



## SOCIO-LEGAL ANALYSIS ON HONOUR KILLING IN INDIA

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### **ABSTRACT**

*Honour killing is a cultural phenomenon or practice that is common in non-Caucasian societies that see women as the bearers of family honour. Indian civilizations have a long history. Every year, a large number of young people in India are killed as a result of 'Honour Killings.' It's because so-called honour killings are founded on the idea that women are artefacts and resources, rather than human beings with integrity and rights, which is profoundly ingrained in Indian societies. The majority of honour killings take place in places like India, where women are seen as a vessel for the family's prestige. This paper is an effort to address the critical problem of cultural crime, which is growing day by day like an uncontrollable demon. It's hard to imagine that in the twenty-first century, families kill their relatives for the sake of preserving their honour, particularly in the world's largest democracy. But, most importantly, is there any honour in killing? The moral principle that each man is free to do as he pleases as long as he does not infringe on the fair rights of others has been fundamental to legal philosophy. The concepts of ethics and law vary as much as the conditions of life do across various cultures and periods. The legal order and social morality are inextricably linked in every culture. There will never be a true division between law and morals, and there never has been. The legal order reflects historical and ideological orders. And, while in the conventional more or less custom-bound society, the flow was mostly in one direction, with the incremental transformation of social behaviour into legal custom and from custom to statutory prescription, in today's highly articulate and structured society, the statute is becoming a more important force in the formulation of social morality.*



## INTRODUCTION

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For over four thousand years, the caste system has been the foundation of Hindu culture. The caste system was one of the many evils that plagued Indian society in the past. According to legend, the caste system was created with the aim of splitting humanity into four distinct classes based on the kind of job they did. In terms of social and cultural respects, the major Hindu caste groups are Brahmin, Kshatriya, Vaishya, and Shudra, with each of these Hindu caste groups having several castes and sub-castes. These sub-castes have their own set of customary rules that are strictly adhered to by their members. They are so rigid in nature that breaking them through result in a boycott by the whole community in which the offender lives. The same can be said for marriages between couples from separate caste communities. If inter-caste marriages occur, it becomes a customary crime for which innocent spouses are made to pay the price by being killed by their own families or clan councils, referred to as "Khap Panchayats." Being young and in love has recently proven to be lethal for many young girls and boys in parts of north India, as an intolerant and bigoted society refuses to tolerate any such breach. The word "honour offences" is a misnomer since they are anything but honourable. However, it has come to include a wide range of acts of violence against women, including homicide, robbery, and imprisonment, the majority of which include stopping an individual from leaving their home. In marriage or partnerships, they may exercise their freedom of preference. An honour killing (also known as a customary killing) is the assassination of a family or clan member by one or more fellow (mostly male) family members who feel the victim has brought dishonour to the family, clan, or society.

### MEANING OF HONOUR KILLING

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'Honour killing,' also known as 'customary killing,' is the assassination of a family or clan member by one or more family members, with the killers, basically the society at large, believing that the perpetrator has brought shame to the family honour by his or her acts. It is a felony that is rooted in a person's culture or ethnicity, or even a traditional tradition. Women are seen as the property of male families, embodying the honour of the men to whom they "belong." The bodies of women are thought to be the repositories of family honour. In societies where "honour" killings occur and women are seen as responsible for maintaining a family's "honour," the conceptions of male rank and family status are particularly important. If a woman or girl is convicted or suspected of engaging in behaviour that may jeopardize a man's or family's status, she could face vicious punishment from her families, which

often ends in violent death. Even if the accusations aren't supported by facts or evidence, any suggestion of dishonour against a woman is always enough for family members to take matters into their own hands. The following behaviours, or the suspicion of those behaviours, are usually the cause of presumed dishonour:

- A. Dress in such a manner which is not acceptable by the community.
- B. Wanting to terminate or prevent an arranged marriage or desiring to marry by own choice,
- C. Engaging in certain sexual acts, including those with the opposite or same sex.

