

## **Honour Killing in India: A Socio-Legal Problem**

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**Abstract-** *Indian culture still adheres to the established religion and customs. Yet, there are still some matters that fall under a person's personal law. Marriage is another institution that continues to be regulated by personal preferences. Every individual seen behaving against the accepted social customs and rituals is labeled a wrongdoer, and the community as a whole takes action against them. Young couples performing inter-caste, interreligious, or getting married against their parents' desires are the main causes of the Honour killing cases. Even after seventy-five years of independence, young people in India still do not have the freedom to choose their spouses, even though the law grants them this right. Instead, they are constrained by the long-standing social customs and traditions that are still practiced today. Honor killings are not specifically defined as a crime under national penal laws. Yet, the laws condemn honor killings as a brutal kind of murder and the perpetrator faces harsh punishment. Hence, it can be inferred from the study that honor killing is a widespread legal issue that affects every nation, community, and culture in addition to being a social or cultural issue. This evil encompasses not only social problems but also legal problems. It poses a challenge to every jurisprudence and legal system in use across the globe.*

**Keywords-** *Indian Culture, Honour Killing, Social-Legal Problem, Customs, Caste-system and Brutality.*

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**Meaning and Definition of Honour Killing** - The notion of honour has fundamental importance in collective societies since the dishonorable conduct of an individual reflects upon the rest of the family members or community.<sup>1</sup> Honour is linked with each family members and community. In collective societies family is the core unit that the individual identifies with and is naturally a powerful institution. Since ancient times, family, community, and societal traditions and practices have been deeply ingrained with the concept of honour. Males are regarded as the guardians of family honour because they are seen as having the power to control how both men and women, and especially women, perceive honour. The actions and behavior of a lady affect the entire family. She will be viewed as the family's icon. The women's chastity determines the honour of the entire family. Males should keep an eye on women's activities and be responsible for controlling their sexuality. Acting violently towards women demonstrates men's dominance. It has been noted that women convey the values of honour and reputation in a family, community, and religion in every society.

In a patriarchal social structure, men are the family's head, have power over the women, and are viewed as being superior to them. Family members who are women are viewed as lesser and weaker and require the control and protection of men. Women are traditionally viewed as products and commodities, not as human beings with the same rights as men, and their actions are deeply rooted in family honour. Her behavior and chastity are regarded as the guardians of the family's honour, making them valued and priceless in the community and society. Women are in charge of upholding the honour and dignity of the entire family. In order to re-establish the family and community honour as well as to maintain the customary family practices whereby members murder their own daughter, wife, and son, when women or girls commit actual or perceived behaviour for violating the family's honour code or are suspected of acting inappropriately, these acts will be considered as dishonour of family, community.

Indian society is “a multicultural and pluralistic where lot of beliefs and faith regulate the human life of the individuals. As we have multi-religious society and many religious gurus, social reformers guides the society their and create influence is observed over Indian culture. The Indian spiritual holy books i.e., The Bhagvat Gita, The Mahabharata, The Ramayana, The Quran, The Bible, etc. have been model of thinking pattern on Indian society. The caste system as well as tradition patterns have conclusive religious influence over the individual. It is observed that, honour is the most precious thing in Indian society. It varies from culture to culture, religion to religion and place to place. Women in all societies are the transmitters of history, custom and traditions of their community.” Significance of family honour is considered as ideal and cultural family unit in

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<sup>1</sup>. Amir H. Jafri, “Honour Killing dilemma, Ritual, Understanding” publication, Oxford University press, first edition, 2008, P. 23

the society. Manu, the famous law giver said<sup>2</sup> “where women are honoured there the God dwells”. Women are typically the victims of honour crimes committed by family members in patriarchal settings. Male victims of honour killings by family members do occur occasionally. That is one way that masculine dominance is expressed. Violence against women and girls is pervasive. It transcends all barriers of nationality, income, class, religion, and caste. Justice K. Ramaswamy said “Indian women have suffered and suffering discrimination in silence self-sacrifice and self-denial are their nobility and even then they have been subjected to all inequalities and discrimination”<sup>3</sup>

Honour killing also referred to as ‘customary killing’ or ‘Domestic public violence’ According to The Black’s Law Dictionary honour killing defines<sup>4</sup> “A crime motivated by a desire to punish a person who the perpetrator believes has injured a person’s or group’s sense of honour.”

