

# HONOUR KILLING IN INDIA

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## STATEMENT OF PROBLEM

The term “honour” is derived from Latin word *hones*, *honouris* which means honor, confidence and reputation. It is identified by various titles at different locations such as ‘Izzat’ in Arabic, ‘Nammoos’ in Persian and Turkish, and ‘Ghairat’ in Urdu, Hindi and Punjabi.

Honour killing has been common in the discourses of law and the policy. Literature has recorded instances where abuse is committed against communities and community governing bodies, abducting or executing men and women for transgressing the unofficial family codes. The term 'honor offenses' has been blamed for maintaining the emphasis on masculine honor and eliding the systemic usage of violence that may not translate to murder to prevent women from retaining their preference of relationships<sup>1</sup>.

With the growing urbanization, women's schooling and jobs in new professions and the emerging middle class have had a strong impact paving the way for further inter-caste marriages. With the increasing impact of modernization and Western education in India, the traditional marriage traditions have obviously shifted. As well as contributing to the shifting trends of marriage, socio-economic development and globalization of the Indian economy has contributed to increased incidences of 'honor killings' of young brides and grooms.

At the beginning of this century, the word honour killing became more commonly recognized than the past decades. And, such killings are caste as an emblematic / troublesome nature of one faith Islam and its treatment of women, however several incidences of honor killing have occurred within the Hindu societies, particularly in the states of Rajasthan, Haryana, Western U.P and partly in Punjab. We traced the elements of colonial problematisation of pregnant aboriginal gender ties with much exploitation and intimidation of women.

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<sup>1</sup> Pratiksha Baxi, Shirin M. Rai and Shaheen Sardar Ali “Legacies of Common Law: 'Crimes of Honour' in India and Pakistan” *The Politics of Rights: Dilemmas for Feminist Praxis* (2006).

Despite the fact that the society does not react adversely to young girls gravitating towards the western culture, in Haryana, killing to maintain family honour remains a reality. While attributing the same relationships as revolt and the reason for shame / lack of dignity to the girl's family, there is a socio-cultural context. It should be found out that while all instances of passion and marriage through private decisions do not result in honor killings, a love affair is regarded as a revolt in the family and society with the latter needing their honor to be protected. But, it has to be brought to notice that the honor killings in Punjab are distinct from that of Haryana as honour killings in Punjab were typically performed by the society and the chances of the news to propagate through media becomes fewer. Till date, there is no substantive legislation to prohibit honour killing .Cases which come up are dealt with under the Indian Penal Code, 1860.

## RESEARCH METHODOLOGY

This research paper is based on doctrinal, analytical and quantitative methodology. The doctrinal methodology is the one where the existing texts, principles are taken into the account and the basics of the phenomenon or the origin is studied. Whereas the analytical methodology is the one where the analysis of the whole topic is done and the evolution of the same phenomenon can be studied and how it differs from one place to other with the proper reasonings. Whereas the quantitative methodology is one where the number play their roles. It is very important to get the right numbers and ratio especially in the topic of honour killings.

## REVIEW OF LITERATURE

*LEGACIES OF COMMON LAW: 'CRIMES OF HONOUR' IN INDIA AND PAKISTAN* by Pratiksha Baxi, Shirin M. Rai and Shaheen Sardar Ali focuses mainly on contrasting honour killing crimes in India and Pakistan, based on the ground-level laws in both nations, and also discusses the difference between conventional and contemporary times with regard to honour crimes. This essay also helped to clarify the fundamental legal and cultural elements of the crime of honour killing that have not been stopped.

“EXPLORING THE MYTH OF MIXED MARRIAGES IN INDIA: Facts FROM AND NATION-WIDE SURVEY”<sup>2</sup> by Srinivas Goli, Deepti Singh and T. V. Sekher is an outstanding document, which is essentially a compilation of various studies performed in India on crimes against inter-caste, inter-religious marriages, which has actually tested the crime rate of honour killings across India. The paper also challenged the law and culture on honour killings in India.

“HONOUR KILLING INTERROGATING GENDER EQUALITY IN TODAY INDIA ”<sup>3</sup> Singh, Anamika is a study paper that reflects on honour killings in the northern part of India and has posed a host of questions relevant to honour killings in India.