### **THE LAW ON HONOUR KILLINGS**

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In India, there is no clear legislation that addresses the heinous crime of honour killings or any sentences that could be imposed. Honour killings face severe societal repercussions. About the fact that all religions oppose honour killings, the cultural environment portrays such rituals as a necessary aspect of faith. As a result, honour killing has one of the most powerful forms of popular support, namely faith. Honour killings are suicide and homicide, all of which are major offences in India. Section 299 of the Indian Penal Code deals with culpable homicide, while Section 300 deals with culpable homicide amounting to murder. The Indian constitution grants all the right to equality before the law or equal treatment under the law (Article 14). The ordinary courts have authority over all, regardless of their rank, status, or gender. The phrase "equal treatment of the rules" is a corollary of the first. As a result, the right to equality is recognised as a fundamental part of the constitution. Honour killings, as a result, was a blatant violation of the constitutional right to life guaranteed for the safety of civilians. Honor killings, as previously noted, are mostly aimed at women, resulting in gender discrimination.

Article 15(1) forbids the state from discrimination against people solely on the basis of faith, ethnicity, sex, caste, birthplace, or some combination of these factors. The right guaranteed in clause (1) is conferred on a citizen as a person, and it protects him from discrimination in the matter of rights, privileges, and immunities pertaining to him as a citizen generally." However, in many communities across India where honour killing is common, wives and daughters are expected to be subordinate, if not servile, to their fathers and husbands. Following the increase in the number of honour killings in recent years, the Indian government has proposed amending the Indian Penal Code (IPC) to provide a deterrence law to deal with honour killings. The government intended to introduce reforms to

Parliament only during the monsoon session. Despite being unified on the need to address the pernicious tradition of "honour killings," the Centre government agreed to consult the States and propose amendments to the legislation to address the problem, despite divisions in the Cabinet on how to do so.

### **SUPREME COURT VIEW ON HONOUR KILLINGS**

The Supreme Court in the case of *State of Uttar Pradesh vs Krishna Master & ors*<sup>1</sup> gave three people life sentences in an honour killing case in which six members of a family were gunned down, but said the suspects deserved to be executed. The Supreme Court, on the other hand, declined to sentence Master Krishna, Ram Sewak, and Kishori to death since the event occurred over two decades before, and chastised the High Court for acquitting them by dismissing the testimony of a child and other witnesses.

The next case in the series is *Lata Singh vs. State of Uttar Pradesh and Others*<sup>2</sup>, in which a two-judge bench expressed outrage over several incidents of abuse, intimidation, and aggression directed at young men and women who marry outside their caste and held that "Such acts, threats, or harassment are completely unconstitutional, and those who commit them must be punished in a number of ways." The Bench said that "inter-caste marriages are in fact in the national interest because they will result in the abolition of the caste system," and that "inter-caste marriages are in fact in the national interest because they will result in the abolition of the caste system." "When a person achieves the rank of major, he or she is free to marry whomever they want. If the boy's or girl's parents do not approve of such an inter-caste or inter-religious marriage, the most they can do is cut off social ties with their child, but they cannot threaten, execute, or instigate acts of abuse, or annoy the individual who goes through such an inter-caste or inter-religious marriage. As a result, the Bench ordered the administration/police authorities around the country to ensure that "whether any boy or girl who is a major marries a woman or man who is a major, the couple is not harassed by someone or subjected to threats or acts of violence, and anyone who gives such threats, harasses, or commits acts of violence either harmed or killed."

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<sup>1</sup> AIR 2010 SC 3071

<sup>2</sup> (2006) 5 SCC 475

The trouble with honour killings in this country is that, despite the fact that there are many reports of couples being killed simply for bringing 'dishonour' to the family name, none of these cases are registered. The few that are recorded are buried under the long list of pending cases in the honourable courts. For example, Justice K.S. Ahluwalia of the Punjab and Haryana High Court made a telling observation when simultaneously hearing 10 cases involving young couples aged 18-21: "The High Court is flooded with petitions where judges of this Court have to answer for the rigors of this Court."

The government is a silent observer. Where can the state wake up and how long will courts get solace and balm by resolving those cases?" The irony of the matter is that in cases of honour killings, the state apparatus is remarkably immobile. The state apparatus, i.e. the army, must be more pragmatic than reactive in the face of the horror of honour killings. Many times, the cases are registered as suicides, and as a result, little is done in order for the case to be heard in court. Police officers are considered to be intimidated, and they often work hand in hand with the region's most powerful families, denying victims justice.