Honor killing is neither specifically defined by law nor is there any other term that could be said to have widespread acceptance. Yet, human rights organizations and experts have not offered many reasons of honour killings. Honor-based violence, honour crimes, and violence based on honour rules are all terms used to describe the notion of honour killing, which is a complicated idea, “...since they have many variants of definitions...”<sup>5</sup> The researcher has used the terms ‘honour killing’, ‘honour based violence’, ‘honour crimes’, ‘shame culture’, ‘honour codes’, ‘codes of honour’ interchangeably. Basically, honour killings violate the human rights of the victims; their right to life. The right to life is the fundamental right of human beings, it is basic to all human rights and without it all other rights are meaningless. In fact all other human rights hold relevance only when the right to life is recognized. The term ‘life’ has been interpreted exhaustively by courts across the world among various nations to include the right to livelihood, health, education, environment and dignity.

Human Rights Watch defines ‘honour killings’ in these words: “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. A woman can be targeted by individuals, within 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 ‘dishonors’ her family is sufficient to trigger an attack on her life.”<sup>6</sup>

The United Nations describes honour killing as a ‘growing problem’, and says authentic data on incidences of honour killings are difficult “because killings are rarely reported to police, and families often ‘cover up’ the crime, disguising it as an accident or suicide.”<sup>7</sup>

In this framework, it is also possible to assert that using force to defend oneself against dishonor is not only encouraged but actively expected. Hence, as a cultural practice, honour killing has both supporters and opponents. Some people think that cold-blooded murders are what honour killings really are. A significant portion of society, however, views the action as holy and pure, an honest and duty-bound attempt to restore the families or the community's damaged or lost honor. For them, murdering someone for the sake of their family's or their community's honor is not a crime but rather a noble deed since only after the 'purification of the family' that results from such murder can an honorable life, a life worth living, be considered.

**Honour Killing as a Social Problem-** India is a nation that embraces many viewpoints and ideas. On the one hand, the inhabitants in this region are well-off, educated, ethnic, socially aware, and cultured, while on the other, they struggle with issues like poverty, terrorism, alcoholism, prostitution, drug addiction, unemployment, etc. These difficulties are more appropriately referred to as "social problems" than as personal issues. It's simple to say that although social problems hurt society or the general public, individual problems just affect the person. Several jurists have defined the concept of ‘Social Issue’ in various ways. Everyone must describe their own protocols.

According to Reinhardt, “Social problem is a situation confronting a group or a section of society which inflicts injurious consequences that can be handled only collectively.” In the words of Walsh and Furfey,<sup>8</sup>

<sup>2</sup> .Dr. R. Revathi “Law relating to Domestic Violence” Publication, ,S. P. Gogia, (H. U. F.),Haritha Graphics, Hyderabad, Edition, 2004, P.17, Manu Sumrithi III,55 in DwarakanathaMitter, The Position of Women in Hindu Law, (1984)127

<sup>3</sup>MadhuKishwar v. State of Bihar, AIR, 1996 S.C.1864

<sup>4</sup> Bryan A. Garner (ed), Black’s Law Dictionary, Ninth edition 2009 P. 428

<sup>5</sup> Linda Edvardsson, “Crimes of Honour- Females’ Right for Support in the Multicultural Society” 7 (2008),availableat:<https://muep.mau.se/bitstream/handle/2043/6820/1%2B2%2B3.pdf?sequence=1&isAllowed=y> (Last visited on October 20, 2018)

<sup>6</sup>Anand Kirti and Prateek Kumar et. al., “The Face of Honour Based Crimes: Global Concerns and Solutions”, 6 International Journal of Criminal Justice Sciences 344 (2011)

<sup>7</sup>“Why do families kill their daughters?”, available at: <https://www.bbc.com/news/world-asia27619>

<sup>8</sup> S.R Myneni, Sociology 122(Allahabad Law Agency, Allahabad, 2nd edn.,2017)

“Social problem is a deviation from the social ideals remediable by group effort.” So from the above definitions, it can be summed up as:

- A social catastrophe is not the fault of one or a few people.
- A single person or a small group cannot handle social challenges.
- Consciousness belongs to society as a whole.
- A state of affairs is less than ultimate or undesirable.

As time passes, social concerns evolve. For instance, the population boom in India was not considered a social problem until the late 1940s, but from the 1950s on, it has emerged as a serious social problem. The following highlights a few social problem characteristics:

- Situations that harm social structure are referred to as social problems.
- Social problems are all defined as departures from the ideal state.
- There is a common root cause for all social issues.
- Social factors are the root cause of all social issues.
- They are spurred on by unhealthy societal situations.
- In some way, they are related to one another.
- They have an impact on many facets of society.

