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**HONOUR KILLING: SOCIO-LEGAL  
ISSUE**

*By Torsha Datta Choudhuri  
From ISBR Law College, Bangalore /  
Karnataka State Law University*

**Abstract**

In today's date, India is dealing with a huge number of burning issues which must be addressed as soon as possible. It's kind of a ritual that until and unless an issue is not brought into limelight, the society is not going to raise their voice against it. Until the people's rights are not violated, no one is ready to stand up against anything. Moreover, if it's not related to oneself, generally do people really raise their voice? That is a something very common question to pose.

Honour Killing is one such burning issue which is not so much in news today. Many of us must have just come to know that something of this type of killing happen. Although the number of cases of honour killing has increased so far and there have been cases which went up to even the Supreme Court, but still not that much justice have been poured to the victims. The topic of honour killing might not gain that much attention as compared to times when we speak of LGBTQ Community or maybe a Rape case. The reason is that the crime of honour killing is carried out in such a way that it does not come out in public. In other words, people are less aware of this type of killing.

This paper tries to scrutinize certain aspects of honour killing in India. It tries to portray the effect of the innocent murders (as honour

killing can be said) in the society. It tries to study the mental as well as physical condition of the family members going through this trauma. The honour killing is mainly related to a female member of the society and how it affects other female members of that family as well as that of the society is also something this paper focuses on. It is 21<sup>st</sup> century era and something called patriarchal society being reason of a heinous crime of an innocent is worth worrying. This patriarchal society is what my main area of research of this paper. There are certain cases which, to some extent, gave justice to the victims. Obviously there were certain fundamental rights which were infringed by the act of honour killing. This paper will also analyze one of those cases and its judgment given by the Supreme Court and try to put forth certain other ways through which such illogical and innocent crime can be taken out from India.

**INTRODUCTION**

In layman's language, honour killing can be easily defined by just looking at its literal meaning. In real sense, if we get to the meaning of the term, it would be a shock to know that how contradictory the term and its meaning are.

There is neither any statutory definition for honour killing nor stands any precise definition otherwise for honour killing which can be said to be universally recognized, however most prevalent meaning is, "the murder and forced suicide in the name of imposing certain moral values, the transgression of which are professed as



intolerable are honour killings(also called as customary killings).”<sup>1</sup>

In a patriarchal society where male members are the main authority of the family, the girls and women are carefully looked upon on their activities. It is believed in their society that the female members are the honour bearer of their respective families and so anything done which can bring dishonour to the family is not accepted at all.

It also introduces a type of panchayat called “*khap panchayat*”. It is basically a community organization representing a clan or a group of related clans. They are found mostly in northern India, particularly among the Jat people of Western Uttar Pradesh and Haryana. The *khap panchayats* also have a deep influence on the honour killing. The leader of such panchayats usually gives the order of such killing in a village.

India has always been a firm believer in traditional systems which has been followed by our ancestors and they understand nothing beyond that. They have a notion that whatever our ancestors have taught us that is the final. And when it comes to the religious faiths and beliefs which are even older, they stick to the traditions.

It is also a very strange thing that even after so many cases of such heinous killings, there is no specific laws against it. It is still considered under general categories of homicide or manslaughter. There are International laws which prevent this heinous crime and have strict and specific laws

against it. India lacks proper laws against honour killing which is also one of the strong reasons for this crime being increasing every year. This paper also urges that India should have strict laws for the crime of honour killing super soon.

The honour killings are practiced in northern parts of India including the capital and mostly in the states of Punjab, Haryana, parts of Rajasthan and Uttar Pradesh. The report of the Special Rapporteur to the U.N. 1 of the year 2002 concerning cultural practices in the family that are violent towards in women indicated that honour killings had been reported in Jordon, Lebanon, Morocco, Pakistan, United Arab Republic, Turkey, Yemen and other Persian Gulf countries and that they had also taken place in western countries such as France, Germany and U.K.<sup>2</sup> Religion plays a major catalyst in this honour killing apart from other various factors. The people committing such crimes are usually on the basis of their certain religious practices run away from punishment. Woman marrying out of their caste are also subject to this shameful crime. In such cases not only the woman but even the husband is also subject to this shameful crime. The couple is not accepted by the societal members so either they are killed or sometimes even they attempt to suicide. This generally happens with the uneducated people who are so stick to their old culture and tradition and to their so called old notions and myths that they doesn't even think before they commit such crimes. The saddest part is that the murder is from their own family- may be his own daughter or wife or nephew or niece or in one

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<http://www.legalserviceindia.com/article/1721/Nothing-Honourable-in-Honour-Killing.html> accessed on 2019/08/31

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<https://indiankanoon.org/docfragment/92846055/?formInput=honour%20killing>



word his own blood relation. Usually the crime of murder is what we know is done to someone who is obviously not a family relation (exceptions are always there), but here the innocent killing is of an own family member.

