



ADDRESSING HONOUR CRIMES: LEGAL PERSPECTIVES IN INDIA

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Abstract: *The paper endeavours to shed light on the legal frameworks aimed at addressing the scourge of honour killings. The introduction provides an overview of honour killing, elucidating which actions are deemed dishonourable by families or communities. Certain behaviours may result in individuals being killed by their own family, particularly male relatives, or by the community. The subsequent section outlines various legal provisions within the Indian Constitution that can be utilized to combat honour killings in the country. These laws serve as a means to prosecute members of khap panchayats who order killings in the name of so-called honour. Additionally, the paper delves into international provisions concerning honour crimes, to which India is a signatory. It raises questions about why, despite these provisions, such killings remain prevalent in contemporary times.*

Keywords: Crime, Constitution, International provisions, Punishment

I. Introduction

"Honour killing," as defined by various sources, encapsulates the gruesome act of unlawfully ending a woman's life due to perceived moral or mental impurity. These murders typically occur within families, targeting members who allegedly bring disgrace upon the family's reputation. Such acts often involve a male family member executing a female relative to salvage the family's image. Moreover, they are characterized by premeditated murder orchestrated by family members who believe the victim has tarnished their honour.

These killings are frequently portrayed as extrajudicial punishment for perceived sexual or marital transgressions, including infidelity, marriage without parental consent, or engaging in relationships deemed inappropriate by family or societal norms. Justifications for these atrocities hinge on the notion that the victim's actions have brought dishonour and shame upon the family or tribe.

The severity of the "honour code" leaves no room for defence or recourse for accused women, as suspicion alone is often deemed sufficient justification for their violent demise. This grim reality

underscores the entrenched nature of honour killings, transcending societal structures and educational backgrounds. Even educated individuals, including university graduates, are involved in perpetrating these crimes, highlighting the pervasive nature of this barbaric tradition.

II. Legal Provisions

The Constitution of India enshrines numerous provisions designed to safeguard an individual's autonomy regardless of caste, religion, or gender, providing protection against honour-related crimes, including honour killings. The following constitutional provisions substantiate this stance.

Honour killings, classified as homicide and murder, are serious offenses under the Indian Penal Code (IPC). Sections 299 and 301 of the IPC address culpable homicide not amounting to murder, while Section 300 pertains to murder itself. Such killings constitute homicide and murder since they are carried out with the intent to kill individuals who allegedly bring dishonour upon their families. Perpetrators can face punishment under Section 302 of the IPC. Furthermore, khap panchayats or family members can be charged under Section 302 of the IPC for inciting suicide among those who violate community norms. These acts also contravene various articles of the Constitution of India, including Articles 14, 15(1) & (3), 17, 18, 19, and 21. Article 14 of the Indian Constitution guarantees every individual the right to equality before the law or equal protection of the laws. Regardless of their status or circumstances, every person is subject to the jurisdiction of ordinary courts. This right to equality is a fundamental tenet of the Indian Constitution. Therefore, honour killings egregiously violate this fundamental constitutional right established for the protection of Indian citizens. Notably, honour killings primarily target women, contributing to gender-based violence.

Honour killings involve the targeted murder of a specific individual, often a woman, and consequently fall within the purview of Section 299 and Section 300 of the Indian Penal Code. They also constitute a violation of Article 19 and Article 21 of the Constitution. These barbaric acts, perpetrated under the guise of preserving family honour, blatantly defy the constitutional provisions enshrined in Article 21, which guarantees the right to life. Khap panchayats infringe upon an individual's fundamental right to life by either committing or instigating murder in the name of honour. Every individual has an inherent right to live, and capital punishment can only be administered in accordance with the law.

In instances where khap panchayats forcibly separate married couples who are of legal age to marry, they contravene the provisions outlined in the Indian Constitution. The Indian Majority Act, Section 3, 1857 stipulates that individuals domiciled in India attain majority upon reaching the age of 18, unless specified otherwise by personal laws or in cases where a guardian has been appointed by a court before the age of 18, in which case the age of majority is 21.

This Act becomes relevant in cases where khap panchayats forcibly separate eligible married couples, thus violating its provisions. The enactment of the Special Marriage Act, 1954 aimed to facilitate a special form of marriage for all Indians, irrespective of religion or faith, both domestically and abroad.

Similarly, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted to prevent atrocities against these marginalized communities. The Act aims to promote the social inclusion of Dalits into Indian society by defining and penalizing acts such as forcing them to consume inedible substances, stripping them of clothing, assaulting, dishonouring, or sexually exploiting Dalit women, and coercing them to leave their homes or villages.

The Act is closely associated with honour killings due to the prevalent link between such incidents and caste and religion. The Protection of Human Rights (Amendment) Act, 2006, plays a pivotal role in safeguarding the individual rights of human beings by establishing bodies like the National Human Rights Commission, State Human Rights Commission, and Human Rights Courts. These entities serve to enhance the protection of human rights across various spheres.

