

A REVIEW: SOCIO-LEGAL STUDY OF HONOUR KILLING IN HARYANA

VIJAY PAL, RESEARCH SCHOLAR, FACULTY OF LAW,
JAGANNATH UNIVERSITY, NCR, HARYANA.

INTRODUCTION

Honour killings are not a recent phenomenon. They have been happening for centuries all over the world. In the history books we find such cases in 1200 BC in Hamarabi and Assyrian tribes. In those tribes women's chastity was considered the property of families. In ancient times, families gave complete control to the men of the family for both their children and their wives. It is quite disturbing to read that such killings were rationalized and justified. At that time, being raped was so dishonorable that the elders of the tribe believed that it would be so detrimental to woman's life and reputation that killing her was considered to be a 'merciful act.'¹

Definitions:

Before deliver into the topic it shall be interesting to define the term 'honour' a term that has been the root cause of so many deaths since times immemorial. The dictionary meaning of the word is "sense of honesty and fairness" award given out of respect: 'Pleasure or Privilege". Now let us try to define "honour killing" using before mentioned definition. Logically the definition shall be killing done as a sense of honesty and fairness reward of killing given out of respect Pleasure or Privilege of killing or getting killed.

Ironically, none of this definition seems to fit into the real definition of the term. In reality honour killing refers to killing done to protect the honour of family, caste, society etc. Here, honour refers to the superficial respect that given by the society to people who blindly follow the rules and regulations set by the self-anointed custodians of the society.

"Honour crimes are acts of violence usually murder committed by family members against male or female members who are held to have brought dishonour upon the family. A women can be targeted by her family for a variety of reason including refusing to enter into an arranged marriage, being the victim of asexual assault seeking a divorce even from an abusive husband or (allegedly) committing adultery the mere perception that a women has behaved in a way that 'dishonours' her family is sufficient to trigger an attack on her life."²

¹ www.drsohail.com

² www.hrw.org

The loose term honour killing applies to killing of both males and females in society³. Some women, who bridge social divides publicly, engage other communities or adopt some of the custom or the religion of an outside group may thus also be attacked.

Women in the family tend to support the honour killing of one of their own, agreeing that the family is the property an assets of men and boys. Alternative matriarchs may be motivated not by personal belief in the prejudice against women ideology as property but rather by practical calculations. Sometimes a mother may support an honour killing of offending female family members in order to preserve the honour of other female family member since many men in these societies will refuse to marry the sister of a “shamed” female whom the family has not chosen to punish there by “purifying the family name by murdering the suspected female. There is some evidence that homosexuality can also be perceived as grounds for honour killing by relative.

Now, there are various reasons why people of family members decide to kill the daughter in the name of preserving their family honour. The most obvious reason for this practice to continue in India, as much faster and daily basis is because of the fact that the rural areas refuse to change their attitude to marriage. According to them, if any daughter dares to disobey her parents on the issue of marriages and decides to a man her wishes but from another gotra or outside her caste, it would bring disrupting to the family honour and hence they decide to give the ultimate sentence that is death to the daughter. Sociologists believe that the reason why honour killing continue take place, is because of continued rigidity of the caste system. Here the fear of losing their caste statues, through which they gain many benefits, makes them commit this heinous crime. The other reason why honour killing are taking place is because the mentality of the people has not changed and they just cannot accept that marriage can take place in the same gotra or outside owns caste.

What we can do to prevent such a thing from happing? Firstly, the mentality of the people has to change and when we say that parents should accept their children’s wishes regarding marriages as it is they who have to live a life with their life partners and if they are not satisfied with their life partner, than they will lead a horrible married life, which might even end in suicide. Secondly, we need to have strict laws to tackle these kinds of killing as these are a crime, which cannot be pardoned because humans do not have the right to write down death sentences of innocent fellow humans. Honour Killing has been regarded as a complex issue, which has been widely misunderstood for many countries. The concept of Honour Killing is elastic which change according to time, place and forms of articulation and expression in society. Honour Killing have been defined as patterns of conduct cutting across Communities, cultures, religions and nations and manifested in a range of forms of violence directed in the majority of cases, against women including murder (Honour Killing) and forced marriages, Honour Killing is considered to be a crime that threatens the unity and harmony of the community and it acts as a brief preventing women from progressing in their lives.

