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# HONOUR KILLINGS IN INDIA: A PATRIARCHAL IDEOLOGY AND MISOGYNISTIC ASPECT OF SOCIETY

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## ABSTRACT

The study delves deeper onto the critical analysis and showcasing the main agenda on the most forwarded tradition which is Honour Killing in India. The study found that honour killing underlies deep into the rural parts of the society and it is gender biased as well as abusive. There is a definitive need for a change and a revolution is must to stop the uncalled and unbecoming terror for women. No person has the right to take away the life and liberty of another. No human being know how to be left free if they infringe the law and in such case this is a felony which is violating many provisions set up for the protection of the citizenry at large. The crime of honour killing is ever-increasing at an elevated pace due to the multifaceted socio-cultural problems. To reinstate the honour and deference mislaid due to the intercaste love marriage. This crime among most crime forms the similarity but yet is a different one which is also been differentiated in the paper. This is a strict warning to the society that what's next to come is critical and society must balance a proper life to live in progressiveness. Life is meant to be lived to the fullest and not to be disturbed on anything such as doing evil things altogether.

**Keywords:** Agenda, revolution, uncalled, mislaid, liberty, progressiveness.

## **Introduction**

India has always been known for its continuous development in terms of its every dimension. Notwithstanding the facts related to its growth in culture, religion, caste and gender, India has consistently scored in the mid-aged section in our society.

Glances of criminal acts and violations towards the lives of the citizens, especially to the women sections of our society, have never actually geared back its wheels. Therefore, though we consider ourselves, living in the 21st Century to be enough modernised and advanced in every field, yet to focus on the lacunas in it, we can easily sort out all such differences and discriminations leading to injustice in the name of giving justice. To calculate as a whole, Honour Killing is considered as a worldwide phenomenon in the books of crime. The extent of honour killing generally varies from state to state or country to country.

The term 'Honour Killing' is a form of killing where a person allegedly kills the other just for their honour. People conduct these degrees of acts to save the prestige of their families. Also, such types of activities are done out of anger, rage, and so on. In a statistical rating, India has come out as one of the highest-rated countries in regard to honour killing. Though not in every state of India this concept of honour killings is found, yet states like Punjab, Rajasthan, Delhi, Haryana, Bihar, etc., are considered more prone to this barbaric practice<sup>1</sup>.

Through the lens of cultural essentialism, honour killing has always been viewed principally. On the other side of the coin, the men section of our society has consistently made their dominations in the name of maintaining patriarchy<sup>2</sup>.

For instance, situations leading to honour killing can be found where, in a particular community, two individuals of the opposite gender are caught, having relationship among them, and both of them belong from other castes, then either of their family members would choose to kill their child just for the sake of their honour. Other than these types of circumstances, there are many happenings throughout these specific states in India where the people living there consider honour killing as a regular deed of their life.

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<sup>1</sup> MedCrave, Honour killing: a socio-legal analysis with special reference to district Srinagar of J&K - MedCrave online (last visited Aug. 15, 2021).

<sup>2</sup> Ibid.

## Purpose & Cause of Honour Killing

The absolute narrow-minded gap is tagging up a proper notion on the family members' immoral conduct who only believes that if there is something above a person's life, it is caste or gotra. By believing in its virtue, the individual commits the crime whatsoever to such an extent that they possess a power that they are only chosen for. To remove a family member from dishonour or shame, we believe that it is albeit immoral and alarming. Yet getting 75th Years of independence, people are putting caste forward against humanity, and it is a crime. The key reasons which are put forward are caste and religion, and that's why it still divides the democratic country like India where there is equality before the law and equal protection of laws.

The purpose of this article is to send a message to Society and put forward honour killing as a serious and dangerous crime and to move forward the research methodology on the legal aspect related to it. This is to be set as a warning to the Society so as everyone must bear in mind the consequences and be ready if any trouble arrives. The prima facie is 90% of the time. The majority of the people of urban areas mostly do not accept inter-caste marriages for the alleged reason of maintaining the decorum of their caste and status of their family in the Society. The principal and most benevolent factor is that crime is increasing day by day, and people are not aware of the fact. The complex reason being the socio-cultural problem; for example, the Sati system was strictly prohibited and banned in the whole country. Yet, research shows that it still increases in number<sup>3</sup>.