“THE CRIME OF HONOUR KILLING A CRITICAL Study OF THE LAW IN INDIA AND THESIS”<sup>4</sup> by Sulakshana Mukherjee. Women make up about half of the country’s people, but their plight has been bleak. Before freedom, women became the victims of numerous abhorrent practises, traditional rigidities and vices. Honour Killing is taking place in our Indian community in the name of history and custom. From the idea of patriarchal supremacy to the presentation of a modern masculine mindset, the trend has been taking place autonomously. Many of these topics are discussed in the report.

## HISTORICAL CONCEPT OF HONOR KILLING

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The root cause of notions like honour and superiority, caste based hegemony is embedded in the religious texts. It was the *Purushasukta* of the Rig Veda which put forward the idea of Chaturvarna System. The institution of caste has been in existence from earlier phases of Indian history. People were assigned to the varied occupational tasks, based on the concept of impurity and purity. Even the interrelations, marriage processes with another caste group were strictly prohibited; only ‘Anuloma’ marriage type was permitted. Nambissan (2009) pointed, “If we look to the marriage system in Hinduism, marriage between any two castes is termed as inter-caste marriage and hence restricted, they were encouraged only to endogamy marriages within the Varna system. There were two forms of inter-caste marriage, i.e. ‘Anuloma’ (Hypergamous) and ‘Pratiloma’ (Hypogamy). ‘Anuloma’ marriage is a form of inter-caste marriage where men of higher caste marry women of lower castes. In ‘Pratiloma’ marriage form, men of lower caste marry women of superior castes. Manu and other ancient law-givers

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<sup>2</sup> Srinivas Goli, Deepti Singh and T. V. Sekher “Exploring the Myth of Mixed Marriages in India: Evidence from a Nation-wide Survey” Vol. 44, No. 2, Journal of Comparative Family Studies, (2013).

<sup>3</sup> <http://hdl.handle.net/10603/275483>

<sup>4</sup> <http://hdl.handle.net/10603/275483>

prescribed Anuloma. Pratiloma i.e., marriage of a woman to a man from a lower caste is not permitted.” Going beyond that, Manu Smriti while framing the penal codes stated that, “If the Shudra asked for the marriage with the girl from upper caste Brahmin, he should be penalised with death” (Manu Smriti, Chapter 8, Shlok 366). Thus the above phenomena clearly indicate the deep influence of religious theologies even in the 21<sup>st</sup> century.

In the 19th century, there was the wave of social reformers who were very unforgiving of all the orthodox practices. The credit of bringing meaningful transformation in the caste system goes to Jotiba Phule, E.V.Ramasamy Periyar, Dr.B.R.Ambedkar and many more. With regards to inter-caste marriages, viewpoints of Dr.B.R.Ambedkar and E.V.Ramasamy Periyar are very significant and need to be considered. Dr.B.R.Ambedkar stated, “The only question that remains to be considered is, how to bring reform in the Hindu social order? How to abolish caste? Apart from inter-caste dinners, I am convinced that the real remedy is inter-marriage. Fusion of blood can alone create the feeling of being kith and kin and unless this feeling of kinship, of being kindred, becomes paramount the separatist feeling-the feeling of being aliens-created by Caste will not vanish. Among the Hindus inter-marriage must necessarily be a factor of greater force in social life than it need be in the life of the non-Hindus. Where society is already well-knit by other ties, marriage is an ordinary incident of life. But where society cuts asunder, marriage as a binding force becomes a matter of urgent necessity. The real remedy for breaking Caste is inter-marriage. Nothing else will serve as the solvent of Caste.” Dr.B.R.Ambedkar termed inter-caste marriages as one of the steps to annihilate the caste.<sup>5 6</sup>

E.V.Ramasamy Periyar actively encouraged inter-caste marriages. He termed it the means to fight against the various elements of the caste system. He categorically favoured that. ‘marriage is a contract between a woman and a man. And it is not the function for the parents to get involved in it for any reason. The Self-Respect Movement started by him possessed the prime objective of making young people realise about marriage as their own concern and the interference from the parents is simply unreasonable. He further claimed that, involvement of elders in such arranged marriages solidifies the dowry system.