### **INTER-CASTE MARRIAGES**

Inter-caste marriages are allowed under the constitution, but not under customary law, as previously mentioned. In keeping with the strictures contained in classical Hindu law, enunciated by members of the highest caste, the Brahmins, the recognized stance of the British colonial authorities, enforceable in the courts, was against the acceptance of inter-caste marriages.<sup>3</sup> Inter-caste partnerships were thought to have occurred in the past by British rulers, ethnographers, and law and society commentators, and to have been extinct by the second half of the nineteenth century. The legal archives of the colonial era are littered with fugitive cases of women with male guardians attempting to reclaim their daughters from the men with whom they choose to live by accusing the other man of raping, abducting, and forcing the daughters to marry. In addition to 'rioting and hurt,' such runaway cases (which were effectively inter-caste liaisons) were considered to be very common. Based on the evidence available at the High Court level, it is fair to conclude that the number of available cases of runaway women was small in comparison to what may have occurred in the judicial archives.

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<sup>3</sup> 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.

Several more would never have made it to the police station or the courtroom. Since the guardian's 'consent' has not been forthcoming, those cases of elopement and marriage that met the state stage of interference were not given the official approval of a legitimate marriage. Any of the most common and well-publicized inter-caste/community 'honour' killings have occurred in India's rural and urban areas, spreading from north to south and breaking through class lines. The media has come a long way since its inception. The media has been compelled to recognize the news of 'honour' killings in educated, modern, urban metropolitan India, from dismissing it as essentially belonging to the 'Other' India — the rural hinterland — to sensationalizing it as belonging to a 'feudal mentality.' The cases have been multiplying, some of which are well-known and others which are mysterious or unknown. Some of the most recent high-profile incidents include:

- Bibi Jagir Kaur was a high-profile minister in Prakash Singh Badal's ministry when she became the first woman President of the SGPC (Shiromani Gurdawara Prabhandak Committee) in Punjab. Harpreet, her pregnant daughter, who secretly married Kamaljeet, a Mona (shaven) Sikh from a separate caste, against her mother's wishes, was killed after a forced abortion, allegedly at Jagir Kaur's request. Bibi Jagir Kaur is portrayed as a woman who "justifiably subscribed to abuse against daughters if they crossed boundaries."
- In 2002, Vikas Yadav, the son of D.P. Yadav, a Member of Parliament from western Uttar Pradesh, kidnapped and killed Nitish Katara for being friends with his sister Bharati. The two had intended to marry. Katara, who belonged to a separate caste, was despised by the Yadavs. The killing was carried out in order to protect their "honour."
- In August 2007, Rizwanur Rahman, a 30-year-old computer graphic teacher, married Priyanka Todi, the daughter of a wealthy businessman, in secret in Kolkata. Under false pretenses, the Todi family took their daughter home for a few days after the wedding. She never returned. Rahman was heavily threatened by the police and others as he attempted to reclaim her. He was found dead near a railway track in Kolkata within a month. The price of 'honour' had been paid.

### **INTRA CASTE MARRIAGES**

In different parts of India, there are various laws and traditions about marriage, as well as varying degrees of forbidden partnerships. This is particularly noticeable along the north/south divide. In most parts of north India, traditional marriage laws maintain caste endogamy and follow the gotra or got exogamy rule. Exogamy is practiced by the majority of caste communities, whether upper or lower

castes. An individual could not marry into his or her own gotra, the mother's gotra, the father's mother's gotra, or the mother's - mother's gotra. However, the last bar is not universal, and the constraint seems to be fading.

The gotra rules effectively forbid marriage between first cousins of either the parallel or cross type. The concept of gotra exogamy can be expanded in several cases by grouping many other gotras represented in the same village into an exogamous bloc. Marriage is forbidden or confined between these gotras.

There is a law of territorial exogamy, which is an application of the concept of kinship exogamy. Most caste communities, such as the Jats, strictly prohibit marriage within the same village, as well as any village that shares a border with the natal village or has a large representation of other clans from one's village. Apart from the three or four gotras mentioned above, the cumulative consequences of these exogamy laws mean that a considerable number of gotras must be held out of marriage. In a large number of villages, particularly adjacent villages or those in the khap district, residents of a single village cannot intermarry (the area held or controlled by a clan). The prevalent gotra's culture and rituals are practiced by all gotras in these villages. If the dominant got follows the practice of refusing such gotra for marriage purposes, then all other gotra in these villages would do the same. The inclusion of village exogamy (with its conceptions of locality being equal to consanguinity) encountered by nearly all caste classes, high and poor, as well as the presence of a strong exogamous gotra bloc, adds to the marriage prohibitions' complexities.

