
HONOUR KILLINGS: SOCIO-LEGAL ASPECTS

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I. Introduction

Humanity has evolved through ages. The human race has made its unique position in a spatial sequential setup. Humans have kept themselves at the top in the ordered ladder. As a result, the world has evolved around them to suit their particular needs. Happiness is indeed sought after by the humans. But since times immemorial human society has attached a lot of purity to the idea of honour. As a result, reputation is chosen over happiness whether it was in the age of Ramayana where society was not ready to accept Sita or whether it is in the present times. The society is still struggling with the notion of honour or reputation for the sake of which even an individual's life is not spared. Man is first of all a social creature as he normally spends his entire life in association with other human beings and also as a member of various organized social groups.¹ Man has created many social institutions and organizations to organize the world. The idea is to control and check the attitudes and behavior of other men. The society thus formulated has its own set of rules and regulations. Therefore it can be rightly said that "Man is born free but universally he is in chains".² In many areas of the world one can find societies where insult, shame and humiliation are dominant notions or ideas and common actual experiences.³ A concern is on the rise amid the liberal minded people, social, democratic and international and national institutions, regarding the increasing incidents of brutal killings of blameless youths in the name of family or clan honour. Actually, the use of the word honour for such a dishonorable act is deplorable in itself.⁴ In recent times the incidents of honour killing have become more prevalent some part of India. Every year thousands of people especially women face violence and are killed in the name of honour and most of these killings go unreported. These murders are considered private family affairs.⁵

¹ Ramakantha Tiwari and Mahesh Dadhade, *Encyclopedia of Social Sciences*, Vol.- 7, Page-2.2, (Common Wealth Publishers, New Delhi, 2008).

² The statement given by Rousseau what he sees in the world. Available at : <http://enotes.com> (Visited on June 2, 2020) Unni Wikam, *In Honor of Fadime, Murder and Shame 3* (The University of Chicago Press, London, 2008).

³ Anil Tehran, "Brutality of Honor Killings is on the Rise: A Blot on Indian Society Culture and the Need for a New Legislation", 1.5 *Nyayadeep Journal* Page-78-91 at act 78(2010).

⁴ M.S. Jaglan, "Delaying Enactment of Law on 'Honour' Killing", *XLVIII Mainstream* 27-28 at 27 (2010).

⁵ *Indian Human Rights Law Review*, Vol. No. 02, 235 (2011).

II. Meaning

The term honour or honor is derived from the latin word 'honos' which is an intangible or abstract concept of a professed quality of praiseworthiness, respectability and moreover the ostensible standing of an individual in large socialbodies.⁶

Honour killing is a murder carried out to clean the stained family honour, respect, chastity or to clean the tarnished honour, or the honour in question.⁷ Amnesty International 2001 describes honour killing of a woman by a male relative not as an individual act of violence, but as a crime which is collective, planned, sociologically anticipated, and socially sanctioned by the family and community concerned. It also claims that the regime of honour is unforgiving; women are not given an opportunity to defend themselves. Their family members have no other socially acceptable substitute than to remove the stain on their honour by attacking them.⁸The usage of terms like 'honour killings' or 'honour crimes' partially stems from the fact that such terms glorify the crimes and tend to make the m more tolerable than other forms of violence against women.

III. Reasons for Honour Killing

The major reason is the mind-set and attitude of the patriarchal society to control the women by using authority in the name of social norms and community. Woman in the family too occasionally do support the honour killing of one of their own, when they agree that family is the property and asset of only male members. Even the mother of the victim (woman or man) may encourage an honour killing. Following are some of the basic reasons identified in Honour Killing. However, this list of reasons is not exhaustive.

Customs

Traditionally women are considered as objects and commodities .Since ancient times protection of honor has been an integral part of customs and traditions. The notion of honor has attached to woman. Entire family honour depends upon the women's chastity. It is observed that, women in all societies are the transmitters of traditions of honour and reputation in a family, community and religion. Women are responsible for maintaining honour and dignity of entire family

⁶ Navratan Fateh, Honour killing in Canadian context 4 (LAP Lambert Academic Publishing, U.K , 2014

⁷ Clementine Van Eck, Purified by Blood: Honour Killings amongst Turks in the Netherlands, 8 (Amsterdam University Press, The Netherlands,2003).