**Honour Killing as a Legal Problem** - The fundamental cause of the crime is that the majority of caste members reject inter-caste unions under the guise of upholding the dignity of their caste or the social standing of their family. Due to the complicated socio-cultural issues, the crime of honour killing is growing rapidly. Local laws in the nation are crafted to have the greatest possible control over crime and to shield the citizen from any form of violence. Laws are also in place to deal with circumstances in which people breach the law and to punish offenders when they are discovered. The legislation itself defines the constitutionally guaranteed rights of the individual, how to exercise those rights, and the possible remedies in the event of a violation. Yet as of right now, no specific law has been created to address crimes done in the name of honor. Crimes of honor killing are regulated by the country's general penal code, or Indian Penal Code, 1860, under the concept of murder. The history of India demonstrates that women's place in Indian society has not yet changed. As long as the populace of the society does not alter their mentality and adopt new trends, the miseries in the form of discrimination, degradation, exploitation, oppression, and humiliation would continue. Despite having a significant role in society, women are nevertheless regarded as old-fashioned. Hence, general and special laws pertaining to the status and protection of women in society have been passed in an effort to better the status of women in society.

Indian society still believes in the religion and customs prevailing in society. Still there are certain things which are governed by the personal law of the person. Marriage is also among those which are still governed by the personal of the individual. Any person who is found acting in contradiction with customary rites and practices that are prevailing in the society are declared as wrongdoer and the society also takes against them. The main reason for the Honour killing incidents to take place is young couples performing inter-caste, inter-religion marriages or marrying against the wishes of their parents.

Indian culture still adheres to the established religion and customs. Yet, there are still some matters that fall under a person's personal law. Marriage is another institution that continues to be regulated by personal preferences. Every individual seen behaving against the accepted social customs and rituals is labeled a wrongdoer, and the community as a whole takes action against them. Young couples performing inter-caste, interreligious, or getting married against their parents' desires are the main causes of the Honour killing cases. Even after seventy-five years of independence, young people in India still do not have the freedom to choose their spouses, even though the law grants them this right. Instead, they are constrained by the long-standing social customs and traditions that are still practiced today.

India has a distinguished history of using legislative measures to combat social and communal ills like child marriage or sati. After having enactment with the Sati Prevention Act of 1987, the Dowry Prohibition Act of 1961, and the Prevention of Child Marriages Act of 2006, there is an urgent need for particular legislation that may be called the Prevention and Regulation of Honour Killing Act. Such legislative measures initially encountered opposition, but over time they came to be recognized as essential for social reform. As a result, even though they are discreetly encouraged in society, honour killings are illegal everywhere. Honor killings are not specifically defined as a crime under national penal laws. Yet, the laws condemn honor killings as a brutal kind of murder and the perpetrator faces harsh punishment.

Any acts of violence done in the sake of honor should be severely punished, according to several courts. It is widely accepted that anyone who encourages, incites, facilitates, or threatens violence should face punishment for any form of violence committed in the name of honor. Honor killings have not yet been addressed by any established legal doctrine or jurisprudence. Honour killings fall within the general definitions

of manslaughter or homicide. Finding the perpetrator of such attacks when a mob is engaged is particularly challenging. Evidence gathering is particularly difficult since eyewitnesses are never cooperative.

Hence, it can be inferred from the study that honor killing is a widespread legal issue that affects every nation, community, and culture in addition to being a social or cultural issue. This evil encompasses not only social problems but also legal problems. It poses a challenge to every jurisprudence and legal system in use across the globe. When all of these elements are taken into account, it can be concluded that social and legal issues both contribute to the presence of this urgent issue.

**Honour Killing as a Socio-Legal Problem** - Honor killing may have existed in India for thousands of years in the past. Honor killing has emerged as a new criminal subgenre in recent years. The civil society has been put at risk by these kinds of crimes, which entail murder or other violent acts committed in the name of honor. "The irony lies in prefixing the word 'honour' before killing as if one is appreciating an illegal act. But over a period of time the phrase 'Honour Killing' has come to stay and is widely accepted. During the last couple of years killing of young boys and girls, on the pretense of honour of the family, particularly of those who marry against the wishes of their family, has attracted the attention of all."<sup>9</sup>These murders are the outcome of the belief that killing someone whose actions discredit their tribe or family is justified in the name of defending one's honor.

