



## Indian framework against Honour Killing

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### Abstract

Honor killing is a serious abuse of human rights and a serious challenge to India's constitutional principles of equality, dignity, and freedom of individuals. In spite of numerous legal provisions to avoid such crimes, honor killings keep taking place, especially in inter-caste and inter-religious marriages. This article discusses the notion, history, and juridical arrangement against honor killings in India, examining notable legislative provisions like the Indian Penal Code (IPC), Bhartiya Nyaya Sanhita (BNS), Constitution of India, and other laws. It further explores judicial intervention and prominent case laws that have informed the juridical discourse on honor killings. Moreover, the research also points out the role of Khap Panchayats and their role in perpetuating such crimes while assessing government and judicial attempts to check this practice. In spite of legal progress, the lack of a specific law against honor killings is still a major loophole in India's legal system. This paper highlights the imperative necessity of more stringent enforcement, holistic legislation, and societal awareness to eliminate honor-based violence and protect the fundamental rights of individuals.

**Keywords:** Honor Killing, Human Rights, Inter-Caste Marriage, Inter-Religious Marriage, Indian Penal Code (IPC), Bhartiya Nyaya Sanhita (BNS), Constitution of India, Khap, Panchayat, Judicial Intervention, Legal Framework.

### Introduction

One of the most valuable aspects of every human life is honor. No one has the right to take a valuable human life in the name of customs or culture. Neither the common interest nor the individual interest may cause it to be forfeited. Killing someone is always unethical, against the law, and a flagrant violation of human rights. The killing of someone without cause or rhyme is illegitimate. In addition, it is illegal and unconstitutional. Every citizen's right to dignity and life is protected by the constitution. Honor endures throughout life. The Indian Constitution guarantees this right as a fundamental one. Every individual has the right to be shielded from any threat to their life. Every person is entitled to make their own decisions. Another essential component of its guarantee is the right to opinion. Therefore, the right to life includes the freedom to marry and choose a mate. The right to live in society with dignity cannot be violated by social or cultural constraints. However, as it is illegal to kill someone in the name of honoring their family, the law includes mechanisms to address these unnecessary actions. Killing someone is murder and will never, ever replace and restore the supposedly lost honor.

As a noun, honor denotes justice; as an adjective, it denotes exceptional regard; and in contexts of culture and society, it is the most valuable quality that every individual possesses. However, honor killing somehow turns into a stigma, insecurity, and, it seems, a justification for ruthlessly killing one's own family members without hesitation or even regret in certain situations. Under the fundamental legal framework, the author has attempted to analyze the notion of honor and honor killing in India in the current study. In order to access the legal interpretation of legislation, several significant rulings from the highest court are also examined.

### History of honour killing in India

Honor killing is not a recent tradition; it has long been practiced in almost every religion. The dignity and respect of the central female characters are the primary source of conflict and battles between two sides in the great epics like the Ramayana and Mahabharata that were written in India centuries ago. Similar to the Ramayana, the King of Lanka forcibly removed Sita, the future King of Avadha, Ram's wife, and in order to restore her honor and dignity, Rama and Ravana fought a war in which many valuable lives were lost on both sides. King Ram & Sita later parted ways as a result of society's questioning of her purity. In the Mahabharata, the five brothers who were married to Draupadi lose everything to their cousin brothers in a gambling game. The opponent asks them to try again by risking their wife's honor, but they lose her as well. Then, in front of the entire community, she was ridiculed, shamed, humiliated, and dishonored while being dragged by her hairs, degraded, and insulted before being taken into the open court. On the final score of honor and dignity, this occurrence results in a fight between brothers that claims many lives. In both of these cases, the war was the result of the royal families' honor being at risk, and their subjects gave up their valuable lives to protect the honor of their righteous king and his family. Even if it may not be an individual act of honor killing, it undoubtedly establishes the precedent that, if big battles are waged for honor, then individual family honor can play the same destructive game in the name of upholding honor and dignity. The general Sati ritual, which was popular in the past, can also be linked to the preservation of women's honor and dignity when their husbands pass away. In order to maintain her honor and dignity, a lady was compelled to commit suicide on her husband's burning prayer. And in this way, there can be a lot of tales that are still hidden behind the curtains of history about people who gave their lives for this very honor and

dignity. Nothing in history specifically identifies any one incident as the first honor killing.