The attitude of the Society reflects the passiveness as it is mainly patriarchal. The head of the table or family likewise gives the rules and regulations to the future of the family as they enforce certain norms and traditions to protect the family from shame. There are specific laws for women, too, as women need to maintain those and be on their limits. These are the cultural crimes that shake the country to a certain extent and, after that, increase day by day. The sad thing is that there is no detailed law to deal with honour killings where the general categories are murder or manslaughter in India. In the landmark case of **Lata Singh v State of Uttar Pradesh and Ors**<sup>4</sup>, it was fully mentioned that honour killings are barbaric cold-blooded murder, and there is no honour involved in such killings.

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<sup>3</sup> Blog Ipleaders, Honour killings in India and need for urgent reforms and new laws - iPleaders (last visited Aug. 20, 2021).

<sup>4</sup> Lata Singh v State of Uttar Pradesh and Ors, Writ Petition (crl.) 208 of 2004.

### **Intention for Honour Killing**

1. The Supreme Court ruled out here that gotra was associated with 3% of the same killings<sup>5</sup>.
2. For trust and other motives is the cause at the back of remaining, which is 97%<sup>6</sup>.
3. The continued severity of the caste system acknowledges and encourages them to entrust this heinous crime<sup>7</sup>.
4. Beneath the fear of losing the caste privilege, out of which they take pleasure in several benefits<sup>8</sup>.
5. Perception of citizens towards wedding in similar gotra and outside the Society is not acceptable<sup>9</sup>.
6. Whereas, Society removes the right to freedom of choice from marriages<sup>10</sup>.
7. The non-attendance of prearranged legislation remarks the fundamental cause of its increase is that structured ascendancy did not reach the rural areas<sup>11</sup>.

### **Socio-Legal Aspects of Honour Killing**

A small part of our society, since ancient times, has always measured the purity of women and judged their suitability for the community only if they were virgins. Monitoring the women based on their sexuality was always a central attribute of the paternal society. Reputation and honour of the family are valued as per the conduct of the girls and women and how they manage traditional ethical norms of the community in which they live.

Starting from the ancient era, all the social norms were created in such a way where only acceptable behaviours of an individual were bothered by the society. Even today, the lives of the girls and women are easily taken away if they do not follow the norms, and after that, the family members of such deceased use to name it 'suicide'. To look into this fact in more detail, we can find many circumstances, followed by situations where people usually lost their lives due to these boundaries of social norms.

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<sup>5</sup> Blog Ipleaders, Honour killings in India and need for urgent reforms and new laws - iPleaders (last visited Aug. 19, 2021).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

In India, among all other states, Punjab is denoted as one of the most notorious states concerning the maximum rate of honour killing cases. Due to the presence of 'Khap Panchayat' or panchayats related to castes, a landmark judgement on the crime of honour killing was passed by the Court on such a basis, in the case of **Manoj-Babli**<sup>12</sup> **honour killing case**. This case arose in J&K where the police arrested a man and his two sisters for allegedly committing murder of their 20years old sister. As per the reported statement, they killed their 20years old sister because she was in a relationship with a boy whom his family disapproved of. Further, the accused were sentenced to capital punishment. So, with the help of this case as an instance, it can drag us to the path where it may make a clear view for all on the perspectives and helps in understanding what exactly happens in the name of what. Moreover, an alarming stage of suicide amongst the youth nowadays is served as an escape path for such honour killing.

