



## Honour Killing in India: A Challenging Facet of Human Rights

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(Received 02 January, 2018, Accepted 02 March, 2018)

(Published by Research Trend, Website: [www.researchtrend.net](http://www.researchtrend.net))

### Supreme Court judgement on Honour Killings-

*“There is nothing honourable in Honour killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment.”*

Honour killings are part of a community mentality. According to human rights activists, honour killings are a very serious problem of violence against women. Every year thousands of lives are sacrificed, irrespective of caste, creed, religion or social status of the family. People kill their own kin and kiths in the name of family's or caste's pride and honour. The rural poor and rich often see the protection of family honour as a solemn duty even if it costs the lives of a few loved ones. In a sentence, honour killing is a result of a self-contradictory fight between tradition and neo-cauterized generation. The act of honour killing has various negative aspects which not only affect the families of the victims but also the society at large.

Large sections of society share traditional conceptions of family honour and approve of “honour” killings to preserve that honour. Honour Killings or Horror Killings- call them by any name they are just one of other crimes born out of the unholy traditions which survive on the blood of these innocent Romeos and Juliets who dared to marry out of their gotras. The number of love marriages might have gone up in the metros, but the dark reality remains different in villages of many states. To be young and in love has proved to be a nightmare for many young boys and girls, who in the name of “Honour” are being killed that too by their own family members.

### Definition of Honour Killing

“Honour Killing” means the traditional practice in some countries of killing a family member who is believed to have brought shame on the family. The so called “honour killings” are murders by families on family members who are believed to have brought “shame” on the family name. The apparent “shame” could be caused by a victim refusing to enter into an arranged marriage or for having a relationship that the family considers to be inappropriate. Some victims are driven to suicide from the pressure of their families.

In the modern age, the term was first used by a Dutch scholar of Turkish society, Ane Nauta in 1978. Nauta sought a term that could be used in contradistinction to the blood feud, with which honour killings should not be confused. Human Rights Watch defines honour killings 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 dishonour upon the family” [1].

According to Segen's Medical Dictionary, “The killing of a woman by one or more members of her family after she has dishonoured (or thought to have dishonoured) them in some fashion e.g., by committing adultery or other sexual indiscretion or by marrying against the family's wishes.” [2].

Thus, an honour killing, called a customary killing, is the murder of a (typically female) family or clan member by one or more fellow (mostly male) family members, in which the perpetrators (and potentially the wider community) believe the victim to have brought dishonour upon the family, clan, or community.

### Honour Killing in History

Honour killings and punishments have been documented over centuries among a wide variety of ethnic and religious groups throughout the world. For example, the Code of Hammurabi of Babylon which was issued in 1790 BC penalized adulterous couples by drowning. The 1075 BC Assyrian law of the civilization of Mesopotamia stated that the father of a defiled virgin shall punish his daughter however he saw fit. In the Bible, the Book of Genesis, Judah demanded for the burning of his daughter-in-law Tamar, whom he was told to be pregnant via harlotry; this view is then supported in Book of Leviticus. Matthew Goldstein also noted that honour killings were encouraged in ancient Rome, where male family members who did not take actions against the female adulterers in their family were “actively persecuted” [3].

The history of the practice of honour killing in India may date back to thousands of years. The social structures, rules and bindings have been very strong for centuries and there exists an approval of

the killings within the religion and social norms of the subcontinent. Yet the strong social boundaries may have prevented the behaviours that would lead to such punishments. The best example is that of Ramayana, where Ravan's sister, Surpnakha had done 'Gandharva Vivah' with army chief 'Viduth Julvey' in a place called 'Kalikey'. Ravan took it as an insult to his family, so in order to maintain his respect, he killed her husband. Thus, honour killing is prevalent since ancient times and needs a full stop to be put to it.

### ***Causes of Honour Killing***

There are various reasons why people or family members decide to kill the daughter in the name of preserving their family honour. A woman can be targeted by her family for a variety of reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce even from an abusive husband or (allegedly) committing adultery. The mere perception that a woman has behaved in a way that dishonours her family is sufficient to trigger an attack on her life.