## CONSTITUTIONAL AND LEGISLATIVE PROVISIONS IN INDIA

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<sup>5</sup> Ambedkar, BR, DR.AMBEDKAR WRITING AND SPEECHES (2013), Vol-1. Part-2. Pp-37-124

<sup>6</sup> Ambedkar, BR SHUDRA PURVI KON HOTE? (2017). Pp-13-21,34-49

Honour killings also breach Article 14, Article 14(1) and (3), Article 17, Article 18, Treaty 19 and Article 21 of the Indian Constitution. In accordance with Article 21 of the Fundamental Rights chapter of the Indian Constitution, everyone, regardless they are citizens, is guaranteed the right to life and freedom. The existing constitutional provisions are sufficient to protect various human rights, including the rights to life, by various relevant decisions of the Supreme Court of India. The key rulings on the interpretation of the rights to life suggest that the right to live means the right to living with dignity, the right to live, education and health, etc. However, the interpretation of judgements does not require the freedom to marry a girl or boy of his own choosing, however the right to live with integrity is supported. Honour Killings are known as barbaric assassination cases under the IPC. Section 299 and 301 of the IPC deal with guilty homicides that do not constitute assassination while Section 300 deals with assassination. Honor murder is homicides and assassinations because the acts are carried out in order to murder the victims, as the family is supposed to be dishonoured. According to Section 302 of the IPC, criminals can be disciplined. Family and community members may also be prosecuted for instigating suicides under Section 302 of the IPC by people who violate so-called community standards.

### **AFFILIATION TO THE KILLERS**

There is no question that the family members of girls who are intolerant and harshly opposed to love relationships, elopements and secret weddings of their children perpetrate honour killings. They see these events as a huge societal embarrassment, of which only the assassination of a couple would compensate. Moreover, recognising the family or social affiliation of those who are prone to engage specifically in honour killing events is more significant. It is clear that the whole family as well as family members and even family mates are unanimous and adamant about killing target girls or couples. The key perpetrators of honour killings are male family members, including fathers and brothers. Notably paternal and maternal uncles often see the elopement or forced marriage of a girl in a lower caste or other faith as a major social humiliation and therefore take part in the success of honour killings. And mothers, though minimal, engage in destroying their daughters directly. It was reported that the orchestrated and coordinated cases of honour killings are sponsored by families, family members or the professional contract killers. But the murder of the girl and boy is presumably

carried out by father and/or brothers of the girl directly onsite after they are discovered in a compromising state, in a few instances (3%) with the help of mothers as well.<sup>7</sup>

In such killings, a major role of Khap panchayat is observed. Khap Panchayat in India, especially in North India, are caste or communities that are essentially found in rural areas and act as quasi-judicial bodies and pronounce harsh punishments on the basis of age-old customs. Several cases of male and female victims of 'Khap' dictatorships have been recorded over the years, especially in states such as Haryana, Punjab, UP and Rajasthan. Khap Panchayat is an old age institution whose origin can be traced back to 600 A.D., but the exact origin of the Khap Panchayat is not known. Since then, it has worked as a social institution providing justice in rural areas, but without applying the principles of natural justice. It can be called either Khap Panchayat or Panchayat caste. It comprises mostly of the elderly of the village or of citizens belonging to the upper caste.

However, a significant change by the Hon'ble Supreme Court was observed in the case of *"Shakti Vahini V. Union of India and Others"*<sup>8</sup>, when deciding on the jurisdiction of the Khap Panchayat, held that where two main persons who wish to marry each other do not need the permission of the families, the community is not necessary and Khap Panchayat therefore does not have the authority to decide the legitimacy of their marriage and to do so. *"What we have mentioned above, to illustrate, is that the approval of the family or the society or the clan is not required as soon as the two adult individuals agree to join a marriage. Their approval must be granted a godly primacy. When a crime is perpetrated by one on the grounds of a penal statute, it must be determined in compliance with the law referred to as the concept of criminality. There is no place for informal structures to provide justice. That is because a policy regulated by the "Rule of Law of the European Union", only recognises the declaration of rights and the breach of such rights by the formal mechanisms set up to deal with those circumstances. It must always be kept in mind that the rule of law as a term is intended to provide justice in a community. It is mindful of human rights. Therefore, the Khap Panchayat or any Panchayat in any nomenclature cannot make a dent in the exercise of that right."*

## HONOR KILLINGS IN HARYANA AND PUNJAB

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<sup>7</sup> Saimani, S. Hate Crimes Against Vulnerable Sections of the Society (2009). SSRN 1471251