The concept of village exogamy implies that both men and women of the same clan, localised clan, and village are bound by the morality of brother-sister, and thus sex and marriage are forbidden between members of each of these units. This extends to the khap district, which includes multiple villages and gotras. Traditionally, the biradari uses the traditional panchayat, or one of a number of traditional panchayats, to resolve a number of disputes involving caste and inter-caste affairs, transgressions, property rights, succession, and conflicts that endanger the village's or immediate region's stability. Marriage and sexual relations account for a large percentage of such disagreements, and it is in this area that the panchayat often intervenes to enact 'justice' according to its own meaning. Traditional panchayats are still active in rural north India, despite the fact that little is understood about how they operate in modern times. When a troubled marriage arises, the biradari's caste panchayat is called upon to resolve the situation. Recent cases indicate that the caste panchayat, which

has no legal authority, is often used and try to alter relationships and enforce one of their liking, subsuming person/family will to that of the village/collective and prioritizing the village and biradari's izzat over individual izzat. To list a few of the latest intra-caste 'honour killings' in rural India in 2010.

- January 2010: Kavita of village Kheri in Meham subdivision of Rohtak district was forced to divorce her husband after Benewal khap panchayat declared her marriage to Satish to be unconstitutional. Since they belonged to the same gotra, the panchayat named them brothers and sisters. The couple had a child together. After filing a complaint with the panchayat, Kavita was allowed to live with her husband but was forced to leave the village.

- There were two notable events in March 2010: In one case, the Phogat khap panchayat of Bhiwani district ordered Randhir Singh of Samastipur village in Charkhi Dadri to sell his land and property and leave the village so that his son Sribhagwan could marry Anita of Makrana village in the same district. He was accused of adding "dishonor" to the village and society by breaking the age-old bhaichara ban by arranging a marriage partnership between the two gotras. Ajay of Bedwa village near Meham married Poonam of Ludana village in the second case, which was similar to the first. The Meham khap panchayat ruled that they belonged to the same gotra and marriage between them should not have taken place.

- Usha Rani Kashyap of Bhiswan village in Gohana, Sonapat district, was hanged by her brother in April 2010 for her relationship with her neighbour Rakesh Kashyap. The next day, the boy's body was discovered hanging from a tree in the same village. They were both from the same gotra.

### **EFFECTS OF HONOUR KILLING**

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Honour killing does not discriminate between men and women. Men are also taken in as honour killing victims. It makes no difference if the perpetrator is a male or a woman; whether they have offended or placed the family's name into disrepute, they will be murdered by family members. Honor killings, on the other hand, are not limited to women. It also applies to men. When men break the rules, women's family members or male family members usually band together to kill them. The man plays a larger part in the execution of honour killings. If the crime is committed, the male descendants of the family form a party to kill the victim, particularly if the victim is a female. It makes no difference how close they were to the victim or how much respect they had for them; if they crossed the family's boundaries, they killed the victim. In certain cases, women are also involved in the commission of honour killings. They work along with the male heirs to carry out the murder. They play a part in



upholding the boundaries of sexual laws and, if the survivor is her daughter, they intend to murder her. However, while males are victims of violence, females are more impacted and society's accusations and comments are more severe in the case of women, forcing the women's families to become involved in the crime. And certain instances, both the male and female will be executed without regard for their feelings.

Since they murder family members without mercy, this act is also known as a ruthless crime. Both homicide and honour killing are acts of killing the deceased, but they are not the same. Honor killing is a different phenomenon, but both are acts of killing the victim. In these cases, the concept of mens rea plays a significant part. In murder, the murderers are driven by personal gain, while in honour killing, the member is permanently eliminated in order to restore the family's honour. In a murder case, the accused is a third party who commits the crime for monetary gain or a family member, but in an honour killing case, it is a family member who commits the crime. In the case of murder, the family is not dishonoured in any way; but, in the case of honour killing, the family is dishonoured. Similarly, honour killings are entirely the result of the triggering of family members, neighbours, or friends, while murder is the result of a plot devised by a specific individual to commit the crime.<sup>4</sup>

### HONOUR KILLING SPECIFIC TRIGGERS

The below are the specific reasons for honour killing:

- Refusal to marry in an arranged marriage: If a family member, whether male or female, refuses to approve the marriage contracted by the family, they will be murdered for the family's welfare. When a family member refuses to approve a marriage arranged by the family, it causes embarrassment to the rest of the family.
- Obtaining a divorce: The honour killing victim will be a married couple who had separated due to family problems in their marriage. When a family member seeks divorce, it lowers the family's reputation and they believe the survivor will rather death than survive, so they destroy the individual themselves.
- Allegations and rumours about family members: The survivor may be the target of false accusations or gossip from neighbours or other social members. In that case, whether or not the members of the family knew the truth, they would sacrifice the member for the sake of

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<sup>4</sup> "Murder in the name of Honour" by Rana Husseini (2011)

their rank and reputation. According to them, killing the perpetrator gives the family more respect and status.