### **Why Honour Killing?**

Heinous crimes can be stopped but people are under supremacy of such critical thoughts that killings bring them honour to their family. Certain reasons are mentioned below:

1. **Social Stratification:** It is believed by the sociologists that the rigidity of the caste system is because of the continued practice of honour killing, and that is why people are committing the heinous crime.
2. **Negative Approach:** Society has to have a keen interest and a positive mentality on whatever the outcome might be; the negative approach must not interfere in the veil of marriage.
3. **Zero-Governance:** Honour killing is the big predicament on the unnecessary caste bifurcation and caste-manipulation. There is no such formal governance to get the know-how position of the rural areas. This is the reason why one should start from scratch for better and transparent governance.
4. **Lack of Literacy:** Through the illiteracy rate of our country, the prevalence of honour killing is not an indictment. There are certain provisos in law under section 299 to section 304, 307, 308 and more other respective sections Indian Penal Code, 1860.

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<sup>12</sup> Manoj v. Babli Case, Criminal Appeal No. 479DB of 2010 and Criminal revision No. 2173 of 2010.

5. **Political Ideology:** The reason why Khap Panchayats are blamed is due to the fact that the Court bears them in an arbitrary manner which is inhumane where these courts are known as Kangaroo Courts.
6. **Status Quo:** Status plays an important role, and it consists of two parts. One is ascribed status, and the other is achieved status. The first is based on birth and is inherited involuntarily, which is fixed, and the other is determined by merits or performance, known as achieved status.
7. **Caste Marriage:** The problem is that in today's world, society is not taking into account love marriages and these end in a problematic way in inter and inter-caste marriages. Love marriages mostly finish peculiarly.
8. **Patriarchy:** The male community mostly plays a dominant role as they actively participate in such crimes, and here, honour killing is prevalent by the male members.
9. **Esteem:** Though it is not classified as a distinct offence mostly associated with both the castes of the society, i.e., The Upper Caste and The Lower Caste. This is not a show, though, but a race on honouring the killings via their positions.

### **How Suicide & Abetment to Commit Suicide unknowingly became a part of killing?**

In recent times, people of our society started assuming that committing Suicide will open the door or path to peace and one will get relief from all pain and suffering. Article 21 of our Indian Constitution states that "No person shall be deprived of his life or personal liberty except according to procedure established by law"<sup>13</sup>. According to the Theory of Emile Durkheim, a famous sociologist- "suicide" results from social disorganization or lack of social integration or social solidarity<sup>14</sup>. He classified Suicide into four categories-

1. **Egoistic Suicide**, where an individual feels obscure, or he has no position in this society<sup>15</sup>.
2. **Altruistic Suicide**, here an individual decides to sacrifice his life to benefit another or a group<sup>16</sup>.

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<sup>13</sup> INDIA CONST. art. 21.

<sup>14</sup> Durkheim, Suicide (1897) (uchicago.edu) (last visited Aug 21, 2021).

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

3. **Anomic Suicide**, where an individual selects to end his life under certain pressure or when he cannot cope with the sudden circumstances<sup>17</sup>.
4. **Fatalistic Suicide**, where one commits Suicide due to overregulation in society<sup>18</sup>.

Here the question arises, is committing Suicide the only way to get relief? Does every citizen have the right to decide to end their own life?

In other words, does every citizen have a right to die? This controversy was first broached before The Bombay High Court in **State of Maharashtra v. Maruti Sripati Dubal**<sup>19</sup>. The question present in this case was "*Whether right to die is included within the right to live with human dignity or not*", where the Court held that Article 21<sup>20</sup> includes the right to die and omitted Section 309 of the Indian Penal Code, 1860.

But later, in the case of **Gian Kaur v. State of Punjab**<sup>21</sup>, the Court overruled the decision and stated that the *Right to Die does not include within the Right to Live with human dignity* in Article 21 of the constitution as the Court noted the term "suicide" as an unnatural activity.