### **Need and significance of the study**

As in the beginning of the paper itself, honour killing has been addressed to be one of the burning and current issues that India is facing today although their no proper shout out for this, there is a need to spread awareness about it and implement certain laws against it. The patriarchal society which is the main role in the increasing of such activities, the society can really help in a way to take out the thinking of such societies and make them think in a different way. There can always be an alternative way out of two paths, and even the members of society giving the excuse of religious customs and traditions for the honour killing can be made understood that there can be some other ways other than taking away someone's life that there customs are even respected.

Apart from the laws that are being implemented against it, socially the problem can be tackled. Even after certain cases which has been to the Supreme Court and judgment has been passed, there are still certain parts of country where still the practice prevails. Even in the city, which has a population of educated people in it, such acts are prevalent.

### **METHODOLOGY**

The topic of honour killing has been explained in the research paper with its characteristics. It explains the solution of honour killing and why and how the patriarchal mindset is leading to this crime. It

broadly explains every phenomena of this heinous crime.

The research paper has also used the descriptive research design whereby the characteristics of the patriarchal society have been mentioned. It has explained the whole scenario of how patriarchal society is the only important reason behind honour killing.

Lastly, the research paper also revolves around the experimental research design where it had formed a cause-effect relationship. Since the patriarchal mindset is such that the crime of Honour killing is increasing here the cause is the mindset of patriarchal society and the effect being the heinous crime of honour killing.

The study for this topic can be done in both doctrinal and non-doctrinal method. But here, I will use only doctrinal method which will include resources from both primary and secondary sources especially articles, online journals, newspaper reports, case studies and statistics data. A comparative study has also been done between the Indian laws with that of the International provisions regarding honour killing.

### **RESEARCH PROBLEM**

Ever since the practice of honour killing has grabbed attention, the only reason that has come out for this is the mentality of the patriarchal society. The root cause of this problem is only the old age practices that a woman should do this and ought not to do this. It has been so many years that our Constitution has been formed where women have been given equal position as men, but still the problem is stuck where women are being subjected to certain notions and



practices where they are not given full freedom of taking their own decisions.

It, in a way, violates their fundamental right to life. The laws prevailing in the country in India are not sufficient to give a break to this crime. Still there is no separate punishment for the crime of honour crime.

### HYPOTHESIS

- ❖ The mindset of the patriarchal society is the major reason or the root cause of the crime of honour killing.
- ❖ Irrespective of the other factors pointed out by the patriarchal society to defend them for the practice of honour killing, the very fact that the motive behind this practice is nothing but to assert the masculinity that is still there in the patriarchal society cannot be denied.

### HONOUR KILLING- A CASE STUDY

The tradition of honour killing has its roots during the Partition of the country between the years 1947 and 1950 when many women were brutally killed only because there were forced marriages and they married people from Pakistan and vice-versa and then women were called back and killed just to preserve the honour of the family and they were not declared social outcasts from their region.<sup>3</sup>

The first ever case related to honour killing in India was of the Manoj-Babli honour killing

case in June 2007 in Kathial district, Haryana. The case was of newlyweds Manoj Banwala and Babli and the subsequent court convicted the defendants for an honour killing for the first time. The accused included relatives of Babli (Gangaraj, her grandfather who was also the Khap leader, brother, maternal and paternal uncles and two cousins). The killing was ordered by a khap panchayat.<sup>4</sup> The main reason behind the killing was that both had an inter-caste marriage which was not accepted.

On September 19, 2018, a man in Hyderabad attacked his daughter and son-in-law with a machete over their inter-caste marriage. While his daughter was battling for life, her husband had sustained grievous injuries in the attack. On August 26, a couple eloped from Haryana found hanging from the ceiling fan in Bhiwadi industrial area.<sup>5</sup>

On the same month on 15, a 24-year old man was hacked to death in front of his 23-year old pregnant wife outside a hospital in Miryalaguda, Andhra Pradesh. The killer was hired by the girl's father for Rs.1 crore. On the same day, in Rohtak, Haryana a police team, accompanied by fire dept officials, stopped the cremation of a class XI girl following a complaint that she was killed for "honour".<sup>6</sup>

In March 2010, a Karnal district court sentenced the five perpetrators to be

<sup>3</sup> <https://www.youthkiawaaz.com/2010/07/honour-killing-in-india-an-in-depth-study/> accessed on 2019/09/21