The preserving and protecting "the honour even at the cost of life has been prevailing in society since ages. There is an observation amongst tradition bound societies that the loss of honour is equal to the loss of life and an individual does not hesitate even in killing another individual who is said to have brought this dishonor."<sup>10</sup>"This so called perceived dishonor might be due to numeral reasons e.g. following a dress code unacceptable to the family or community, engaging in certain sexual acts like adultery or homosexual relationships, pre-marital or extramarital sexual relationships, marrying against the wishes of the family etc."<sup>11</sup>Yet, it appears that the most frequent cause of honour killings is hostility and intolerance toward same-gotra, inter-caste, or interreligious marriages. Even more so if they are ordained against the will of the community or family.

The main issue is in rural areas where Khap Panchayats, which are more active and made up of caste-related individuals, decide all issues affecting their community. The caste system there has always been as strong as it has ever been, and because of this rigid caste structure, there have always been limits on inter-caste weddings and marriages within the same gotra, and those who dare to break these rules suffer the consequences. The fundamental source of this social ill is the prevalence of this rigidly conservative mindset in society at large. Young couples who dare to form alliances with members of the same gotra, sub-caste, or religion are mercilessly tortured and murdered. The community justifies the executions by claiming that doing so will maintain social order and protect the honor of the community, caste, or family. The perpetrators of crime are typically male relatives, such as dads, brothers, husbands, and occasionally mothers or other relatives, and the victims are almost always women.

Since one of the grounds behind the honour killings in India, is an inter-caste, inter-religion or same gotra marriage in which the marriage is solemnized against the wishes of parents and society. "It thus becomes essential to understand that how institutions like marriage and caste system, which are considered to be the most ancient and founding stone, have been connected with or have become the reasons behind the heinous crimes like honour killing in India. Undoubtedly, here the questions arise whether merely on the basis of violations of rules committed against these social institutions, the society or family can dare to commit the most brutal crime of honour killing against their own community members or children. Whether rules prescribed by society regarding marriage and caste are so rigid or deep rooted that if someone dares to disobey such rules should death penalty by the society be imposed on that individual." To do this analysis first of all there is a need to understand the concepts of the marriage and caste system as a social institutions, which are considered to be the foundations of society of India and also how the sanctity of the established rules of these institutions are so ingrained in the mind-sets of the members of the community that even the precious life of innocent people can be taken and justified for the preservation of the same.

Indian society is made up of a complex system that is home to numerous castes, ethnicities, religions, tribes, and cultures. As with other social institutions, the institution of marriage has experienced a variety of modifications over time. The spread of Western philosophy, which introduced democratic ideas into the customs followed by social and cultural institutions, is to blame for these changes. The fabric of Indian society has also

<sup>9</sup>Sukanta K. Nanda, "Honour Killing In India And Human Rights: The Socio - Legal Dimensions", 3 Journal Of Minority Rights 40-44 at 40 (July 2012).

<sup>10</sup> M.S. Rana, "Honour Killings is not caste, Religion-Specific", XLVIII (*Mainstream*, 28-31 at 28(2010).

<sup>11</sup>Shobharam Sharma, "Honour Killing in India: Need for Deterrent Action", *Lawz*, 15-18 at 15 (February, 2011).

been significantly impacted by British rule and the freedom movement in India. The speed of urbanization was also hastened by the development of the industrial sector. Urbanization brings with it a culture of individual freedom of thought and choice. With the spread of education, a surge in the scientific thinking has been witnessed which is coupled with collaboration of the mass media all around the globe. It can be said that, mechanization urbanization and modernization have brought the elements of individualism, self-orientation and materialism, which have brought remarkable changes in the family values and marital relations. With the growth of education, there has been a rise in scientific thinking, which has been aided by the global cooperation of the media. It might be argued that the aspects of individualism, self-orientation, and materialism brought about by mechanization, urbanization, and modernity have significantly altered marital values and family relationships.<sup>12</sup>

**Conclusion** – To be concluding, Honour Killing has been a burning problem nowadays in Indian society. Marriage has been regarded as a sacrament since the dawn of Indian civilization. It is seen as a tie that, once tied, must stay together. Hindus believe that marriage is an eternal bond that endures throughout all of the lives that a person will have, not just this one. Despite this fact honour killing has been socio-legal problem which is deeply rooted even in this modern time. There is no definite legislation in order to root out this evil in our country. Therefore, it should be priority on the part of legislatures to enact the legislation regarding this social evil.

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<sup>12</sup>AmiteshawaraRatra, Praveen Kaur, SudhaChhikara, “Marriage And Family In Diverse And Changing Scenario”,16 (Deep and Deep Publications, New Delhi, 2006).