



Honour killings in India: Provisions under Indian penal code

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Abstract

An honour killing can be described as the traditional practice of killing a family member who is believed to have brought shame on the family. Honour killing is basically an act of murder by the family members. It is the dirty behaviour of the members thinking about the purity of their family instead of the life of one. It is done to eradicate the dishonour and shame brought by family member. The male member or any family member kills the one who looks to love the person not matching with their social status. We can also say that it is a pre-planned murder for which caste and religion are the main reasons.

An honour killing can also be defined as extra-judicial punishment generally given to a female relative for assumed sexual and marriage offences. These offences are considered as a misdeed, insult or rebelling against concerned customs and traditions. For the perpetrators of this practice, it is an act of shame caused to the family for which it is otherwise called as shame killing.

In India, mostly in states like Punjab, Uttar Pradesh, Haryana and Rajasthan, practice of honour killing is extensive. Due to the complexity of socio-cultural problems, the crime of honour killing is divulging at a higher rate.

We have gained our independence and now after more than 70 years some people think the caste more superior than the life of a child. India is a democratic country where every citizen has right to equality and right to life as well. But here we see that caste, society and narrow-minded thinking of the people led to this shameful act of Honour killing. Mostly these types of acts are caused due to trigger done by the relatives, society, neighbours by whom the accused feels dishonoured and gets provoked. In all over the world, women proved themselves equal to men but when it comes of honour killing then these occur mostly with female who are assumed for sexual and marital offences. In situation everyone should be a support for that particular member are against her and brings the situation where they should not exist. Caste and status are the main reason for honour killing in present time. This study target to educate the society and bring out the seriousness of the crime Honour killing.

Keywords: honour killing, murder, causes, legal provisions, judicial pronouncements

Introduction

a. What is Honour killing?

Honour killing is killing a person, maybe a male or a female who chooses her marital life according to his/her wish. Thinking about the honour of the family, the supreme authority of the family looks about the reputation and status of the family but forget about the love and affection towards the members of the family. In the research paper, the honour killing in India and the role of law in honour killing is defined. These matters happen because of certain triggers of the society.

b. Is Honour Killing synonymous to Murder?

There is a slight margin of differentiation between murder and honour killing. The difference resides in the causes of committing a murder and causes of practicing honour killing.

The main cause behind committing a murder in Indian context could be personal vendetta or enmity, property disputes, love affairs, theft, dacoity and so on. However, the reason that lead to honour killing comprises victim's denial to enter into a forced marriage or maintaining a relationship, involvement in homosexual relationships and so on. Another point of difference between murder and honour killing is that in case of murder any random individual can be a target. However, in the case of honour killing, any family member or any person related to family can be a target.

c. Causes of Honour Killing

There is not a fixed number as to the causes of perpetuation of honour killing in India. But some of the most common reasons are given below:

1. Love marriages among same caste and clan are considered impure by several cultures of the society.
2. Dressing in manner which is deemed inappropriate and are unacceptable by the family members.
3. Engaging in homosexual acts is said to be one of the prime reasons for propagation of this barbaric practice.
4. Denial to enter into an arranged marriage or desire to marry by own choice is often a cause for honour killing.
5. A woman seeking divorce without the consent of the family or the husband can also trigger the practice of honour killing.
6. Inter-caste marriages are still not viable in many states of India, resulting in higher rates of honour killing.
7. In certain cultures, an allegation against a woman can be enough to tarnish her family's reputation and to trigger an honour killing.

d. Sociological dimension of Honour killings

Patriarchal Mindset: "Honour" is a concept which is always linked with women of the family. And men are considered to monitor women and prevent women from abusing the so-called honour. This shows the patriarchal design still prevalent in our society. Men are allowed to move freely during late hours while women are not allowed

to do so. From the way a woman dresses to the person she marries, everything is related to the honour of the family. Women's rights, their will and choices are seen as oppression of social norms and traditions. Hence, only when people become open minded and respect the choices made by women or men in their personal life, these honour killings can come to an end.

