerns about “the resurgence of discriminatory customary law (kanun) and traditional codes of conduct in some northern areas of the country”, and urged Albania to “implement measures to eliminate the practice of customary law and traditional codes of conduct discriminating against women<sup>8</sup>”.

## **INDIAN JUDICIARY ON RIGHT TO MARRIAGE**

The provisions of the Constitution of India, Article 14 (equal protection of laws to all), Article 15 (prohibition of discrimination on grounds of race, religion, caste, sex or place of birth) and Article 21 of the constitution (Right to life, liberty and property) are the anti-discriminatory provisions which guarantee equal rights to all citizens including right to marry according to one’s own choice. This very concept of right to marriage was very much emphasized by the Supreme Court of India in various cases.

In the following judgments Indian SC very elaborately concerned with the rights of individual especially the right to marriage and the very basic fundamental democratic rights of the people irrespective of the sex. But

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<sup>8</sup> CEDAW, Concluding Observations up to December 31, 2003, Albania, CEDAW, A/ 8/38 part I (2003), paras. 44-86; similar recommendations were made in 1999 by the UN Special Rapporteur on Violence against Women, E.CN.4/1999/68, para.189, Annex 1).

unfortunately the honour based violence has been happened in India regularly without any fear about being punished by the criminal justice system of India. Supreme court of India also vehemently criticize these crimes in a harsh manner in these cases also Manoj-Babli honour killing case. On March 2010 , State of U.P. vs Krishna Master and anr , Lata Singh vs State of U.P. and Anr<sup>9</sup>

In India even the principles of secularism is practiced, the honour killing has remained in the society as a reality phenomenon. The Supreme Court of India, on 28th March 2018, passed a landmark judgment in Shakti Vahini vs. Union of India which treats honour based violence as not only a matter of criminal law but also as a contrary to adults' fundamental right to exercise choice as guaranteed under Article 21 and Article 19(1)(a) of the Constitution, which protects the right to a dignified life and freedom of expression respectively<sup>10</sup>.

Supreme court of India in Arumugam Servai vs. State of Tamil Nadu case very vehemently oppose the practice of khap/katta panchayats and strongly criticized the kind of practice by taking law into their own hands and involving in offensive activities which endanger the personal lives of the persons marrying according to their choice. The Hon'ble Supreme Court observed and directed:- "We have in recent years heard of "Khap Panchayats" (known as "Katta Panchayats" in Tamil Nadu) which often decree or encourage honour killings or other atrocities in a institutionalised way on boys and girls of different castes and religion, who wish to get married or have been married, or interfere with the personal lives of people. We are of the opinion that this is wholly illegal and has to be ruthlessly stamped out."

## IMPACT ON SOCIETY

First of all creating a kind of fear among individuals especially among the girls . Religion and community, culture and customs are really inducting fear among individuals instead of creating the scenario of love ,compassion and healthy environment consists of human dignity and equality among young generation people. Religion and community having the responsibility for creating in the minds of among the minds of people but ironically they are with their invisible code of conduct(which is basically against humanity ) by which threatening the human beings and destroy the individuality of young people .

<sup>9</sup> Lata Singh vs. State of U.P. and another (2006))

<sup>10</sup> Shakti Vahini vs Union Of India on 27 March, 2018.

**CONCLUSION:**

One of the heinous crimes. There should be a proper and accurate law, to deal with such crimes, in India. Indian criminal justice system system is also silent about such a heinous crime. Women are continuously subjected to violence and living under conditions of gender-based discrimination of their parents and live in a circumstances of a powerful and giant-like man kind Parents be the killers instead of being beloved towards their children and dare to voluntarily kill their daughter in order to avoid shame falling on their family. The crime like honour killing the victim is ordinarily not a third person to the concerned family but victim's own family member or the the member group of the society. The perpetrators of this heinous crime in many cases are the brothers or fathers and ironically whose traditional role is to protect the victim from all kinds of harm. The perpetrators in this kinds of crimes have no other motivation but to bring back the honour of the family by eradicating the family member who they believes that dishonour has brought by her.

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