Similarly, the Protection of Women from Domestic Violence Act, 2005, aims to provide more robust protection for women's rights guaranteed under the Constitution, especially those who fall victim to any form of violence within the family. The Act defines domestic violence broadly, encompassing physical, sexual, verbal, emotional, and economic abuse, as well as harassment with the intention of coercing the victim or her relatives to meet unlawful demands for dowry or other property.

The Indian Evidence Act, 1872, addresses the issue of concealing facts related to a crime, whether before, during, or after its occurrence. Article 13 of the Act specifies relevant facts when the existence of a right or custom is in question. This includes transactions related to the creation, claiming, modification, recognition, assertion, or denial of the right or custom, as well as specific instances where the right or custom was claimed, recognized, exercised, disputed, asserted, or departed from. This Act is pertinent in ensuring accountability for those who suffer due to judgments issued by khap panchayats, thereby aiding in the pursuit of justice.

III. Global Pacts

India's commitment to combating honour killings is reinforced by its status as a signatory and ratifier of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979). The provisions of CEDAW can be invoked to argue that the tradition of punishing individuals based on misguided notions of dishonouring the family constitutes institutionalized discrimination against individuals. As a State party to the convention, India is legally bound to take all necessary measures to end the practice of honour killings and eliminate all forms of discrimination against women in matters relating to marriage and family relations.

Article 16 of the Indian Constitution guarantees women the equal right to enter into marriage and freely choose a spouse with their full consent. This implies that informal decision-making bodies operating on customary laws, such as khap panchayats, must be prevented from imposing their dictates and infringing upon individuals' rights to choose their spouse.

Furthermore, the Universal Declaration of Human Rights (UDHR 1948) upholds the principle of the inadmissibility of discrimination and inequality, affirming that all individuals are born free and equal in dignity and rights, regardless of sex. Prejudice and discrimination against women violate the principle of equality of rights and human dignity, hindering their participation in various aspects of life and impeding societal growth and prosperity. Honour crimes, including honour killings, represent gross violations of the rights enshrined in the declaration.

Articles 3 and 5 of the UDHR state that women are entitled to the right to life, liberty, and security of person, as well as freedom from torture or cruel, inhuman, or degrading treatment. Honour crimes contravene these articles when perpetrators aim to inflict severe mental and physical pain on women. Therefore, it is imperative to address honour killings within the framework of international human rights standards, ensuring that women are protected from discrimination and violence and can exercise their rights freely and without fear.

Under Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR 1976), State parties are obligated to take all necessary measures to ensure the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health." Crimes of honour, particularly those involving sexual violence, mental torture, or physical abuse, obstruct women's right to enjoy the highest attainable standard of health. As a State party to the convention, India is legally bound to ensure that individuals, especially victims of honour crimes, can access this fundamental right.

Although not legally binding on the State, the human rights standards outlined in paragraph 232 of the Beijing Platform for Action (BPFA 1995) recognize women's rights to control and make decisions freely and responsibly regarding their sexuality, including sexual and reproductive health, without coercion, discrimination, or violence. The BPFA calls upon States to take urgent action to combat and eliminate violence against women, emphasizing that such violence is a human rights violation stemming from harmful traditional practices, cultural biases, and extremism.

Crimes of honour may entail the violation or abuse of various human rights, including the right to life, liberty, and security of the person; prohibition of torture or other cruel, inhuman, or degrading treatment or punishment; abolition of slavery; freedom from gender-based discrimination; right to privacy; right to marry; freedom from sexual abuse and exploitation; obligation to amend customs discriminating against women; and entitlement to an effective remedy. Violations of these rights constitute clear breaches of the Human Rights Act (1998). Honour killings, therefore, represent a blatant violation of human rights, and States are duty-bound to protect individuals from such violations.

Two significant UN documents, namely the "Declaration on the Elimination of Violence against Women" (1993) and "Working towards the Elimination of Crimes against Women Committed in the Name of Honour" (2003), both advocate for the complete eradication of honour killings. However, achieving the eradication of such a phenomenon requires a substantial intervention in the current status quo. Despite

efforts, equal gender relations have not been fully realized, and violence persists under the guise of honour. The entire system is entrenched in patriarchal structures and remains insensitive to the plight of women.

As stated in the UN Declaration on the Elimination of Violence against Women, violence against women stems from historically unequal power dynamics between men and women. This inequality has resulted in discrimination against women and hindered their full advancement. Violence against women serves as a mechanism to maintain women in a subordinate position compared to men.

However, despite constitutional laws and international provisions aimed at addressing this issue, they have fallen short in effectively tackling this menace. They also fail to provide a satisfactory explanation for the continued prevalence of honour killings in contemporary times, despite abundant provisions for the protection of individuals. It is perplexing that despite the existence of frameworks such as CEDAW and various human rights provisions aimed at eliminating violence against women, individuals continue to fall victim to murders carried out in the name of honour.

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