⁸ Azad Kumar, Honour Killings; Global Perspective 11 (Saad Publications, Delhi,2014).

members. When women or girl is committing actual or perceived behaviour for violating the honour code of family or suspected of misconduct behaviours, or committing immoral activities against moral norms of custom and traditions this act will be considered as dishonour for family and community.

Patriarchy

In patriarchal social system, male members are head of the family and have influence over the female member of family and considered more superior than women. In Patriarchal system the women's inferior position is insignificant. Gender based discrimination haunts a woman at all the of her life stages.. Growing a girl child is considered as a burden for the family. At the tender age of she is under influence of father, after the marriage she is under the influence of her husband, and at the old age she will be under influence her son. In spite of the enactment of number of laws, the position of woman has not changed much.

Illiteracy

The education is considered to be one of the tools to live better in the society⁹. Illiteracy is another major reason for giving scope to increases honour killing in our society and many women are killed. Illiterate women face several problems in her life like rape, forced marriages dowry problem. Due to illiteracy they could not identify their own power so that they are suffering violence which is committed at the hands of male. The illiterate women are unable to accept the reformed culture and refuse to adopt the legislative personal laws¹⁰.

Disparity in Economic Status

The economic status of bride and groom are very important in Indian marriages irrespective of In India, the history speaks that the women are considered as a Divine force but the multi-cultured Indian society placed the women at different positions. Thus, there is no uniform status of women in the Indian society. However, civilisation showed the overall evaluates the position of women¹¹. Not only men but also majority of women are responsible to create their status low than others. This is one of the reasons behind the honour killing. Once lost the honour is considered as dishonour and there is not any way it can be regained other society member bring

⁹Bharati Vidyapeeth's New Law College, "Vidhi Bharati" 12 *JILI* 48 (2014).

¹⁰ The Hindu Marriage Act, 1955, s.5.

¹¹ Dr. S. C. Tripathi, *Women and Criminal Law* 31 (Central Law Publications, Allahabad, First edn. 2010)

the pressure to take violent action which will restore their position in society and honour is restored through killing.

Inter – Caste marriages

In a society carried with prejudices against lower caste and struggle with communal conflicts, a young couple who dares to cross the community limit of caste system is going to be severely punished. In Mumbai, Bandra (Maharashtra state) Sushma belonging to Brahmin community married with her boyfriend Prabhu who was from Lower caste. Family members of Sushma killed Prabhu under impression to preserve the honour of family or community. Now, Sushma lives with her in-laws in their house¹². In another case, as per statement of S.P. Manavjeet Singh Dhillon in Bihar's Nawadadistrict, in the village of Mehrama, Naveen Kumar was twenty five years old and had married a girl from another Dalit caste, two years back against her parents' wishes in order to preserve honour of family and community he was killed by his in-laws family members by stabbing in stomach with sharp instruments and hanged with rope¹³.

Inter – Religious Marriages

Inter - Religious marriage means those marriages which take place between persons of different religions. It is observed that, People sometimes are murdered in the society for marrying without their family acceptance, in cases of marrying outside their caste or religion. Researcher found that the different customs prevailing by the different society, caste and community, as per norms they perform marriages, within the caste and sub-caste male and female. They use to follow rules of endogamy system. They strictly prohibited marriages of inter-caste i.e. people not allowed to perform marriages other groups or other caste or sub-caste, tribes.

Marriages within the Gotra

If we look at the tents of personal laws we find the laws of succession is guided by the principles of genetically inheritance or by consanguinity (sapinda system). According to Hindu Law, the marriage between persons related to spinda relationship is not valid and strictly prohibited¹⁴. Therefore, inter-caste or inter-community marriage can be considered as a transgression to in the right of religion of the person. The mentality of the Indian society people has not yet changed

¹² Editorial, "High Price for defying caste, family", *The Indian Express*, Sept. 20, 2006.

