

## **HONOUR KILLING: VIOLATION OF FUNDAMENTAL RIGHTS**

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### ***Abstract***

*What will be happen in the next minute of life no person knows? Every person has the rights and wishes to live the life according their willingness. No person has the right to violate the rights of another. But honor killing is one of them in which person has deprived the freedom of another. Honor killing is a act in which persons of family community caste or religion kill the female or male, only because they think that their family's reputation has been damaged. When a girl marries a boy who does not belong to her community religion or caste Members feel that their reputation felt down due to the act done by girl. In the patriarchal system women are considered as bearer of honor of the family. That's why they killed both of them or only the girl who has married against their willing. such crimes go unreported or are passed off as suicide or natural deaths by the family members involved. By this act they violate the rights of the people as well as defame the law. Through this paper to analyze whether there is a need to enact specific law or not with respect to honor killing And also To know the reasons responsible for honour killing.*

***Key Words:*** *Fundamental Rights, Culpabale Homicide, Honor Killing Murder, Causes and Prevention*

## **Introduction**

An In our country there will be a combination of a multicultural society, and our constitution provides fundamental rights and no one can deprived their rights. But here people are also influenced by the caste system and other traditional practices which they believe to follow throughout their lives. People are varied about their honor and in the patriarchal system, women are considered as bearer of honor of the family. Honor killing is an act in which women are killed by men in the family only because men feel that their family's honor has been damaged. Historically, there is no evidence of the emergence of honor killings, but few scholars believe that it may have first started among the Baloch people of Baluchistan in the south Asian peninsula and as these people spread, this crime spread worldwide. It is possible that these crimes spread across the world via Pakistan and India. These acts mostly caused because of trigger done by the relatives' society neighbors by whom the accused feels dishonored and gets provoked. These acts mostly occur against the female who are assumed for sexual and marital offences. Our constitution provides the rights and freedom to do acts which does not violate law. All persons having equal rights before the law. But \caste and status are the main reasons for honour killing at present. Mostly studies have shown that even on the basis of doubt that a women's male has an immoral relationship or she is pregnant due to any immoral relation. Many times due to flatulence or anemia or due to any tumor in the stomach stopping of menstruation also forms the basis of doubt and reaches the men of the family. Information is conveyed by women and men are encouraged to punish them. In the role of execution for the crimes of honour it is not always the men who play the sole role, rather in many cases women play a crucial part in the killings. Women are also key role players in ensuring the initial limits of sexual regulations and can also be party to decisions to kill women, including their own daughters.

## **Violation of fundamental rights**

Human rights are the rights that all human beings have to live a dignified life, ensuring the protection of human rights is essential for any civilized society. In other words protection or violation of human rights is the criterion for the progress, development and progress of any country, nation or society. A universal declaration of human right was made on 10 December 1948 under the aegis of the United Nations General Assembly. On this occasion, the day of December 10 is celebrated every year as

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- 1 Dr. J.N. Pandey, constitutional law of India, central law agency, Allahabad, 53<sup>rd</sup> edition, 2016
  - 2 DevendraBagdi, Indian penal code 1860, India publishing company, Indore, edition 2012

human rights day all over world. In the preamble of Indian constitution, all the human rights ideas, ideals, values, standards and terminology described. This declaration of human rights is exemplary for all nations. The purpose of the preamble in United Nations Declaration is the establishment of freedom, justice and peace in the world community. Human rights, dignity, freedom, equality and brotherhood have been emphasized under article 1 and 2. In these, any type of discrimination or discrimination based on caste, varna, gender, religion, language, place of birth, economic status etc. or any other situation is considered taboo. No one has right to behave cruel, inhuman or degrading towards anyone. Article 15 prohibit the discrimination on the ground of religion, race, caste, sex or place of birth, article 17 abolished the UN touch ability, because it is punishable under this article. Articles 19(1) provide the freedom of speech and expression and article 21 provides protection of life and personal liberty. But honour killing is violate these rights which given by Indian constitution.