Section 309 of the Indian Penal Code, 1860 states that whoever commits Suicide or attempt to die by Suicide or tries to commit such offences shall be punished with imprisonment for a specific term which may be extended to one year or with a fine or by both. Another most controversial part of killing includes Abetment to commit Suicide<sup>22</sup>. The practice of Abetment or instigating someone towards death has been around for a long time. Isn't the practice of Sati in ancient days was a practice of Abetment? In ancient times, Sati used to be a tradition. According to the rituals of Sati, the widow used to sit at the top of her deceased husband's funeral pyre to sacrifice her life. After the demise of the husband, the wife had to face the ill-treatment of her in-laws<sup>23</sup>. The in-laws' ill-treatments and sufferings were the genuine reason that compelled the widows to commit Sati or be it either "Abetment to commit Suicide". Section 306 of the Indian Penal Code, 1860, deals with Abetment to Suicide. Our society shall be less aware of that; section 306 of the IPC, 1860 was added to eliminate the concept of Sati<sup>24</sup>.

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<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> State of Maharashtra v. Maruti Sripati Dubal, 1987 (1) BomCR 499, (1986) 88 BOMLR 589.

<sup>20</sup> INDIA CONST. art. 21.

<sup>21</sup> Gian Kaur v. State of Punjab, 1996 AIR 946 1996 SCC (2) 648 JT 1996 (3) 339 1996 SCALE (2)881.

<sup>22</sup> Legal Service India, Abetment to Suicide an offence under Section 306 of Indian Penal Code (IPC), 1860 (legalserviceindia.com) (last visited Aug 22, 2021).

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

Holding Religious Sentiments as a trigger of a gun, these kinds of practices had killed thousands of innocents. Things are this hasn't changed yet. The most common part, "marriage"-its ethos remained the same. In the past, killing a widow was framed as a Hindu religious practice, and in recent times, one may kill someone for bringing dishonour on the family<sup>25</sup>. Though the community is changing, it will always depict several perspectives of violence, its vulnerability and its precarious nature towards the innocent women of our society. The main reason to arise this question into the topic of Honour Killing is to portray that how a person uses the concept of Suicide or how they use several sentiments to escape after an excuse killing of someone who brought dishonour on the family, or the concept- "Honour Killing" as per the law. To be more specific, cases of Honour Killing goes unreported; there rise loopholes, and therefore, the cases of honour killing explain something else in the end<sup>26</sup>.

### **Role of the proviso in Indian Law: the Bureaucratic Law Structure**

The Constitution of India has laid down many requirements to defend every citizen. Every individual has the right to protection and has the rights with which they are protected. These particular rights are vested in every Indian citizenry irrespective of their caste, creed, etc. They are sheltered from honour killings. It is aforementioned that in the case of honour killing, it is parallel to that of homicide. Section 299 and 301 of the Indian Penal Code, 1860 means culpable homicide amounting to murder because the Act of the assassination of the injured party is made to slaughter them to bring honour to the family units. The right to freedom is being violated as soon as the case is of honour killing. From our point of view, it is the autonomy of every citizen to decide their life where no individual has the right to disobey and coerce the citizen to act as per others wish<sup>27</sup>.

Life is precious to everyone, and every human being or any citizen has the accurate right to existence and independence, which is the most significant essential right. No being has the right to take away one's existence. The deity shapes people, and the superlative influence lies only to him to take away the life of his creation. In the case of honour killing, where the injured party has been killed, it is subjected to infringement of the precise right to life and emancipation.

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<sup>25</sup> Ibid.

<sup>26</sup> Sage Journals, No Honour in Honour Killing: Comparative Analysis of Indian Traditional Social Structure vis-à-vis Gender Violence - Kaushambi Kaushal, 2020 (sagepub.com) (last visited Aug 23, 2021).

<sup>27</sup> Supra 1.



Section 3 of the Hindu Marriage Act, 1955 states that every citizen shall become major after attaining 18 years. However, later, the Supreme Court had amended the Act and distorted that every citizen shall attain majority at the age of 21, which is also mentioned under the Indian Majority Act, 1875. The Hindu Marriage Act, 1955 lays that each citizen has the right to desire their life partner after attaining the time of majority<sup>28</sup>.