The perceived dishonour is normally the result of the following behaviours, or the suspicion of such behaviours: (a) utilizing dress codes unacceptable to the family or community, (b) wanting to terminate or prevent an arranged marriage or desiring to marry by own choice, or (c) engaging in certain sexual acts, including those with the opposite or same sex. Such killings or attempted killings result from the perception that the defence of honour justifies killing a person whose behaviour dishonours their own clan or family. Honour killing is more prevalent where a member of a lower class (social status or wealth status) marries a person of relatively higher class (high social or wealth status).

### ***Honour Killing Crimes in India***

In India "honour killing" can be defined as the death sentenced by family or society members to a man or woman for marrying against parent's wish, having extra-marital or pre-marital affair, marrying outside one's caste or within same gotra etc., in order to protect the social status and honor of the family. The dishonour perceived in this kind of killings may be a result of behaviors as trivial as dressing in a manner unacceptable to the family or community, or having a non-sexual relationship that is perceived as inappropriate. Among the victims, majority are women and girls as compared to men.

The honour killing practice in modern history seems to have gained momentum since the partition of India in 1947. The tradition was first viewed most brutal and horrible during 1947 and 1950, when women were forcefully killed to protect the family's honour. A lot of forced marriages and rapes were causing women from India to marry men from Pakistan and vice-versa. This would trigger the hunt for the people marrying in other country, other religion, or caste and when they return home, they would be killed so that the family honour is preserved and the family is not declared outcaste. The socio-political environment during this period caused women to be made victims for humiliation among conflicting communities leading to the humiliated families killing women of their own families. This is the shocking and appalling fact that over the years a large number of couples are being killed across the country for honour.

So called Honour based violence occurs in communities where the concepts of honour and shame are fundamentally bound up with the expected behaviours of families and individuals, particularly those of women. The most extreme form is honour killing, but in other circumstances, the victim can be subjected to long-term low level physical abuse and bullying as a punishment for bringing dishonour on the family. Such crimes include battery, torture, mutilation, rape, forced marriage, imprisonment within the home, and even murder. These crimes are intended to protect the family honour by preventing and punishing women's violations of community norms for behaviour, particularly sexual behaviour. These crimes are often collective and premeditated.

In India, there are various reasons why people or family members decide to kill the daughter in the name of preserving their family honour. The most obvious reason for this practice to continue in India, albeit, at a much faster and almost daily basis, is because of the fact that the caste system continues to be at its rigid best and also because people from the rural areas refuse to change their attitude to marriage. According to them, if any daughter dares to disobey her parents on the issue of marriage and decides to marry a man of her wishes but from another gotra or outside her caste, it would bring disrepute to the family honour and hence they decide to give the ultimate sentence, as in death, to the daughter. Now as has become the norm, the son-in-law is killed as well.

Sociologists believe that the reason why honour killings continue to take place is because of the continued rigidity of the caste system. Hence the fear of losing their caste status through which they gain many benefits makes them commit this heinous crime. The other reason why honour killings are taking place is because the mentality of people has not changed and they just cannot accept that marriages can take place in the same gotra or outside one's caste. The root of the cause for the increase in the number of honour killings is because the formal governance has not been able to reach the rural areas and as a result. Thus, this practice continues though it should have been removed by now.

In the recent times the cases has been on the increase in India and in current scenario when the State has remained mute spectators there is a lot of fear spread among the young generation and couples who are married and some of them intending to get married that they may face the wrath of such feudal forces. Many a times the

pressures are so intense that the couples resort to suicide. In the recent cases have come to light where couples are being killed, publicly humiliated and declared as brothers and sisters. Couples have faced social ostracisation from the society. Many have been killed in cold murder after torture.