### **Culpable homicide and murder**

The biggest problem in the case of punishing those convicted in the crime of honour killing is that no one comes forward as a witness; even the people of the society seem to support this crime. The frightening situation is that the people of the village do not stop here; they are also seen celebrating such acts. Talking about the Indian penal code 1860, a heinous crime like honour killing has not been made punishable till now. Section 299 and 300 of the code comes under the definition, section 299 of IPC 1860 says that, any act with the intention of causing death or causing bodily harm, which is likely to cause death or knowing that it is probable to commit death by that act he commits death, committing a crime of culpable homicide. People, who cause physical harm to another person who suffers from a disorder or limb, and thereby hastens the death of that other person, cause his death. Will be understood Where death has been caused by bodily harm, the person who has incurred such bodily harm, shall be deemed to have committed the death, through he shall be prevented by proper treatment and skillful treatment could go. It is not a homicide to cause the death of infant in the mother's womb, but to commit the death of a live infant will be in the category of homicide if any part of that child has come out, although that child have not taken breath. And murder is defined in section 300 of IPC 1860. Punishments for these offences are mentioned under section 302 for murder and 304 for culpable homicide not amounting to murder.

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- 3 Dr. s.k. Kapoor, human rights & international law, central law agency, Allahabad, 30<sup>th</sup> edition, 2014
  - 4 Suraj Sharma, honour killing- a customary killing, international journal of advance research, ideas and innovation in technology, vol.3 issue 4, 2017
  - 5 <http://www.academia.edu/documents/in/honour/killing>

Homicide and honour killing are closely related but are not the same as honour killing is a new concept but both are the act of killing the victim. The role of mensrea plays an important role in both the crimes. In case of homicide, the killers are motivated by monetary means while in case of honour killing, it is permanent elimination of the member to bring back the honour of the family. The accused in case of homicide is the third person who does the crime for money or may be the member of the family but in case of honour killing it is the member of the family who commits the crime. The family is no way dishonor in case of homicide, but in case of honour killing it is made because of the dishonor caused to the family. Similarly, in the case of honour killing, it is completely made because of the triggering of the family members or neighbours or relatives whereas in case of homicide it is a plan made by certain person to commit the crime.

**Effect of honour killing** The situation is appalling, due to the terror of khap panchayats in west Uttar Pradesh, Punjab, Haryana, Rajasthan and Delhi etc. and their decisions have made the situation very frightening. The situation is that in Haryana, every year about 100 young people is put to death simply because they get married in same gotra or they do the mistake of love for a girl who belongs from the village. In these state police has received per day approx. 150 applications for protection. The murders of innocent people are continuing, they also come under the purview of torture, who help these innocents. Or maintain relationships and contacts with them directly or indirectly. Khap panchayats are giving rise to an unconstitutional situation and questioning the democratic system.

Such crime is not affected only single gender; men are also suffering as victims of honour killing. If they violate or brought down the name of the family, they were killed by their own family members, mainly such killing is focused on the female, but it also extends to men too. If the male violate their customs, got married in inter caste or against families will then they are killed by their family members. Role of male is more involving in the execution of such crime. It doesn't matter how close and they love him or her, if they cross their limits of the family principles.

Due to the manner in which sentence of death passed by khappanchayats on the day, there is an unnecessary burden of work on the police and the courts. A large number of tortured couples are taking shelter in the courts. The number of couples seeking protection and protection with the police is increasing at an equal rate. By such killings so many social rebellions and anomalies have started coming into existence. Maximum youth are falling prey to frustrations.

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6 <http://www.writnglaw.com/majority-act-1875/>

7 [http://en.wikipedia.org/wiki/honour\\_killing](http://en.wikipedia.org/wiki/honour_killing)

## **Honour killing causes and preventions**

### **Lack of awareness**

The lack of awareness and education of people about their rights, guaranteed to them and how to claim their rights are one of the reason for such honour killings. To prevent such crimes, people have to tell about their rights and duties, they will have to give information about the law. So that whenever the rights of a person are violated, they can raise their voice against it and punish the culprit who committed the crime. For stopping this crime awareness is must about the law and effect of such crimes. Such crimes are increasing day by day in the absence of information, especially in rural areas because people are not so aware there.

### **Rejection of arranged marriage**

The member of the family be it a male or female member of the family, if refuses to accept the marriage arranged by the family, they would be triggered to be killed for the welfare of the family. It is a kind of shame the family members feel when the person does not accept the marriage arranged by the family. People should understand that if their children refuse to marry then they do not believe then they should marry according to their wish, because the law has given them the freedom to live life in their own way. No person has right to violate other's freedom and rights.