- Homosexuality: It has been common for people of the same sex to fall in love. When a couple of the same sex wishes to live together, the family or culture refuses, resulting in a cascade of accusations and resentment among family members.
- Rape victims: Women are being raped in a country where they should be safe. In that case, it is the family's responsibility to recognize those victims, but the family views it as a source of guilt, believing that the girl's destiny has passed her by and that she is absolutely worthless to humanity and the family, and thus she will be murdered by them.
- Inter-caste marriage: When a survivor marries someone from a separate caste, it lowers the caste of the group that sees their caste as their soul and more significant than their family members. In this scenario, the higher caste member would rather murder the victim than live by lowering their caste. When the victim belongs to a lower caste, and the caste is the heart and soul of their dignity, they are unconcerned about the victim and will murder them despite the fact that they are a member of their family. Not only can their family members become victims, but so does the other person with which they want to live.

### **CRITICAL ASSESSMENT**

An examination of the ideology reveals it to be a gendered concept that produces segregation and hierarchy. Honor is embodied by both men and women, but in separate ways. The woman is the honour's library, and the guy is the honour's regulator. As a result, the woman poses the biggest threat to the honour philosophy. One oft-repeated phrases is that "every family's honour is linked to its girl," and that "honour so posited in a woman is crucially located in her body." A woman disgraces her kin by her heinous physical conduct. This goes beyond observing modesty and showing respect for her sexuality. The nation in a lot of circumstances asks, why the honour of a family lies in a woman's body. The response can be found of part in the way procreation is conceived, with the male seed germinating in the female earth or ground. In this case, the male sperm is viewed as the creator, while the female sperm is viewed as the passive beneficiary. This social understanding of a man's artistic capacity serves as the basis for the concept of honour. The seed and earth philosophy, which dates back to ancient

times, is a part of literate tradition, as well as customary law and common consciousness.<sup>5</sup> According to this theory, the blood that runs through a child's veins is derived from the father's semen, and it is this blood that gives a child (especially a male child) his identification as a member of the father's lineage. Semen is generally thought of as condensed blood, and there is a strong idea of an agnatic kin's shared bloodline continuing through male members who act as ties for transferring the common blood to the next generation through their semen. This patriliney and lineage is ensured by the tradition of caste endogamy, which preserves caste distinctions and purity. It means that female fertility must be regulated in order to ensure paternity and lineage of the offspring.

This implies that a woman is powerless over herself. The male members of her family – the upholders of her honour – must make all decisions about her body. The family links are applied to the tribe and then to the caste/community by blood ties. They are co-sharers in this honour because of their blood connection. To protect and uphold its purity, they must all work together. Women are virtually excluded from this dominant and hierarchical biradari by the imagery of blood kinship or bhaichara (brotherhood).

## SUGGESTIONS

As there are many rights and regulations in place to prevent honour killings, the crime continues to be a widespread issue. Despite the fact that such an offense carries a severe penalty, the accused continues to do it because the family's honour is more valuable than the victim. They would rather face the repercussions of punishment than the consequences of dishonouring the family. Education regarding the value of any citizen's life on this planet should be promoted. Citizens in rural and urban areas should be taught, and the implications of heinous crimes should be made public, in order to raise awareness.

## CONCLUSION

Honour killing, which is more like a cultural than a religious ritual, is secretly embraced by society but publicly discouraged and banned elsewhere. The caste system in India has unfortunately been a social evil for many people. It's tragic that so many young people have died in the name of honour, and that

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<sup>5</sup> 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.



so many more are being held hostage by this rigid value structure. It is a myth that honour killings are only committed against women. Men, too, are victims of this activity, particularly when it affects a caste's or community's image. If a family member is unhappy with the young men's or women's marriage, the most they can do is break off their social interaction with them, and honour killing does not bring honour to the family. However, the family members are unaware of this reality. Since life is a development of God, he should have the final say on who lives and who dies. Where a god has taken a human into the world, it is in his possession to take them out. Family is significant, but killing a member of the family is not. It is really safe to prevent honour killings because it is the couple's life that is being determined, because it is in their hands to remain together or divorce.