Honour killing comes as a violation in that scenario as it kills the sufferer for choosing their life partner. No human being shall be obliged to marriage, and the same is through in honour killing. The ipso facto will be if the victim does not agree to the marriage prearranged by the family, they are subjected to be slaughtered in the name of dishonour to the family. The Bar needs to focus and be awake on the scenario gagging upon the cruelty terms, which is harassment to society. P Chidambaram, the home minister, led the Govt. of India, i.e., the central government, a proposal to amend the Indian Penal Code and set up this honour killing as a distinct offence and scrutinize such amounts to murder which is punishable under the Indian legal system<sup>29</sup>.

**a. The Indian Majority Act, 1875; a pre-emptive notion.**

- Section 3 of the Act above clearly mentions that every person residing in our country shall be major unless otherwise stated in their rule.
- The age of majority shall be 21 in case a guardian has been appointed to such person.
- The breach of proviso comes under cases of Khap Panchayat where marriages are being forcefully done, and married couples are being splitted.

**b. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; a synonymous act.**

This Act was made to avoid cases of violence, torture, and inhumane works to be stopped and banned against the Scheduled Castes and Scheduled Tribes under the close control enactment by the Parliament of India. The mainstream agenda was promoting the social integration of Dalits into our Indian society at large (this is done to break the taboo)<sup>30</sup>.

- No force shall be applied to SC/ST to eat or drink some uneatable or bad things.

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Supra 18.

- To remove clothing or showing off unclothed with a body or decorated face.
- No sexual harassment to SC or ST.
- No force shall be applied to SC or ST to make them leave their house or flat or gram or village, which is punishable.

The article puts this Act due to the harsh similarity and synonymous concerning the honour killings and catena of cases being done further.

**c. The Protection of Women from Domestic Violence Act, 2005; a comprehensive connection.**

This Act alters the comprehensive agenda on the enforcement or enactment of women's fundamental or absolute rights, which are granted under the Mother of all laws, The Constitution of India. Any victims facing any abuse or torture of any kind that exists surrounded by the family or the matters subsidiary to it shall be dealt with further<sup>31</sup>.

**d. The Indian Evidence Act 1872; a domain of substantive and procedural laws.**

Penalties are provided under this Act which pertains to the concealment of evidences on or after the suspected crime was done and also lays down the facts when relevant where the right is customary at issue stated in Section 13. The main motive to indulge in this Act is that facts are an essential element representing everything, and everything is data. The question would rely on the nature of any right or custom on the important values if any temporary change were created in facts or accepted or rejected, so on. This mainly describes the inconsistency with its nature, and certain particular instances are established where the question of facts are established. According to the Act, the victims or the sufferer shall get justice, and this Act is absolutely important in dealing with intelligence in motion.

**e. The Special Marriage Act, 1954; an extraordinary leap of faith.**

To carry out the marriage irrespective of the caste, colour, creed, religion whatsoever, the Act was made to combat the assurance to provide a special form of marriage to all the Indian citizenry staying here and staying abroad<sup>32</sup>.

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<sup>31</sup> Ibid.

<sup>32</sup> Supra 20.

### **The concept of banned marriages:**

- The marriage is forbidden to the sapinda relationship through Mother within the 3rd generation and five thin lines for father.
- Marriage between brothers and sisters is forbidden.
- No close relatives can marry legitimately under the law.

All these laws and theories to the laws are manifested as a just cause. Any threat on the part of the family member against marriage shall put the couple in possible danger. Police Security must be given. The problem with the rural side is that the fear of going to the police station and filing a complaint is beyond imagination to specific families. The only reward where honour killing can give the criminal is life imprisonment<sup>33</sup>.

### **Penalties for Honour Killing**

The honour killing being related to murder gives close law combat to the Indian Penal Code, which is sufficient to execute the perpetrators.

#### ***Actual Penalties under the Indian Penal Code are as follows:***

- **Sections 299–304:** Penalises any person guilty of murder and culpable homicide not amounting to murder. The murder penalty is life imprisonment or death and fine. The penalty for non-murder culpable homicide is life imprisonment or imprisonment for upto 10 years and a fine<sup>34</sup>.
- **Section 307:** Penalises threaten to kill for up to 10 years of imprisonment and a fine. If a person gets injured, the punishment can extend to life in prison<sup>35</sup>.
- **Section 308:** Penalizes attempt to commit culpable homicide by imprisonment for upto 3 years or with fine or both. If it causes injury, the person shall be imprisoned or fined for up to 7 years, or both<sup>36</sup>.
- **Section 120A and 120B:** Penalize whoever is a participant in a criminal conspiracy<sup>37</sup>.