<sup>4</sup> [https://en.m.wikipedia.org/wiki/Manoj%E2%80%93Babli\\_honour\\_killing\\_case](https://en.m.wikipedia.org/wiki/Manoj%E2%80%93Babli_honour_killing_case) accessed on 2019/09/16

<sup>5</sup> [https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp\\_aetileshow/65908947.cms?amp\\_js\\_v=a2](https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp_aetileshow/65908947.cms?amp_js_v=a2)

[https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp\\_aetileshow/65908947.cms?amp\\_js\\_v=a2&\\_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.google.com&\\_tf=From%20%251%24s](https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp_aetileshow/65908947.cms?amp_js_v=a2&_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.google.com&_tf=From%20%251%24s) accessed on 2019/09/12

<sup>6</sup> [https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp\\_aetileshow/65908947.cms?amp\\_js\\_v=a2&\\_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.google.com](https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp_aetileshow/65908947.cms?amp_js_v=a2&_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.google.com)



executed, the first time an Indian Court had done so in an honour killing case. The khap leader who ordered but did not take part in the killings received a life sentence, and the driver involved in the abduction a seven-year prison term.<sup>7</sup>

The list is long. From the last three years the number of such cases has only increased. In 2015, as many as 251 people died in the name of honour killing, which is a whopping increase of 796% from 2014. From 2016, it somewhat reduced to 77 and mostly was prominent in the northern and western parts of India.<sup>8</sup>

Honour killing is human rights violation, said Communist Party of India leader R. Nallakannu. Speaking at a public hearing organized by Evidence, an NGO fighting against honour killing, he said that every human being had right to live. The Government has the responsibility to protect its civilian. Whenever there was an attempt to harm or attack a person, the government cannot remain a mute spectator. The veteran politician said that it would be shame, if a society failed to protect womenfolk.<sup>9</sup> Criticizing the State Government, the CPI leader said that at a time when honour killing were reported in many part of Tamil Nadu, the government's denial was unfortunate.

<https://www.thehindu.com/news/cities/Madurai/Honour-killing-is-human-rights-violation-Nallakannu/article14580621.ece> accessed on 2019/09/09

[https://en.m.wikipedia.org/wiki/Manoj%E2%80%93Babli\\_honour\\_killing\\_case](https://en.m.wikipedia.org/wiki/Manoj%E2%80%93Babli_honour_killing_case) accessed on 2019/09/05

[https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp\\_aetileshow/65908947.cms?amp\\_js\\_v=a2&amp\\_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.go](https://m-timesofindia-com.cdn.amproject.org/v/s/mtimesofindiacom/india/honour-killings-more-than-300-cases-in-last-three-years/amp_aetileshow/65908947.cms?amp_js_v=a2&amp_gsa=1&usqp=mq331AQCKAE%3D#aoh=15706035250698&referrer=https%3A%2F%2Fwww.go)

Recalling how a suspect, Yuvraj, had allegedly threatened the CB-CID police of dire consequences through social media and WhatsApp, which is investigating the sensational death of Gokulraj, Mr. Nallakannu stressed the need for swift disposal of cases by the judiciary.<sup>10</sup>

### CAUSES OF HONOUR KILLING

The main root cause of honour killing, the concern on which my paper is based on, is the patriarchal society. The very fact that a girl brings honour or dishonor to a family is something which strikes me. They are having certain rules and regulations which they are supposed to follow when they are inside as well when they are outside. They are supposed to act in a certain way as directed by the patriarchal society.

A girl having unapproved relationship, marital infidelity, pre-marital sex, marrying a guy not from her caste, refusing an arranged marriage is mainly the causes which trigger honour killing.

While in the statistics, it is clearly indicated that most of the honour killings are due to the women marrying out of their caste. The patriarchal society has a mindset of not letting their girls marry out of their caste. In most of the honour killings mentioned in the

<https://www.thehindu.com/news/cities/Madurai/Honour-killing-is-human-rights-violation-Nallakannu/article14580621.ece> accessed on 2019/09/03

<https://www.thehindu.com/news/cities/Madurai/Honour-killing-is-human-rights-violation-Nallakannu/article14580621.ece> accessed on 2019/09/26

<https://www.thehindu.com/news/cities/Madurai/Honour-killing-is-human-rights-violation-Nallakannu/article14580621.ece> accessed on 2019/09/21



case study, the couple has been killed by the girl's family because she married out-caste boy.

### HONOUR KILLING-LAWS AGAINST IT

The beginning of such crime, as addressed earlier, took its roots as early as in the time of partition i.e. in the 1950s. Since then, the criminals have always eloped in the name of their religious practices or cultures.

