



# HONOUR KILLING –A CATAclysm IN THE NAME OF HONOUR

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**Abstract--**India is a country of culture and custom .It's almost a patrimony of people to give importance to ethos and tradition in comparison to other feelings. Such approach has developed in that manner that superstitions have darkened the belief of people. "Honour Killing" is a glaring example of such notion .As a consequence, in this present era killing is taking place in the name of "Honour".The prime reason behind this killing is Inter-caste marriages which strongly support tradition and custom are of high prominence at the cost of "Lives". It is a merciless crime against mankind and rampant in our society like a malady. So to stop this social evil this Research Paper is primed. Social awareness through implementation of laws is highly essential to make people aware and alert to eradicate this problem from society completely.

**Key words-** Custom, Tradition, Honour, Patrimony.

## INTRODUCTION

There has been a spate of Honour Killings in the country recently. Supreme Court has defined<sup>1</sup> "Honour Killing"as, "Honour killing is nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons, it is an act of barbarism". It's really startling to note that why this noble word "Honour" should be coupled with 'killing". "Honour Killing" has brought the entire feminine fragment of the world in hurly-burly. Where on one side, the feminine section is toiling to establish their proficiency to its full potential everywhere; on the other hand, they have to cross several hurdles to create an identity even within their own family. India is a country where women were worshipped as "Goddess" on the other hand, left to die after severe torment and torture. The first and foremost reason behind it that she is a "woman" and is not in a precarious condition whether she is an unborn or an old .In the words of Justice Saghir Ahmed,<sup>2</sup>unfortunately in our country woman belongs to a class of group of society, who are in disadvantageous position on account of several social barriers and impediments and have, therefore, been the victims of tyranny at hands of men with whom fortunately under the Constitution they enjoy equal rights.

## DEFINITION AND CONCEPT OF HONOUR KILLING

Honour killings are a part of community mindset. It is also termed as "Customary killing". There is no legal definition of "Honour Killing" till date neither any definition has been universally recognized. Human Rights watch<sup>3</sup> defines "Honour Killing" as follows:-

"Honour crimes are acts of violence, usually murder, committed by male family members against female family members, who are held to have brought dishonor upon the family." The mere perception that a woman has behaved in a way that "dishonours" her family is adequate enough to generate an attack on her life.

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<sup>1</sup>Bhagwan Das vs.State (NCT) of Delhi, AIR 2011 SC 1859 at p.1863.

<sup>2</sup>Bodhistawa Gautama vs. SubhaChakraborty, 1996 SCC (1)490.

<sup>3</sup> Violence against women and honour crimes: Human Rights Watch [www.hrw.org/press/2001-04/unoral](http://www.hrw.org/press/2001-04/unoral) 120405.htm.



In brief, it can be said, Honour killing is the killing of a member of a family or social group by other members due to the belief of the perpetrators that the victim has brought shame or dishonor upon the family or community. Killing of women on the basis of family honour is considered as one of the most perilous method of discrimination against them and is an unyielding infringement to her basic human rights.

Several factors are responsible behind this heinous crime they are as under:

- 1) Inter- caste marriages
- 2) When marriage takes place without consent of family members or love marriages.
- 3) Refusing to enter into an arranged marriage
- 4) Seeking divorce even if from an abusive husband.
- 5) Being the victim of sexual assault
- 6) Adultery and other sexual acts etc.

According to the Sociologists, the rationale for increase in 'Honour Killing' is the fear of the so-called moral policing to lose their caste status through which they expand many benefits which enables them to commit this monstrous crime.

#### HISTORY OF HONOUR KILLING

Honour Killing is prevalent since ancient times For example; the Code of Hammurabi of Babylon which was issued in 1790 B.C penalized adulterous couples by drowning. The 1075 B.C Assyrian Law of the civilization of Mesopotamia stated that the father of a tarnished virgin shall punish his daughter however he saw fit. In the holy book Bible the Book of Genesis, Judah demanded for the burning of his daughter-in law Tamar, whom he was told to be pregnant via fornication; this view is supported in Book of Leviticus. Honour Killings were also encouraged in Rome, China and Egypt .In Shakespeare's Titus Andronicus play Lavina, the main character was killed after she was being raped by her father. In Britain, for example, the fifth wife of Henry VIII was beheaded based on allegations of adultery. In British literature, Shakespeare's another famous character Desdemona was killed over allegations of infidelity, and Romeo and Juliet tracked an ancient family feud over honour. King Arthur and the Knights of the Round Table centered on notions of honour. The premise of the Three Musketeers was the King's guards avenging the betrayal of the king by Cardinal Richelieu.<sup>4</sup>Origin of Honour Killing took place in Baluch and Pashtun tribal custom. Now International Women's Human Rights group reports that, Honour killing also occurs in Bangladesh, Brazil, Ecuador, India, Israel, Italy, Morocco, Sweden, Turkey, Uganda and United Kingdom<sup>5</sup> .It is mostly prevalent in Muslim countries. In India, it is mostly prevalent in states such as Punjab, Haryana, and Western area of Uttar- Pradesh and in some parts of Bihar. Number of cases is unreported. Honour killing is an affront to Right to life with human dignity.