Caste system: The existence of caste system in Indian Society is a curse on the nation. Though many progressive reforms have been brought in law and value-based education is given to people, the view towards caste system hasn't changed much. While inter-caste marriage is denied by certain cultural groups, certain intra-caste marriage is also denied as a person is not allowed to marry in his/her gotra or of their parents gotra. And not only inter-caste marriages lead to large number of honour killings but also inter-religion marriages.

Lack of education: The lack of awareness and education about the rights guaranteed to people and how to claim their rights are one of the reasons for such honour killings.

No separate and strict laws - Honour killings though seen as a customary crime is not yet recognized in Indian Laws. In spite of increase in honour related crimes and judgments and expressions of outrage in Courts across India, the Governments have displayed negligence in their approach towards these crimes. There is no definition of this crime, no legal recognition of various aspects of this crime, no protection afforded to couples, no measures to prevent such crimes, no accountability and no punishment. These killings are reported only under two categories—Murder under section 302 of Indian Penal Code and Culpable Homicide under Section 304 of IPC. Due to this, most of the killings are either unreported or reported under murder. Hence there is no proper statistics of such killings in India.

Khap Panchayat and vote bank politics: Khap Panchayats are a group of persons or a community organization especially found in villages and in Northern India to exert a social influence within the community. Khap panchayat take law in their own hands and indulge in offensive activities which endanger the personal lives of persons marrying according to their free will. There are many judicial decisions provided by the Courts against the action of Khap Panchayats.

e. Legal dimension of honour killings

Constitutional Violation - Indian Constitution has been the basic document and guiding force which vests ample of rights to its citizens. Honour killing violates few such provisions in the Constitution, thus, contrary to the basic rights of people. Such rights are: Article 14, the Right to Equality, Article 15(1) and (3) which states prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, Article 17 which highlights Abolition of Untouchability, Article 19(1) which gives the freedom to speech and expression and Article 21, the right to life and personal liberty. Most of the honour killings focus on women and very few on men and thus lead to gender-based violence. This crime also violates the Universal Declaration of Human Rights, 1948. Article 1 and Article 2 of the Convention state that "all human beings are born free and equal in dignity and rights." Article 3 states that "everyone

has right to life, liberty and security". Article 5 gives the "right to be free from torture or cruel, inhumane and or degrading treatment". Article 16 talks about the choice of marriage given to men and women of full age without any limitation due to race, nationality or religion.

f. Provisions under the Indian Penal Code

Even though there is no separate law or legislation titled honour killings under IPC yet there are many provisions as to ascertain its commission or a common participation. For instance; Section 34 and 35 of the IPC states and penalises criminal acts done by several persons in furtherance of common intention. Sections 107-116, penalizes persons for abetment of offences including murder and culpable homicide. Section 120A and B, penalizes any person who is a party to a criminal conspiracy. Sections 299-304 of the Indian Penal Code, penalizes any person guilty of murder and culpable homicide which does not amount to murder. The punishment for murder is life sentence or death and fine. The punishment for culpable homicide not amounting to murder is life imprisonment or imprisonment for up to 10 years and fine. Section 300 specifically introduces "fifthly" clause which at present defines "murder" under four categories. The additional definition would make Khap-dictated honour killings a distinct offence and make all those who participate in the decision liable to be tried for the main charge, that is murder, and liable maximum penalty, death. Section 307 of the IPC penalizes attempt to murder with imprisonment for up to 10 years and a fine. If a person is hurt, the penalty can extend to life imprisonment.