### **Indian Legal frameworks against HONOR killing Legal provisions in IPC and BNS**

Section 103 BNS (Punishment for Murder) and Section 302 IPC <sup>[1]</sup> Depending on the circumstances and the seriousness of the crime, Section 302 of the IPC stipulates that murder carries either the death penalty and life in prison. Since honor killings entail intentional, premeditated murder with malice aforethought, they are covered under this provision. Similar sentence guidelines are maintained under section 103 of the BNS, which reflects the legislator's intention to maintain severe punishments for murder, especially those with social motivations.

Section 109 BNS (Attempt to Murder) and Section 307 IPC <sup>[2]</sup> Depending on the seriousness and intent of the attempt, Section 307 of the IPC, which addresses murder attempts, stipulates a maximum sentence of life in prison. This clause applies to honor killings where the accused abstains from carrying out the murderous deed because of intervention or other reasons. This is in line with Section 109 of the BNS, which emphasizes the seriousness of attempted murder and imposes severe punishments, particularly in situations where honor is at stake.

Section 61 BNS (Criminal Conspiracy) and Section 120B IPC Criminal conspiracy is punishable under Section 120B of the IPC, especially when two or more people band together to commit a crime. The members of the family who commit honor killings frequently band together to plot the crime in an attempt to regain their alleged "honor." Similar provisions to guarantee that all conspirators in an honor killing case will be held accountable, even those who may not have physically engaged in the act but supported or plotted it, are included in Section 61 of the BNS<sup>3</sup>, which deals with criminal conspiracy.

### **Constitution of India, 1950**

Articles 14, 15, 19, 21, & 39 of the Indian Constitution are all violated by the crime of honor killing. Honor killing is wholly incompatible with the requirements of the constitution.

The Indian Constitution's articles pertaining to honor killing are:

- The right to equality is addressed in Article 14 <sup>[3]</sup>.
- Discrimination on the basis of religion, race, real estate, coitus, and place of birth is prohibited under Articles 15(1) <sup>[4]</sup> and 15(3).
- The elimination of untouchability is covered in Article 17 <sup>[5]</sup>.
- Freedom of expression and speech is covered under Article 19 <sup>[6]</sup>. • The right to life & individual liberty are covered in Article 21 <sup>[7]</sup>.

### **The India Penal Code, 1860 and Code of Criminal Procedure, 1973**

As said earlier, honor killing perpetrators are regarded as murderers. Since homicides are often protected by the wider community, it may be challenging to identify the perpetrators, yet it is possible. According to Section 101, 103 Bhartiya Nyaya Sanhita, 2023, deals with murder and its punishment. The victim's behavior was so heartbreaking that he lost impulse control and only did what he saw, which was to humiliate the family. In addition section 61 of

Bhartiya Nyaya Sanhita deals with attempt to murder, Criminal conspiracy, and Common Intention Sections 34 and 35 are also examined. It is challenging regarding law enforcement to identify the real perpetrators in northern states because Khap Panchayats, which control the legal system, issue orders for executions of death penalties against their own relatives. The law's inability to find the offenders and collect evidence has resulted in the police not filing any formal complaints. The likelihood of conviction is practically zero if a FIR is filed & the cases are pursued <sup>[8]</sup>. The legal procedure outlined in the criminal procedural code for filing a formal complaint appears to be an ineffective tool for Khap Panchayat governance.

### **Indian evidence Act, 1872**

The Indian Evidence Act, 1872, which penalizes those who conspire to conceal evidence prior to, during, or following the alleged crime, must always serve as the cornerstone of any case that is to be proven. Particularly noteworthy and useful for comprehending the concept of honor killing is Section 13 of the Act, which states: Facts significant when right or customs is in doubt When assessing whether a right or custom exists, the following information is pertinent: (a) Any transaction that established, changed, acknowledged, affirmed, or rejected the disputed right or tradition, or that contradicted its existence; (b) Particular cases where the right or custom in issue was asserted, acknowledged, exercised, or contested in its exercise, as well as any transaction that created, amended, acknowledged, asserted, or denied the right or custom in question, or that was in conflict with its This Act's objective is to guarantee justice for those who suffer as a result of khap panchayat rulings. This organization has its own method of handling matters without consulting the law.

### **The Indian majority Act, 1857 <sup>[10]</sup>**

This Act addresses the issue of an individual's major age for legal purposes; section 3 <sup>[9]</sup> states that, unless their personal law specifies differently, every individual who resides in India achieves an age of majority when they turn 18 years old. However, the age of majority for a guardian assigned to such a kid will be 21 instead of 18. This Act pertains to honor killings when khap panchayats have compelled married couples who would otherwise be eligible for such a marriage because of their age or other circumstances. Consequently, it helps to determine the sentiments of khap panchayat members and their disdain for the law. These situations are blatant violations of the Act's provisions.