There are various misconceptions regarding the practice of honour killing. The first misconception about honour killing is that this is a practice that is limited to the rural areas. The truth is that it is spread over such a large geographical area that one cannot isolate honour killings to rural areas only, though one has to admit that majority of the killings take place in the rural areas. But it has also been seen recently that even the metropolitan cities are not safe from this crime. So it can be seen clearly that honour killing is not isolated to rural areas but also to urban areas and as already pointed out, it has a very wide geographical spread. The second misconception regarding honour killing is that it has religious roots. Even if a woman commits adultery, there have to be four male witnesses with good behavior and reputation to validate the charge. Furthermore only the State can carry out judicial punishments, but never an individual vigilante. So, one can clearly see that there is no religious backing or religious roots for this heinous crime.

In the recent times the cases of honour killing has been on the increase. Honour killings have been reported in northern regions of India, mainly in the Indian states of Punjab, Rajasthan, Haryana, Uttar Pradesh, as a result of people marrying without their family's acceptance, and sometimes for marrying outside their caste or religion. In contrast, honor killings are rare to non-existent in South India and the western Indian states of Maharashtra and Gujarat. In some other parts of India, notably West Bengal, honor killings ceased about a century ago, largely due to the activism and influence of reformists [4].

Among Rajputs, marriages with members of other castes can provoke the killing of the married couple and immediate family members. This form of honour killing is attributed to Rajput culture and traditional views on the perceived "purity" of a lineage.

In 1990 the National Commission for Women set up a statutory body in order to address the issues of honour killings among some ethnic groups in North India. This body reviewed constitutional, legal and other provisions as well as challenges women face. The NCW's activism has contributed significantly towards the reduction of honour killings in rural areas of North India. According to Pakistani activists Hina Jilani and Eman M. Ahmed, Indian women are considerably better protected against honour killings by Indian law and government than Pakistani women, and they have suggested that governments of countries affected by honour killings use Indian law as a model in order to prevent honour killings in their respective societies [5].

#### ***Honour Killing Statistics in India***

Honour killings in India have grown by more than 796% from 2014 to 2015, according to latest crime data. While 28 murders were reported under this category in 2014, this number jumped to 251 in 2015, as per the National Crime Record Bureau statistics [6]. This spike could be a result of more vigilant reporting of these crimes, which largely go unreported.

The highest such crimes were reported in Uttar Pradesh, where 131 honour killings were reported in 2014. In contrast, there was only one such case of honour killing in UP in 2014. In Gujarat, 21 such cases were reported last year, while the number was 14 in Madhya Pradesh.

As many as 288 cases of honour killing were reported between 2014 and 2016, the Lok Sabha was informed today. Responding to a query in the matter, Minister of State for Home Affairs Hansraj Gangaram Ahir presented the National Crime Records Bureau (NCRB) data related to honour killings for the year 2014, 2015 and 2016 [7].

According to the data, 28 honour killing cases were reported in 2014, 192 in 2015 and 68 in the year 2016. Sixty-five cases of culpable homicide for the motive of honour killing have also been reported between 2015 and 2016.

#### ***Honour Crimes and Indian Law***

There was no specific legal framework to address the problem of honour killings but the Director General of Police and additional DGP have issued directions to ensure compliance with the provisions of Protection of Women from Domestic Violence Act, 2005 [8].

So far, there is no specific law to deal with honour killings. In India honour killings are rising day by day despite stringent Indian laws. Stringent Indian laws on honour killings fail to curb the increasing trend. The victims have approached the law enforcement agencies and still faced severe trauma and humiliation. The law enforcement agencies continue to be mute spectators while doing lip service work and have been mostly confined to intervention after an incident has happened. Indian laws pertaining to honour killings are covered under the Indian Penal Code. Clearly, the Indian Penal Code considers honour killings as a heinous crime. Unfortunately, honour killing is not classified as a separate crime in India. However, the government of India is set to add new section to the criminal law to define honour killing as a separate crime and alarmed by the rise of honour killings, the Government planned to bring a bill in the Parliament to provide for deterrent punishment for honour killings.