g. Laws in force to prevent Honour killings in India

- Indian Majority Act, 1859: Right to marry is a constitutional right granted by Article 21 and under Section 3 of the Indian Majority Act, 1857, a person who is the citizen of India attains age of majority after completion of 18 years. A person who is major, wanting to get married to a person of another caste or inter community marriage is not prohibited by law and any honour killings initiated on this ground is unlawful and to be initiated severe measures.
- Special Marriage Act, 1954: The objective of this Act is to provide a special form of marriage for citizens of India as well as for Indians residing in foreign nations. The marriage is performed irrespective of caste, religion or faith of the intending parties to marriage. But the customary practice of honour killing is done contrary to this perspective amounts to violation of this Act. Since the registration process is a long one and there are chances of the couple being subjected to violence during such period.
- Protection of Human Rights (Amendment) Act, 2006: This Act provides for protection of human rights of every individual and constitution of Commissions and Courts for securing the respective objective. In spite of such legislation, still there is prevalence of honour killing practices leading to grave violation of human rights.
- Domestic Violence Act, 2005: Under this Act, if a woman is prevented from marrying the person of her choice amounts to emotional abuse of the woman.

h. Judicial Pronouncements in cases of Honour Killings

In the case of Smt. Chandrapati v. State of Haryana and

others, (2011), the facts were such that, Manoj and Babli were the victims of the case. They had loved each other and thus eloped and got married to each other. The family members on knowing this got furious and found the victims. The family had taken the case to the Khap panchayat who initially stated that any person who has contact with the victim would have to pay 25,000 and hence no person should contact them. After finding their whereabouts, the family had brought them before the khap panchayat who was also against the marriage. They gave the decision against the victim because the victims belonged to different caste. The decision was religious- caste based for the interest of the society. The Khap panchayat was also the accused who involved in killing of the victim due honouring of the family. Relatives of babli were involved in the murder as babli's grandfather was the Khap leader. Nevertheless, the victims were abducted and killed by them.

However, when this matter went before the court of Karnal district, they had sentenced five perpetrators who were involved in the murder to life sentence. This is the first honour killing case hitting as landmark judgment on giving life sentence to the accused of honour killing. The driver who involved in the abduction was sentenced to imprisonment of seven years. Honour killing is also considered as the most serious offence.

In the case of State of U.P v. Krishna Master and others, (2010), the Supreme Court has awarded life sentence to three persons in an honour killing case, in which six members of a family were gunned down. The court however refrained from awarding death penalty to Master Krishna, Ram Sewak Kishori as the incident was two decades old and slammed the High Court for acquitting them by rejecting the testimonies of a child and another witness.

In the case of Lata Singh v. State of U.P. and others, (2006), the two Judge bench expressed concern over the several instances of harassment, threats and violence against young women and men who marry outside their caste and held that, "such acts or threats or harassments are wholly illegal and those who commit them must be severally punished."

The discussion on the issue of same gotra marriages was laid to rest 65 years ago with the landmark judgment by the Bombay High Court where it declared that same gotra marriages were legal. The case of Madhavrao v. Raghavendrarao, (1946), it was held that 'the marriage in question between a husband and wife belonging to the same gotra was valid'.

Material and Methods

Doctrine methodology is adopted for this project research. It involves the use of secondary data which is collected from various articles, websites, books etc. Doctrinal research asks what is law on a particular issue. It is concerned with analysis of the doctrine and how it has been applied and developed. This type of research is known as "pure theoretical research." It consists of, either simple research directed at finding a particular statement of law or, more complex and in-depth analysis of legal reasoning.

Conclusion

People disregard individual freedom which plays an important role in perpetuation of honour killings. Therefore, it is of utmost importance to stop coercing the young adults into opting for a unwilling decision. Another major contributor of this practice is disparaging views about other

castes, religions and sexuality; thus, it is essential to eradicate the notion of best caste or religion through educating people about their rights and the consequences of practicing this heinous offence.

A new law must be introduced making the crime of honour killing a separate offence as it would help bring more clarity in legal administration. Certain provisions in the Indian Evidence Act must be reformed so as to bring the burden of proof on the accused which will in turn eliminate the dominance of Khap panchayat leaders in tampering the proof. Furthermore, there must be a provision of joint liability under the offence of honour killings.

Honour crimes should include all the crimes against women which are perpetrated by the community. There are many cases of women being branded witches, paraded naked, tortured in public which are very heinous offences of honour and hence need to be strengthened by a special law and to have stringent punishments.

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