¹³ Editorial, "Dalit man Murdered allegedly by in-laws, a honour killing suspected" *News form IBN Live*, Sept. 24, 2013.

¹⁴ The Hindu Marriage Act, 1955, s. 5(v).

and they cannot agree or accept that marriages take place in the same - gotra due to this root because there is an increase the honour killing case in the country.

Rape Victims

It is a crime against women which is not limited to India only, but common in the whole world. It is observed that it is related to Honour Killing as killing of rape victim is also, one of the major reasons for Honour Killing for preserving honour of rapist or of the victim's family. Rape victim also been killed for bringing dishonour of the family or community¹⁵.

Pre-Marital Pregnancies

Pre-marriage pregnancy means a girl keeps immoral relations without performing marriage out of that she became a pregnant of someone. It is an immoral activity and considered as dishonour of family. It shows that past unchaste¹⁶.

Dissolution of Marriage by Woman

Divorce means putting an end to the marriage by dissolution of marital relations. As per Manu a wife cannot get separate from her husband either by sale or by abandonment, because marital tie could not be severed under any circumstances whatsoever. She can never have a second husband¹⁷. If wife asked for divorce it will be considered dishonour of the family.

Legal Framework

A fear created among the young generation and couples who are married and some of them intending to get married. This is a direct violation of the rights¹⁸ to all peoples. As per guarantees to the citizens of Indian certain fundamental freedoms¹⁹ which are exercisable by them throughout the territory of India, one of these includes the freedom to like which was held in the case of *Jagmohan Singh v. State of Uttar Pradesh*.²⁰ Article 21 of Indian Constitution confers to the fundamental right to life and personal liberty every citizen No one has right to directly interfere with a person's life or liberty unless there is a procedure established by law, thus the families taking the law in to their own hands, there is a clear departure from the

¹⁵ www.bbc.co.uk/ethics/honourcrimes/crimes_of_honour_1.shtml (last visited on Feb.14, 2021).

¹⁶ The Hindu Marriage Act, 1955, s. 25(ii), The Special Marriage Act, s.12(1)(d).

¹⁷ Dr. U.P.D. Kesari, *Modern Hindu Law* 114 (Central Law Publications, Allahabad, 12th Edition, 2007).

¹⁸ Art 21 The Constitution of India.

¹⁹ Art 19 The Constitution of India.

²⁰ AIR 1973 1 SCC 20.

provisions enriched in the Constitution. Several times victims are not provided safe guards in order to protect their life, by the established laws and state becomes failure to perform its duty²¹. India lacks specific law on honor killing. Such cases are dealt with under the provisions related to murder²², dowry death and female foeticide under Indian Penal Code. At times the provisions of Domestic Violence Act are invoked. Domestic violence against the women is prevalent in every society and cuts across all cultures and religions. Various cultural practices in society particularly related to the notions of purity or chastity are often invoked to make an excuse of domestic violence. The definition of 'domestic violence' given in Section 3 of the Domestic Violence Act, 2005 is very comprehensive and includes physical injury, mental harm, sexual harassment etc. against the victim. Honour killing is one of the domestic forms of violence, in which in order to maintain family honour family members commit harms, injury, mental or psychological or physical abuses or aggravated form of violence against victim and causes danger to the life of victims i.e. brutally kill the victims.

Conclusion and Suggestions

No society can be crime free. The state is duty bound to protect the basic human rights of every person irrespective of consideration such as caste, class, religion etc. Honor killings are not new to India society. They can be seen in all societies across the globe. A law on an area of concern helps to prevent the crime in a better way. Though popular in context of inter religion marriage, honor killing can take place for variety of other reasons also. The victims of such killings are both males and females. Lack of a specific legislation poses difficulties for prosecution to get the perpetrators of crime behind bars.

²¹*Maneka Gandhi v. Union of India*, 1978 1 SCC 597.

²² Specifically, clause 4 of Section 300 IPC covers the act of killings which are done for honour. Here the act is intentional, imminently dangerous and in all probability has the chances of causing death, so it will not be improper to say that the culprits involved in honour killing should be punished as the murderers and capital punishment should be imposed on them.