### ***Judicial Behaviour and Honour killing***

There are various judicial decisions given by the High Courts and the Supreme Court of India relating to honour killing crimes. In present democracy like India it is a shame that there is no legal safe guard to address honour killing crime that has steadily increased over the last few decades. The Indian judiciary plays an important role to protect the rights of individuals by way of its various decisions and directions. Judiciary always tries to control or eradicate honour killing practice through the judgements and decisions of the court. Judiciary has the significant function of enforcing the Fundamental rights of the people granted to them by the Constitution. On 21 June 2011, a bench of Justice R.M. Lodha and A.K Patnaik issued notice to the centre and some states, the state of Punjab, Uttar Pradesh, West Bengal and Haryana for taking appropriate measures on the growing issue of honour killing on filing petition by the NGO 'Shakti Vahini' [9].

On issue of honour killing case of State of Uttar Pradesh v. Krishna Master and another [10]. Supreme Court awarded life imprisonment to three person's six family members were gunned down, but said accused deserved death sentence.

In another case of Lata Singh v. State of U.P. and Another [11] where Justice Ashok Bhanand Markande Katju expressed views on honour killing issue that, over the several instances of harassment, threats and violence against young men and women who marry outside their caste and held that, Such acts or threats or harassment are wholly illegal and those who commit them must be severely punished". Court also gives trace on that, Inter-caste marriages are in fact the national interest as they will result in destroying the caste system. Further, more the bench of court said that, 'once a person becomes a major he or she can marry whosoever he or she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religion marriage the maximum they can do is that they can cut off social relations with the son or daughter, but cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such intercaste or inter-religious marriage'. It is observed that, in order to control and eradication of honour killing evil practices, the bench of court directed to the administration and police authorities throughout the country see it, that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with woman or man is a major, the couple are not harassed by any one nor subjected to threats or acts of violence and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law'. Moreover Court said that their nothing honourable in such killing and in fact they are nothing but barbaric and shameful acts of murder committed by brutal and feudal minded persons who deserve death sentence.

In June 2010, scrutinizing the increasing number of honour killings, the Supreme Court of India issued notices to the Central Government and six states including Uttar Pradesh, Punjab, Haryana and Rajasthan to take preventive measures against honour killings [12].

Nirupama Pathak, one of the names that hit the headlines in 2010, in national as well as international media. She was a 22-year-old journalist, reportedly three-month pregnant, who was found dead in the last week of April, 2010. Nirupama's family claimed that she committed suicide, but the post-mortem report showcased a different story altogether. According to the police, she was killed due to her being in love and adultery which resulted in her being pregnant [13].

In June 2012, a man chopped off his 20 year old daughter's head with a sword in Rajasthan after learning that she was dating men [14]. According to police officer, "Omkar Singh told the police that his daughter Manju had relations with several men. He had asked her to mend her ways several times in the past. However, she did not pay heed. Out of pure rage, he chopped off her head with the sword."

In the fascinating murder case [15]. of Honour Killing the Allahbad High Court acquitted Rajesh Talwar and Nupur Talwar in the 2008, Arushi Hemraj Double murder case. A bench of justice BK Narayan and AK Mishra granted the Talwar couple benefit of double white pointing out various loopholes in in the probe conducted in the double murder which has seen numerous conspiracy theories from the start when Arushi Talwar was found in her bedroom on may 16, 2008. The verdict comes as a big relief for the dentist couple who had appealed in the High Court against their conviction and life imprisonment awarded by the CBI court in November 2013. The couple had been lodged in Dasna Jail since then. The Case has seen many ups and downs since the beginning and marred by shoddy probe and inspired a film and a book penned by journalist Avirook sen [16].

The Supreme Court cracked a whip against Khap Panchayats in connection with cases pertaining to so called honour killing. The apex court told the Khap Panchayat to 'not become conscience keepers' as the 'law will take its own course'. Meanwhile, the top court asked the Centre and petitioners to come up with effective suggestions for the protection of couples from Khap Panchayats. While hearing the matter, the apex court told the advocate representing Khap Panchayats that 'it is the courts to decide, if marriages are legally valid or not.' It also pulled up the Khap Panchayats for taking the law into their own hands in the name of so called honour killing.