When the number of cases increased and the case of Nirupama Pathak, a Delhi-based journalist, took the headlines, who was killed by her family because she was pregnant and was planning to marry a guy out of her caste, the issue of honour killing grabbed some attention.

Even today there is no specific law against this heinous crime. It convicts the criminal under Section 307 of the Indian Penal Code, 1860. The punishment is declared under Section 302 of the same act. It also, in some cases, convicts the criminal under Section 299 of IPC (culpable homicide) and gives punishment under Section 302 of IPC.

If we thoroughly look into this type of innocent killing, which the court referred as simple murder, there is a huge difference between a murder and an honour killing. Even when a case of murder goes to a court of law, the case has to be scrutinized well as to the intent of the criminal, the reason behind his act, evidences to prove that the particular person is the criminal where there are a number of suspected persons. On the really other side, honour killing is such a practice which has a particular reason to be committed and the suspected are always the family members. There is no need to provide

evidences for this. The only reason to get to the court every time is to get proper punishment for this crime so that no other negotiations can be done on this and no one can escape by giving illogical reasons.

It even violates the fundamental right of Right to Life under Article 21 of the Indian Constitution. Only because a person has brought dishonor to a family and that it does not fit to a family's culture and tradition, the life of an innocent can't be taken. It has been seen that most of the cases arise out of women marrying a man out of her caste, which cannot be a very logical reason for killing the person and even when a girl is 18 years and a boy is 21 years, they are adult and they are free to choose their own partners and marry.

In the recent case of Shakti Vahini vs. Union of India<sup>11</sup> on 27 March, 2018, while giving judgment, Dipak Mishra, CJI beautifully stated, "We don't live in a world in which there exists a single definition of honour anymore, and it's a fool that hangs on to the traditional standards and hopes that the world will come around him."<sup>12</sup>

In this judgment, certain guidelines have been put forth by the court to ensure no more such crimes till the legislation is made. Even the meetings of Khap Panchayats have also been prohibited by the law. It is duty of the Police department to carefully look into such matters. The Home Department of the Government of India must take initiative and work in coordination with the respective State Governments for sensitizing the law enforcement agencies and by involving all the stakeholders to identify the measures for prevention of such violence. The

<sup>11</sup> Writ Petition(Civil) no.231 of 2010

<sup>12</sup> <https://indiankanoon.org/doc/92846055>



Government shall create Special Cells to receive petitions/complaints of harassment of and threat to couples of inter-caste marriage.<sup>13</sup>

### INTERNATIONAL LAWS AGAINST HONOUR KILLING

There are a number of international instruments that set standards related to the issues of “honour” crimes. These standards addressing violence against women guarantee equality for women and prohibit discrimination against women and girls. Under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states are obligated to take appropriate measures to modify social and cultural pattern that discriminate against women, including customary and other practices “which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (Art. 5(a)).<sup>14</sup>

The committee on the Elimination of All Forms of Discrimination against Women General Recommendation 19 states that “traditional attributes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such a family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and

knowledge of human rights and fundamental freedoms.” The committee has also expressed concern over practices that uphold culture over eliminating discrimination.<sup>15</sup>

It is clearly seen that international standards has certain provisions specific to the honour killing which India lacks behind. It has given certain directions in regard to honour killing but still proper and strict laws are yet to be implemented.

### CONCLUSION

Even today, when there have been so much of guidelines given by the authorities, one thing which still lacks is the mentality of the patriarchal society. The very fact that the provisions are being made specifically addressing women in them is in itself bitter thing to know.

Apart from the laws that will be implemented, the most important thing to do is to change the mentality of the parents. The parents should whole heartedly support their children in every decision they take in their life, be it a marriage decision. It is 21<sup>st</sup> century world, the people holding their illogical and reasonless cultures and traditions will not be able to survive and that too taking an innocent life in the name of this is itself so meaningless. If the thinking of the patriarchal society changes there will be no need of any law, not at least in honour killing. Obviously there should be concrete laws in India for this heinous crime so that even if some members of the society are thinking to practice such crimes, they think twice before doing it. The parts of India where this is

<sup>13</sup> <https://indiankanon.org/doc/92846055>

<sup>14</sup> <http://www.endvawnow.org/en/articles/729-sources-of-international-laws-related-to-honour-crimes-and-killigs.html> accessed on 2019/10/01

<sup>15</sup> <http://www.endvawnow.org/en/articles/729-sources-of-international-laws-related-to-honour-crimes-and-killigs.html> accessed on 2019/10/08



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practiced largely should be better looked upon on. The number of cases has definitely gone down in the past five years but this should not stop the legislation to make strict restriction to his crime. The efforts should not be paused until the number this heinous crime of honour killing comes down to zero.

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