### **Hindu Marriage Act, 1955**

Section 5 <sup>[10]</sup> of the Hindu Marriage Act of 1955 lays out the essential requirements for a lawful marriage. The provision states that specific prohibited levels of connection must have been maintained in order for a marriage to be deemed lawful. By punishing their violations with suitable remedies under civil law and severe penalties under criminal law, both criminal and civil laws protect married relationships. Intercaste marriages between Hindus are allowed, as the Act makes no mention of the choice of spouse.

### **Special Marriage Act, 1956**

This Act handles unique weddings between Indian citizens without regard to their caste, class, or religion. This Act allows for the recognition and registration of intercaste

marriages. Intercaste marriages are more common in urban India rather than rural areas due to the strict caste system that underpins the country's social structure. According to the Act, a marriage between two people may be solemnized even if they are in illegal relationships, provided that at least one of the parties is in a tradition that permits such a union.

### **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989** <sup>[11]</sup>

This Act was passed by the Indian Parliament to prevent atrocities against Scheduled Tribes and Scheduled Castes. Facilitating Dalits' assimilation into mainstream Indian culture was the main objective of the Act. Atrocities addressed by this Act include forcing a SC/ST to leave their family or community, sexually exploiting a SC/ST lady, and assaulting, dishonoring, and outraging their modesty <sup>[12]</sup>. Since caste and religion have been implicated in a number of honor killing instances, this Act was passed with the knowledge that there was a connection to honor murders.

### **The Protection of Women from Domestic Violence Act, 2005** <sup>[13]</sup>

Women's rights within the Indian Constitution are better protected thanks to the enactment of the Security of Women via Domestic Violence Act, 2005 <sup>[14]</sup>. All of these women appear to have experienced some form of violence, whether it be within the family or for reasons related to or incidental to it.

### **Protection of Human Rights (Amendment) Act, 2006** <sup>[15]</sup>

This Act guarantees the protection of everyone's human rights and establishes commissions & courts to accomplish this. Honor killings are nonetheless frequent in spite of these laws, leading to serious human rights abuses <sup>[16]</sup>. Therefore, it becomes evident from the framework of existing laws that there isn't a single statute that addresses the issue of honor killings. Under the guise of bringing shame to the family, thousands of young people are brutally murdered. The threat of honor killing is still not fully understood by the legal system or the judiciary's rulings. In handling these crimes, governments are being accused of criminal negligence. The crime is not legally defined, its various components are not legally acknowledged, self-choice couples are not protected, there are no preventive measures, no accountability, and no punishment. The great majority of these killings go unreported because they are categorized as either culpable homicide or murder. As a result, India lacks reliable statistics on these killings. There is no organized data for these kinds of cases in the government's records.

### **Initiatives taken against honour killing**

Approximately 5,000 women and girls were killed for honor by family members and relatives worldwide, according to the United Nations Population Fund. If we attempt to trace the origins of the debate over killings of honor cases, we will find that the issue was first raised in Parliament in 2009.

1. The body that discussed this topic was the Rajya Sabha. In July 2009, members of both sides discussed the issue and put out a proposal for a distinct law to address honor murders.
2. In a landmark ruling in the Manoj and Babli honor killing cases, the Karnal District Court sentenced the

Khap Panchayat chairman to life in prison for ordering the murders in March 2010. The khap panchayat has violated the constitution and taken matters into its own hands, the judge contends <sup>[17]</sup>.

3. As a result of the ruling, the matter was sent to the Law Ministry, which in 2010 released certain recommendations. These recommendations were referred to as the "Indian Penal Code & Certain Other Amendments Bill 2010." The recommendation's fundamental line ignored the suffering that young couples endured in favor of concentrating more on crimes, especially murders committed for honor.
4. A comprehensive bill titled "The Prevention of Crime in the Name of Honour & Tradition Bill" was drafted by the All-India Democratic Women's Association's (AIDWA) legal cell in collaboration with other women's organizations and presented to the government in August 2010. This bill addresses the shortcomings of the previous law, such as the violation of the rights of young couples, and lists a number of offenses besides murder along with suggested preventative measures and severity of penalties.<sup>20</sup>
5. In 2012, the Indian Law Commission introduced its own draft of the Bill in its 242nd report. According to others, this measure would honor murderers in a more circumspect and limited manner. The primary focus of the "Prohibition of Unlawful Assembly (Interference concerning the Freedom of Matrimonial Alliances) Bill, 2011" was on "Unlawful Assemblies," such as Khap panchayats. We have yet to receive the Law Commission's suggestion.
6. The Supreme Court of India announced prophylactic measures in March 2018 to combat honor crimes. with the goal of abiding by these guidelines until a formal law is passed. Notwithstanding the Supreme Court's suggestions, it seems that prompt, appropriate, and strict legislation is still necessary because postponing justice could result in its denial. Until then, it is important to make sure that the preventive measures are properly implemented <sup>[18]</sup>.