Earlier on January 16, the apex court rapped the Centre for failing to prevent attacks on couples, who did inter-caste marriages. The three-judge bench, headed by Chief Justice of India (CJI) Dipak Misra, said, "If the Centre does not act against Khap Panchayats, then the court will step in." The apex court also observed that "no

Khap Panchayat or society can question” if an adult man and woman opt for an inter-caste marriage [17].

In the case of 23-year-old man Ankit Sexena was stabbed to death, in the name of honour, by a girl’s family members in Delhi, the Supreme Court admonished khap panchayats and told them not to be the “conscience keepers of society.” Dismissing a submission by activist Madhu Kishwar, that honour killings should be re-designated as hate crimes, the SC pulled up khap panchayats and observed that no third party has the right to interfere between two consenting adults. Two adults are free to get married and “no third party” has any right to harass or cause harm to them, an apex court bench led by Chief Justice of India Dipak Misra. “When two people get into wedlock, no one should interfere. Neither parents, society, khap or panchayat... no one at all,” the bench that also comprised Justices AM Khanwilkar and DY Chandrachud observed. A senior counsel representing the khaps objected to the harsh portrayal of the panchayats as inciters of honour killings. The top court brushed aside his arguments and directed Additional Solicitor General Pinky Anand, representing the Centre, to suggest guidelines to curb honour killings [18].

### ***Honour Killing Needs New Legislation***

There is no separate law to punish those found guilty of such murders, and prosecutions are usually among various sections of the Indian Penal Code for homicide and culpable homicide not amounting to murder. Several efforts have been made to create a separate law dealing with honour killings but they have been unsuccessful so far.

1. As fast as possible come out with the New Law on Honour Killings as already announced by the Government.
2. Enforcement of harsh punishments should be there against anyone practicing this act.
3. State should take strict instructions to prevent Honour Killings and take proactive steps to prevent such killings.
4. The Central and the State Government need to come out with a paper on what steps they have taken to implement the Supreme Court Directions in 2006 in Lata Singh v. State of Uttar Pradesh.
5. Immediately come out with a National Plan of Action.
6. Immediately a National Level Meeting of State Secretaries and DGP is needed to plan out the preventive steps needed to curb such crimes.
7. The Central Government should ask the State Government /State DGP to convene a SSP level meeting and give clear instructions for the protection of such couples.
8. Come out with various help lines numbers and special cell where such couples can approach the administration for protection.
9. Constitute fast track courts for cases of Honour Killings.
10. Immediately amend the Special Marriage Act and reduce the period of registration of Marriage from one month to one week.
11. Awareness should be created in minds of people, passing on a message that there is no honour in honour killing.
12. Education should be provided especially to people living in the rural parts of the country regarding this issue.

It should be reminded that the Government of India have its duty to protect the rights of citizens, which is obligatory on them under Articles 14, 15 (1) & (3), 19, 21 and 39(f) of the Constitution of India. It should not be forgate that the Government of India have its obligations and commitment to protect its citizens from such violence under the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW) of which India is a signatory and has also ratified the convention. It is also against the spirit of Universal Declaration of Human Rights and International Covenant on Civil and Political Rights.

Thus, at the end, it can be said that honour killing has definitely done more harm than good. The families need to understand that there is no honour in killing one’s own child and that killing is not the only solution. In this 21st century it has to be understood that if a child of 18 years of age can be given a right to elect his own representative then he is smart enough to take his own personal life decisions and has the right to live. More than 1,000 young people in India have been done to death every year owing to Honour Killings linked to forced marriages and the country needs to introduce stringent legislation to deal firmly with the heinous crime. Therefore, honour killing is a grave sin and people practicing it should be given harsh punishment so that one should think twice before committing such crime.

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