<sup>8</sup> AIR 2018 SC 1601

Haryana and Punjab are the two states where honour killings occur very often. Haryana's socio-cultural subsistence consists of the pattern of semi-tribal and patriarchal culture, the bulk of the rural community, and in Haryana and Punjab, India, the agricultural occupations; social traditionalism, cultural conformism, notwithstanding the rapid growth of the economy and infrastructures. Honorary abuse and honour killings in the area are not a recent practise. A comprehensive analysis of the social and cultural attitude of the major communities, particularly of martial communities (especially the Jats), shows the importance of the word 'honour' among those communities. The term honour portrays highly detailed Haryana connotations and is viewed as a very significant aspect of socio-cultural ideals. The connotation of honour killings and honour killings of women in the country is multidimensional. One factor is that whether a woman in the family is disregarded, tainted, harassed, or sexually manipulated by another individual, she is deemed an assault on the dignity of male members of the family which can therefore result in her killing by aggression against the accused. The other segment applies to cases in which a married woman has a friendship with husband and husband which is called a murder of the honour of her husband. A girl who has a pre-marital romantic or sexual relationship with a boy and/or wants to marry a boy of her own choosing is another type of honour based abuse, contributing also to honour murders. The girl's intimate or sexual involvement before marriage is therefore viewed by the girl's male relatives as a lack of honour and thus cannot be accepted. And if the girl is ready to marry the boy of her own choosing, she is known to harm the reputation of the house. The condition is further compounded by the fact that the boy with whom the girl is associated and/or ready to marry belongs to the lower caste or the other faith. There are strong risks of honor-based abuse against a child that typically contributes to the death of a girl, a boy or both. This study focuses on this specific type of honour killings in Haryana State. As stated previously, Haryana has several parallels with the state of Punjab in the socio-cultural pattern. One of the most troubling in Haryana is the fear of honour killings. Next to the Punjab, however, Haryana often portrays the features of tribal or semi-tribal areas in terms of the rural masses' socioeconomic and socio-cultural mindset. Resistance to marriages of love and in particular intolerance of inter-caste interfaith marriages frequently contributes to honour killings in Haryana and Punjab.<sup>9</sup>

## CONCLUSION

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<sup>9</sup> Chowdhry, P. PRIVATE LIVES, STATE INTERVENTION: CASES OF RUNAWAY MARRIAGE IN RURAL NORTH INDIA. (2004) Modern Asian Studies. Pp – 55, 63, 84.

Honor is the most respected spiritual characteristic of humanity. It is profoundly embedded in its existence. Protection of dignity, often at the risk of existence, has been prevalent among human beings since centuries. Honor is both a parenthood and a person linked phenomena. Both men and women are sensitive to the protection of their honour. But in our country, the meaning of honour remained confined to the control of women and their sexuality. This control has ensured the honour of group representatives and family members in a social environment.

Such mixed marriages must be encouraged to break the barriers that exist between Indian communities and thus negatively affect the socio-economic development of Indian society. The large-scale incidence of mixed marriages through societies remains a remote prospect, owing to the high prevalence of faith and caste identities in Indian culture, including among the educated and middle classes. However, marriages across economic strata are more likely to occur within the same caste and religion, with increased mobility of individuals due to educational and employment choices. Mixed marriages may be marketed as a vital measure of socio-economic integration in India. There are several forms of sexism and crimes against women in India. Caste, gender and religious honour crimes against women in India are becoming a major threat to both men and women. The data showed that honour killing is a way to regulate the sexuality of women and to keep them under patriarchal rule, but at the same time because of the patriarchal structure centred on caste in India. Honour killing is becoming a tool to teach Dalits and other poor society lessons. In the other side, the perpetrators are behaving on the grounds of patriarchal notions of regulating their people, while at the same time they wished to preserve their race, class and religious hierarchy. Thus, in the Indian sense, treating honour killing as a patriarch-related concern will potentially weaken the issue as the key motive behind these crimes is connected to the wider ideologies.

Primarily, the main issues behind such violence are premarital virginity, illegal love affair, adultery, social promiscuity and improper and loose behaviour. The reasons behind such violence differ from region to area and from group to community. In India, two basic pillars – the religiously dictated caste system and the economically divided class structure – are a major threat to a young Hindu couple's decision to marry across their caste or class.

Honour Killing is a ghastly uncalled and unwanted act for the brutal assassination of a woman in defiance of the established sexual standards of a patriarchal society. In the 21st century, under the influence of globalisation, post-modernization of post-colonial India, the age-old patriarchal rural social system is on the verge of collapse.