The origin of "Gotra" goes back a long way. Like the Christian belief that all human beings are descended from Adam and Eve same prediction by the Hindus that all have descended from certain sages like Bhardwaj, Vashist, Vishwamitra and so on. This belief enable them that persons belonging from same gotra are 'siblings' "and should not have the right to marry each other. This conservative ideas giving rise to this atrocious killing and that too, in the name of "honour".

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<sup>4</sup> LawZ Vol.10 No.8, Issue 108, Aug.2010 P.10

<sup>5</sup> LawZ Vol.11, No.5, Issue 105 May 2010 p.25



#### INDIAN LAWS ON HONOUR KILLING

The Constitution of India<sup>6</sup> which is considered as a supreme and prime legislation of land guarantees certain **fundamental rights** which in brief are as under:

- 1) Right to equality (Article 14)
- 2) No discrimination on the grounds of race, religion, caste, sex or place of birth or any of them (Article 15)
- 3) State is empowered to make special provision for women & children (Article 15(3))
- 4) Equality of opportunity in public employment (Article 16)
- 5) Right to life, liberty and security (Article 21)

Certain **Directive principles and Fundamental Duties** correlated with women protection:

- 1) Equal rights of men and women to adequate means of livelihood Article 39(a).
- 2) Equal pay for equal work for both men and women Article 39(d).
- 3) Just and human conditions of work Article 42.
- 4) Duty to raise the standard of living and improvement of health Article 47.
- 5) Renounces practices derogatory to the dignity of women Article 51(A) (e).

The Hindu Marriage Act, 1955 which govern the marriage between two Hindus Section 5 of the Act clearly state certain essential requisites they are as under:

- 1) Neither party should have a spouse living at the time of marriage.
- 2) At the time of marriage both the parties should be capable of giving a valid consent to the marriage.
- 3) The bridegroom should have attained the age of 21 years and the bride 18 years at the time of marriage.
- 4) The parties should not be within the degrees of prohibited relationship or Sapinda relationship unless the custom or usage permits such a marriage.

So it is noteworthy, that under Hindu Marriage Act, 1955 there is no bar to an inter-caste marriage rather it has given dispensation and priority that once a person becomes major he or she can marry whosoever he/she likes and that's the crucial rule of a democratic concept which India is.

Special Marriage Act, 1954 also legalize marriages in India .It was enacted to provide a special form of marriage for any person in India and all Indian nationals in foreign countries irrespective of the religion or faith followed by either party to the marriage. Essential requirements are:

- 1) Neither of the two parties has a spouse living at the time of marriage.
- 2) Neither of the two is incapable of giving valid consent to the marriage due to unsoundness of mind.
- 3) Neither of the party has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriages or procreation of children.
- 4) Neither party has been subject to recurrent attacks of epilepsy or insanity.
- 5) The groom must have completed the age of 21 years and the bride 18 years at the time of marriage.

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<sup>6</sup> M.P Jain, *Indian Constitutional Law*, 2000 (Kamal Law House, Kolkata, 5th Ed. 2000).



- 6) Both the parties should not be within degrees of prohibited relationship unless custom or usages permit so.
- 7) Where the marriage is solemnized in the State of Jammu and Kashmir, both parties are citizens of India domiciled in the territories to which this Act extends.

Section 299 and 300 of Indian Penal Code, 1860 deals with “Culpable homicide” and “Culpable homicide not amounting to murder”. Honour Killing is coming under the category of both homicide and murder as knowledge and intention both are working to commit this dreadful crime.

The incidence of honour crime are increasing so rapidly as it's done very cruelly and cold bloodedly as it's a byproduct of a broader social construct. The Supreme Court also issued notices to the Centre and nine States on a PIL seeking directions to the Union government to make law to protect young couples from Honour Killings. A vacation Bench comprising Justices R.M. Lodha and A.K. Patnaik issued notices on a petition filed by an NGO Shakti Vahini alleging that young couples lives are under the threat of Khap Panchayat. Law Minister M. Veerappa Moily replied after this, when Draft was already finalized and Government is planning to bring a Bill in the Monsoon Session of Parliament in 2011 to provide for deterrent punishment for “Honour killings”. An amendment was proposed to insert a clause under section 300 of IPC to deal exclusively with Honour Killings. Law Commission of India took initiative and has drafted a Bill “*The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011.*” It also want to amend the Indian Evidence Act, 1872, Special Marriage Act, 1954, which would do away the provision for the mandatory 30 days notice period for marriages intended to be solemnized under this Act. Till date, there is no adequate implementation of it and hence no comprehensive legislation to restrain this frightful crime. So, crime remains as crime and sufferings continuing.