### **Khap panchayat**

It is a group of persons or a community organization especially found in villages and in Northern India to exert a social influence within the community. Khap panchayat take law in their own hands and indulge in offensive activities which endanger the personal lives of persons marrying according to their free will. There are many judicial decisions provided by the Courts against the action of Khap Panchayats. This community were always against the marriage inendogamy ,panchayats considers such marriages as a family adultery. Khap panchayats are always against interring caste marriage system. Landmark case is Smt. Laxmi Kachhwahav. The State of Rajasthan 1999 in this case a Public Interest Litigation was filed in the Rajasthan High Court against the illegal functioning of Khap Panchayat violating the individual's basic rights. The Court ordered State authorities to limit the functioning of such Panchayat and ensure arrest and punishment of its members. If khap panchayats pay attention to social harmony and change their behavior in the course of time, then the police and courts will be able to avoid

unnecessary pressure of work and the society will also benefit from it. It is necessary to curb the increasingly undemocratic behavior of the khap panchayats.

## **Caste system**

The existence of caste system in Indian Society is a curse on the nation and will soon destroy the better. Though many reforms are brought in law, many documentaries and value education is given to people, this view towards caste is still stable. Where on inter-caste marriage is denied by certain cultural groups, certain intra caste marriage is also denied as a person is not allowed to marry in his/her gotra or of their parents gotra. And not only inter-caste marriage results in sizeable amount of honour killings but also inter religious marriages. But the younger generations could understand how much importance a caste has to be given and not while people of older age couldn't overcome their feelings on caste system and hold it tightly. Only if this primitive ideology of casteism is eradicated, there can be peace and equality and freedom of women rights in the society. Indian constitution provides abolition of UN touch ability, and abolished its practice in any form is forbidden, under article 17. Article 15 provides prohibition of discrimination on grounds of religion, race, caste, sex, and place of birth or any of them.

## **Seeking a divorce**

A lady attempting to get a divorce or separation without the consent of the husband Family can also be a trigger for honour killing. Where marriages are arranged and goods are often exchanged between families, a woman's desire to hunt a divorce is commonly viewed as an insult to the male who negotiated the deal.

## **Rape victims**

In the society where women should be protected, they are being raped. In that case it is the duty of the family to accept such person but the family feels it is a shame and feels the life of a girl is finished and she is completely useless for the society and the family, thus she would be killed by their parents or family members.

**Indian majority act 1875:** the right of marriage is a constitutional right given by article 21 and under section of 3 of the Indian majority act 1875, a person who is a citizen of India attains the age of majority after completing 18 years and not before but in case of minor the superintendence of whose property has assumed by the court of ward it will be 21 years. A person who is prominent, wants to marry a person of

another race or inter-caste, community, is not prohibited by law and honour killing initiated on this basis is illegal and serious measures must be initiated.

## **Conclusion and suggestion**

When the trust changes into behavior, it is very difficult to change such behavior. Something similar is happening with khap panchayats. The representatives of khap panchayats have transformed the old faith into practice. This is reflected in his conduct. It is difficult while behavior can be changed, but not trust. Not marrying love and not marrying in the same gotra is a kind of faith, which has now becomes a form of behavior. In this practice, the scope of the argument is decreasing. Even the place of sensations is no more. This appearance has to be changed, even after so many laws, people do not hold back from killing on the name of honour. Change in the mind- set of the members of the khap panchayats and this is possible only when the government, NGO'S and intellectual people of society will try together. Just as a sati pratha has almost been eradicated from India, in same way the following suggestions should be implemented to eradicate the crime of honour killing. Women should be educated, khap panchayats should be relaxed and duly informed of the law, work should be done to make women self- reliant, inter caste marriage should be promoted, the law and the administration should be enabled, so that they can take appropriate steps at the right time, in respect of such crimes the court should consider and punish quickly, causing fear in the minds of criminals. In implementing the above ideas, the judiciary, executive and general public especially the youth will have to come forward so that such hateful, immoral and heinous crimes can be eradicated from the society. And in the name of honour people should not be violated the fundamental rights of others.