³ Teen lovers murdered in india honour killing, www.livelock.com

Honour Killing and punishment have been documented over centuries among a wide variety of ethnic and religious groups throughout the world.

Legislative intervention:

The most obvious reason for this practice to continue in India is because of the fact that the caste system continues to be at its best and also because people from the rural areas refuse to change their attitude towards marriage. Due to the interference of Khap Panchayats generally consist of powerful elements of a dominant caste. These Khap Panchayats assume themselves to have power and authority to deal with the 'objectionable Matrimonies' and hence, give their 'verdicts' and even pressurise their family members to execute their verdicts which directly intervenes Articles 14, 15(1), 15(3) and Article 21 ensured in the Constitutional Provisions as Honour Killings effect right to live, right to move freely, right to equality and right to security. So far the crimes of honour killing have been dealt with, under Section 300 of the Indian Penal code, i.e. for commission of murder with life sentence, death or fine, Section 307, i.e. attempt to murder, Section 120 A and B for being party to criminal conspiracy and Sections 107-116 for abetment of offences such as murder or culpable homicide

Alarmed with the raise in the Honour Killings Government of India proposed a Bill in the year 2010 to include Honour Killings in Section 300 of IPC and also suggested that onus of proving the innocence lies on the Accused. But the 242nd Law Commission Report recommended a bill entitled "The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011 which prohibited a person or any group of person from gathering, assembling or congregating at any time with the view or intention of condemning any marriage, not prohibited by Law." However the Commission did not find it appropriate to suggest an amendment to Section 300 of the IPC to include honour killing as a separate offence.

Judicial Intervention in the Field of Honour Killings:

*In Lata Singh v. State Of U.P.*⁴. the apex court held that "In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country and once a person becomes a major, he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve such inter caste or inter religious marriage, the maximum they can cut off social relations with the son or daughter, but they cannot harass the person who undergoes such inter caste or inter religious marriage."

⁴ 2006 (5) SCC 475

In *Arumugam Servai vs. State of Tamil Nadu*⁵, the Supreme Court strongly deprecated the practice of khap/katta panchayats taking law into their own hands and indulging in offensive activities which endanger the personal lives of the persons marrying according to their choice.

It is pertinent to note that the Supreme Court in *Bhagwan Das vs State (NCT Of Delhi)*⁶, had opined that “Honour Killing for whatever reason would come under the rarest of rare case deserving death penalty.”

This Logic of maintaining caste order by preventing inter caste marriages and further debarring Intra Caste marriages which are sagotra severely limits the freedom to freely choose ones partners. These practices have no legal sanctions under Hindu Marriage Act. This further unduly emphasizes a woman’s Honour thereby encouraging not just control of sexuality but also her marital choice, by stigmatizing inter-caste marriages.

The case of *Monica and Rinku*, haryana: In the Nimriwali village of Haryana, Monica (18) and her lover Rinku, who belonged to the same Jat community were brutally killed by the girl's father, brother, uncle and cousins, and were hanged as exhibits in front of their house. The family members of the girl gave a shape to this crime under the directions and guidance of the Khap Panchayat. After the murder of Monica and Rinku, the Supreme Court, on June 21, 2010 gave notices, to take action against these rapidly increasing killings, to the Centre, Haryana and six other State governments. But even this had no effect on the situation.

The case of *Ravinder, Jhajjar district*: In the Dhraana village of Jhajjar district, Ravinder Gehlawat had “dared” to marry a girl from the Kadiyan gotra. The norms of Kadiyan khap in 12 villages, which included Ravinder's village as well, considered Kadiyan and Gehlawat to be of the same gotra and of the same family, and thus considered Ravinder and his wife to be related, as according to them they were brother and sister. Ravinder and his family were threatened by the girl's family and asked to leave the village. For this the Gehlawat family had 500 policemen protecting the dozen member of their family but in no vain.