### **Case Laws**

The Indian judiciary is one such organization that has won praise for its magnanimous services. The sanctuary of justice holds immense promise and ambitions for Indians. Over the course of the seventy-year trip, a substantial contribution to the governance system has been made. Promoting peace, establishing harmony and balance, delivering justice to all citizens, resolving conflicts, and preserving concord amongst government agencies are all duties of the court. The judiciary made groundbreaking decisions and expanded its reach over time. It's possible that the early phases were rigid, basing choices solely on the legal meaning of laws and rules. By using technical, procedural, scientific, as well as methodological approaches to formulate their decisions as the makers of justice, the judges safeguarded and upheld all laws and broadened the scope of fundamental rights. Justice D Y Chandrachud upheld Hadiya's marriage to Shafin Jahan on March 8, 2018, rendering a decision in favor of Hadiya in the *Shafin Jahan v. Asokan K. M.* case, called as the "Hadiya Case" <sup>[19]</sup>, "which is considered a landmark ruling for the freedom of women to marry whoever they choose. The case was heard by the Apex Court's bigger bench, which included sitting

judges Justice Dipak Mishra, Justice Ajay Khanwilkar, and Justice Dhanjay Chandrachud. In this case, Hadiya, who was a woman (Hindu) married to a man (Muslim), converted to Islam and her name was changed. In court, Hadiya's parents were successful in opposing her marriage. The High Court upheld custody petition of her father and gave her to him despite the fact that she was 25 years old. This instance helped the media popularize the term "love jihad." The Apex Court upheld her marriage as lawful and eliminated parental coercion in the guise of family honor by using her freedom to select her life and religious partner as a fundamental right.

Babli and Manoj were the victims of the case in the historic ruling of *Chandrapati v. State of Haryana and Others* [20]. They made the decision to elope and get married since they were in love. The family members were furious and began looking for the victims after learning this. The family was instructed not to get in touch with the victim after bringing the matter to the khap panchayat, as doing so will result in a fine of 25,000 for anyone who interacts with them. When the family found out where they were, they brought them before the khap panchayat, which opposed them as well. Because they are from different castes, they made a choice that was detrimental to the victim. A decision based on caste and religion was taken for the good of society. The khap panchayat was also connected to the murder of the victim in order to respect the family. Since Babi's grandpa served as the khap panchayat leader, those associated with Babi were accused with the murder. They still slaughtered the victims after kidnapping them. However, five of the murderers received life sentences when this case was presented before the Karnal district court. This is a landmark decision in the field as it is the first instance of an accused individual being given a life sentence for honor killing. The person who was the driver was involved in the kidnapping and he was given 7 years of imprisonment. Honor killing is thought to be the most horrible crime.

In the 1991 "honor killing" case in the UP hamlet, the Supreme Court sentenced three people a family of six to life in jail in the State of UP v. *Krishna Master and Ors*<sup>24</sup> case. A bench of justices J.M. Panchal and H.S. Bedi overturned the Allahabad High Court's acquittal decision and sentenced them to death following the trial. Because it is undeniable that the murder of six people and the eradication of nearly an entire family under the flimsy pretext of preserving the family's honor would rank among the rarest of rare cases, the bench concluded that the trial court's decision to execute the respondents was fully justified.

### Conclusion

Honor killing is done to preserve the family's honor and dignity. However, it is never honorable to kill someone, especially if that person is someone you love very much; it is never worth it. Since both religion and laws are fundamentally arbitrary and subject to interpretation, it is prohibited to cite "religion" and "culture" as excuses for the murder of women or anyone else. Everyone has the right to live a just and moral life. Therefore, strict regulation is the only practical means of putting an end to such dishonest behavior. The terrible custom of honor killing cannot be justified by any society or faith. We have already covered a number of legal topics pertaining to "honor killing." The aforementioned regulations should be effectively implemented in society through formal

governance & proactive policing. In a nation that respects the rule of law, custom shouldn't supersede written rules, particularly when it comes to heinous crimes like "honor killing."

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