#### ROLE OF KHAP PANCHAYAT

Khap Panchayat or Katta Panchayat or Kangaroo Courts are section of people of one particular caste deal with the matters related to Honour Killing. They completely ignored the Constitution of India, the supreme law of the land. The role of Khap Panchayats in dealing with Honour crimes are entirely unconstitutional and illegal as they don't have any right or credentials to deal with the same. Among the several instances of Khaps issuing *fatwas* in Jaundhi, Asanda, Dharana, Singhwai, Hadaudi, Maham-Kheri, Ludana and other villages the married couples were declared siblings, and families made to suffer boycotts and excommunication from the villages or maximum their dictum end up with death, forcefully committing suicide and so on. Haryana is notorious for incidents of honor killings, mainly in the upper caste of society, among Rajputs and Jats. Honor killings have been described as “chillingly common in villages of Haryana dominated by the lawless ‘Khap Panchayat’ (caste councils of village elders)”. In the name of Justice what a ridiculous role they are playing and that too, in this 21<sup>st</sup> Century openly. According to India's Democratic Women Association about 900 Honour killings happened in Haryana, Punjab and UP. And another 100–300 cases in the rest of the country. Brother shooting sisters, grandmother killing granddaughters, mother strangulating daughters, father arranging daughter and son-in-laws death – all these incidents taking place in the name of so-called “Honour”.

**IMPORTANT CASES OF HONOUR KILLING**

- 1) Arumugam Servai & Ors. vs. State of Tamil Nadu, 2011(2), SCC 405.
- 2) Bhagwan Dass vs. State of NCT, Delhi 2011(5), Scale 498.
- 3) Fiaz Ahmed Anger & Ors. vs. State of J& K 2009(3), R.A.J.692.
- 4) Lata Singh vs. State of UP & another AIR 2006 SC 2552.
- 5) Manoj Babli Case, Murder Reference No.2 of 2010 Criminal Appeal No.479-DB of 2010 and Criminal Revision No.2173 of 2010.
- 6) Shakti Vahini vs. Union of India, W.P (Civil) No.231 of 2010.
- 7) Smt. Laxmi Kahhwaha vs. The State of Rajasthan AIR 1999 Raj 254.
- 8) State of U.P vs. Krishna Master, AIR 2010 SC 3071.
- 9) Vivek Kumar @ Sanju vs. The State, Crl.M.C.No.3073-74/2006 decided on 23.02.2007.

**CONCLUSION**

Honour Killing is not a new phenomenon. It is as old as the patriarchal system itself. On achieving Independence it was believed that India will usher into a Modern National State where there will be no exploitation and suppression. But killing of a human being in the name of "Honour" is really a disaster in this belief or dream. It has become obligatory to avert the society from such happenings. At first, the mentality or mindset of the people need to be changed as marriage is such a tie in which parties have full right to select their own spouse as per their own preference. It is not a two three hours show which entertain and affects our mind but a matter of elongated life. So selection of proper life partner is highly essential to lead a benign marital life. Secondly, we need to have a strict laws to tackle "honour killings" and to curb the illegal powers of "Khap Panchayat". As in the words of <sup>7</sup>Samuel Taylor Coleridge- "*Our own heart, and not other men's opinion, forms our true honour*".

Indian society is a multicultural and pluralistic where lot of beliefs and faith regulate the human life of the individuals. The Indian spiritual holy books i.e., *The Bhagvat Gita*, *The Mahabharata*, *The Ramayana*, *The Quran*, *The Bible*, etc. have been model of thinking pattern on Indian society. The caste system as well as tradition patterns have conclusive religious influence over the individual. It is observed that, honour is the most precious thing in Indian society. It varies from culture to culture, religion to religion and place to place. Women in all societies are the sources of history, custom and traditions of their community.

It is observed that in 2000, Asama Jahangir, a United Nations Special Rapporteur, reported that, the practice of honour killings are growing. The United Nations Population Fund (UNFPA) estimates that, the annual worldwide total of honour killings victims may be as high as 5000<sup>8</sup>. It shows that rate of customary evil practices is everywhere in the world. According to United Nations report of the Special Rapporteur concerning cultural practices in the family that are violent towards women, it indicates that violence against women all over the world.

It is pointless to say that there is an urgent need to deal with the malevolent practice of "Honour Killings" by setting up a Committee to investigate the issue and come up with curative measures. The issue of a separate law to deal with the "declining assaults and violent action against young adults" has been

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<sup>7</sup> <http://www.inspirationalquotes4u.com/honor/index.html>

<sup>8</sup> The State of World Population 2000- Chapter 3; Ending Violence Against Women and Girls United Nations Population Fund, Criminal Law Journal Sept, 2012, Vol. 118, Part-1353.



pending for long, and it is a great disappointment to all democratic minded citizens in this country who are horrified at the declining muggings and violent action against young adults who assert their constitutionally and legally protected rights for self-choice marriage/ relationships. They had expected the Central Government not to procrastinate any further and to take steps to ensure an adequate legal framework to address this increasing crime and to bring some relief to affected couples. The country was not aware that in some states where this crime was taking place, there were political considerations at work to modulate its magnitude, an attempt by those in office to defend the action of self-styled caste panchayats in the name of tradition. Law needs to be used as an apparatus in bringing about a social change. What is required is a stable decision by the Government for a distinct law. Lot of exploration investigations need to be taken up. The networking of the police, judiciary, government, non-governmental organizations, human rights activists, sociologists, social workers, and psychologists are to be united in order to alleviate this social evil. As “Honour” will subsist if there is “Life” without life there is no value of honour and pride.

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