In the Kaithal district of Haryana, *Manoj and Babli* who got married against the khap panchayat's order in June 2007 were persecuted on the orders of Khap panchayat and this persecution was even supported by the family accusing their relationship to be incestuous. The couple had to seek local court's help for providing them police protection, despite of which they were kidnapped and killed and their dead bodies were found floating in a canal after a long time.

In this case, a landmark judgment was made when five people accused of killing the couple in the name of honour were sentenced to death. The Court even made sure that they took serious action against the policemen deployed for the security of Manoj and Babli who were actually equal partners in crime for facilitating the accused in committing the crime. This court verdict left the panchayat leaders in shock, since

⁵ (2011) 6 SCC 405

⁶ Criminal Appeal 1117 of 2011

they were reminded that their brutal killings were so not supported by the law of land, and that they were not above the Country's Constitution.

After the final judgment in the “Manoj Babli honour killing” case, a sarv khap panchayat meeting was called on April 13 in Kurukshetra, where all the Jat people from the States of Haryana, Uttar Pradesh and Rajasthan decided to fight for getting a legal status for the khaps, their rules and decisions. Here, they aimed to demand amendment of the Hindu Marriage Act, 1955 that would ban marriages within the same gotra, thus serving the purpose of the khap panchayats.

Objectives:

The present study will be taken with the following objectives:

- To study various reasons of honour killing in India with special reference to khap panchayats in Haryana.
- To examine how honour killing affects the socio-legal aspects of contemporary society.
- To analyze the state responses to the evil of honour killing.
- To study accountability on honour killing as it is a matter of human right violation.
- To study need for new legislation and strategies to address honour killing.
- To suggest measures for effective implementation of present laws for abolition of honour killing.
- To study the judicial trends to abate the honour killing in the society.

Research Questions:

The research questions which are raised in the present study are as follows:

- What are the various root causes of honour killing?
- How honour killing affects the contemporary society?
- What are the state responses to evil of honour killing?
- Does honour killing a human right violation and it need to be addressed internationally?
- Does India need a new legislation on honour killing?
- What is the role of Indian judiciary to check the evil of honour killing?
- What are the further measures that can be taken to address honour killing?

Research Methodology:

The methodology which will be used for carrying the research will be as follows:

- This will be a doctrinal research relying on international conventions, Indian customs, Indian statutes, rules, regulations, circulars, orders and also non-doctrinal research for two districts namely, Rohtak and Jhajjar (Haryana) regarding the cases of Honour killing.
- The research will rely extensively on judgments of Indian High Courts, Indian Supreme Court, International courts and Superior Courts of other countries.
- The research will also include the views of human rights experts across the world in national and international journals of repute on human rights.

Conclusions:

This study will tell us how people of different societies and culture have been stick to their old rituals and customs even in the present era and any need for new legislation in India on honour killing. The most obvious reason for this practice to continue in India is because of the fact that the caste system continues to be at its best and also because people from the rural areas refuse to change their attitude towards marriage. This study will also take a note of present international conventions on human right and Indian laws to address this problem.

References:

- Jahangir, A. & Jilani, H., *The Hudood Ordinances: A Divine Sanction?*, Rhotas Books, 1991.
- Khoshroo, G., ‘What is a dialogue among civilizations?’, in L. Hannikainen & S. K. Sajjadpour (eds.) *Dialogue Among Civilizations*, University of Lapland Press, 2002, 18.
- Pardeep, L. R., ‘The dilemma of dowry deaths: Domestic disgrace of international human rights catastrophe?’, 13 *Arizona J of Int’l & Comp L.* [1996,] 491.
- Parekh, B., *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, Macmillan, 2000.
- Quraishi, A., ‘Her honour: an Islamic critique of the rape laws of Pakistan from a woman-sensitive perspective’, 18 *MJIL* [1997], 287.
- Rao, A., ‘The politics of gender and culture in international human rights discourse’, in *Women’s Rights, Human Rights: international Feminist Perspectives*, J. Peters & A. Wolper (eds.), Routledge, I 995, 167-175.
- Rawls, J., *Political Liberalism*, Columbia University Press, I 993.