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<sup>33</sup> Ibid.

<sup>34</sup> Manupatra, Microsoft Word - Honour Killing-The Law it is and the Law it ought to be.doc (manupatra.com)(last visited Aug 27, 2021).

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

- **Sections 107–116:** Penalizes people for abetting murders, including murder and culpable homicide<sup>38</sup>.

- **Section 34 and 35:** Penalizes several-person criminal acts in support of common intention.<sup>39</sup>

The study shows that the individuals violating honour killing are also violating the constitutional provisions like Article 14<sup>40</sup>, 15(1)<sup>41</sup>, 15(3)<sup>42</sup> and 21<sup>43</sup> of the Indian Constitution. Women are being violated, and their rights are infringed, like their right to live freely, right to equality and security. A clear suggestion where an important amendment is suggested that if Section 300 of the Indian Penal Code, 1860, which is murder where honour killing makes it easier for the judges to classify ‘honour killing’ cases which will make the justice delivery system entirely smooth in deciding the matters and while making this crime as a specific offence.

Usually, where there is the rule of law, the customary law is not to be given any such values over the codified laws in honour killing crimes. The necessary penal actions are imposed seriously over the perpetrators and help of various provisions of the Indian Penal Code, 1860 and the Constitution of India. The amendment is such an essential part as the law is supreme and power of the nation it makes it easy to punish<sup>44</sup>.

### **Suggested Reforms to be taken into account**

1. The Supreme Court ruled that interference in an adult couple's marriage decision is unconstitutional for guardians or Khap Panchayats in a recent judgment. The most up-to-date judgment resounds the superlative court's 2010 order to take action adjacent to honour killing by the Government of India. The outcome was Crime reduction in the name of the 'Honour' and Tradition Act, 2010<sup>45</sup>.
2. An impartial, comprehensive law must be enacted—Equivalent punishments to criminals and wrongdoers. The presented provisions in the Indian Penal Code, 1860, are insufficient in dealing in the midst of honour killing avowed by the planning charge

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> INDIA CONST. art. 14.

<sup>41</sup> INDIA CONST. art. 15(1).

<sup>42</sup> INDIA CONST. art. 15(3).

<sup>43</sup> INDIA CONST. art. 21.

<sup>44</sup> Supra 23.

<sup>45</sup> Supra 22.

of women and child's rights in the 12th five-year plan. The agency has recommended any public praise for any harassment and assassination in the name of honour will be punished and judged<sup>46</sup>.

3. A vital suggestion to amend the Indian Penal Code and restraint in the Khap Panchayats.
4. An adjustment must be made to Hindu Marriage Act, 1955, where the same gotra marriage must be dissolved<sup>47</sup>.
5. Death Sentenced or incarceration of life to accused convicted of honour killing and punishment must extend to Rs 7 lakhs. In case of grave or serious grievous hurt, punishment will be from 14 years imprisonment for life with a fine of Rs 5 lakhs and in some cases 4-5 years jailed with fine up to 4 lakhs in hurt or injuries<sup>48</sup>.

## **Conclusion**

The paper so far discussed how honour killing is showcased upon society and how it is devastating in a risky manner. The laws mentioned above are shown and called upon by the Indian legal system, and the suggestions made must play a key role in stopping these filthy crimes. Social awareness must be made in light of the recent generation gap. There is no such honour in killing a person, as every person has the right to life and live with human dignity. There is a catena of cases where it is known that how bogus these crimes can be against humanity, against women.

Religion must not be a reason to kill or joy or honour someone. The line "Dust thou art, to dust returnest" is taken from the psalm of life by Henry Longfellow, where he also believed that whatever we do in life, nothing will remain, and it will all be futile. As not anything can prevent our return to the sand and thus void.

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.