

Murder for shame or dishonour

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Abstract

Shame killings the homicide of a member of a family, due to the perpetrators' belief that the victim has brought shame or dishonour upon the family, or has violated the principles of a community or a religion, usually for reasons such as refusing to enter an arranged marriage, being in a relationship that is disapproved by their family, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate, engaging in non-heterosexual relations or renouncing a faith.

Keywords: dishonour, Murder, inappropriate, arranged marriage

Introduction

Honour killing is defined as a death that is awarded to a woman of the family for marrying against the parent's wishes, having extramarital and premarital relationships, marrying within the same gotra or outside one's caste or marrying a cousin from a different caste. Honour killing is different from the dowry deaths that are also a very common practice in India as, in the case of dowry deaths, the perpetrators of that action claim that they have not been given enough material rewards for accepting the woman into the family. In that case there is a lot of harassment from the in-laws and more times than one, it has been noted that the wife commits suicide rather than being killed by the in-laws, though it has to be said that she has been mentally killed, if not physically. We have had a tradition of honour killing. This tradition was first viewed in its most horrible form during the Partition of the country in between the years 1947 and 1950 when many women were forcefully killed so that family honour could be preserved. During the Partition, there were a lot of forced marriages which were causing women from India to marry men from Pakistan and vice-versa. And then there was a search to hunt down these women who were forced to marry a person from another country and another religion and when they returned 'home' they were killed so that the family honor could be preserved and they were not declared social outcastes from their region. At that time, the influence of religion and social control was much greater and hence there were at least a couple of honour killings a day, if not more. The partition years can be seen to be the beginning of the tradition of honour killing on a large scale. It's worth mentioning here that Honor Killing is not specifically related to India only. This is a practice that continues to be prevailing in North and South America, Africa, Turkey and many other countries. But the thing that has to be kept in mind is that the number of incidents relating to this crime is very low and there is a very strict punishment for committing this crime in other countries.

Now, there are various reasons why people or family members decide to kill the daughter in the name of preserving their family honour. The most obvious reason for this practice to

continue in India, albeit, at a much faster and almost daily basis, is because of the fact that the caste system continues to be at its rigid best and also because people from the rural areas refuse to change their attitude to marriage. According to them, if any daughter dares to disobey her parents on the issue of marriage and decides to marry a man of her wishes but from another gotra or outside her caste, it would bring disrepute to the family honour and hence they decide to give the ultimate sentence that is death to the daughter. Now as has become the norm, the son-in-law is killed as well. Sociologists believe that the reason why honour killings continue to take place is because of the continued rigidity of the caste system. Hence the fear of losing their caste status through which they gain many benefits makes them commit this heinous crime. The other reason why honour killings are taking place is because the mentality of people has not changed and they just cannot accept that marriages can take place in the same gotra or outside one's caste. The root of the cause for the increase in the number of honour killings is because the formal governance has not been able to reach the rural areas and as a result. Thus, this practice continues though it should have been removed by now.

There are various misconceptions regarding the practice of honor killing. The first misconception about honor killing is that this is a practice that is limited to the rural areas. The truth is that it is spread over such a large geographical area that we cannot isolate honor killings to rural areas only, though one has to admit that majority of the killings take place in the rural areas. But it has also been seen recently that even the metropolitan cities like Delhi and Tamil Nadu are not safe from this crime because 5 honor killings were reported from Delhi and in Tamil Nadu; a daughter and son in law were killed due to marriage into the same gotra. So it can be seen clearly that honor killing is not isolated to rural areas but also to urban areas and as already pointed out, it has a very wide geographical spread. The second misconception regarding honor killing is that it has religious roots. Even if a woman commits adultery, there have to be four male witnesses with good behaviour and reputation to validate the charge.

Furthermore only the State can carry out judicial punishments, but never an individual vigilante. So, we can clearly see that there is no religious backing or religious roots for this heinous crime.

- a. Honour killings are directed mostly against women and girls. The perceived dishonour is normally the result of one of the following behaviours, or the suspicion of such behaviours:
- b. Dressing in a manner unacceptable to the family or community,
- c. Wanting to terminate or prevent an arranged marriage or desiring to marry by own choice,

Engaging in heterosexual sexual acts outside marriage, or even due to a non-sexual relationship perceived as inappropriate, and Women and girls are killed at a much higher rate than men.

A pattern of behaviour: murder falling outside of legal system. Murder is the unlawful killing of another human without justification or valid excuse, especially the unlawful killing of another human being with malice aforethought.ⁱ ⁱⁱThis state of mind may, depending upon the jurisdiction, distinguish murder from other forms of unlawful homicide, such as manslaughter. ⁱⁱⁱManslaughter is a killing committed in the absence of malice, brought about by reasonable provocation, or diminished capacity.

Ground of honor killing

Refusal of an arranged marriage

Forced marriage

Refusal of an arranged marriage is often a cause of an honor killing. The family which has prearranged the marriage risks disgrace if the marriage does not proceed.

Seeking a divorce

A woman attempting to obtain a divorce or separation without the consent of the husband/extended family can also be a trigger for honor killings. In cultures where marriages are arranged and goods are often exchanged between families, a woman's desire to seek a divorce is often viewed as an insult to the men who negotiated the deal. By making their marital problems known outside the family, the women are seen as exposing the family to public dishonour.

Allegations and rumours about a family member

In certain cultures, an allegation against a woman can be enough to tarnish her family's reputation, and to trigger an honor killing: the family's fear of being ostracized by the community is enormous.

Victims of rape

Victim blaming

In many cultures, victims of rape face severe violence, including honor killings, from their families and relatives. In many parts of the world, women who have been raped are considered to have brought 'dishonour' or 'disgrace' to their families. This is especially the case if the victim becomes pregnant.

Central to the code of honor, in many societies, is a woman's virginity, which must be preserved until marriage. Suzanne Ruggi writes, "A woman's virginity is the property of the men

around her, first her father, later a gift for her husband; a virtual dowry as she graduates to marriage

Homosexuality

There is evidence that homosexuality can also be perceived as grounds for honor killing by relatives. It is not only same-sex sexual acts that trigger violence - behaviours that are regarded as inappropriate gender expression (e.g. a male acting or dressing in a "feminine way") can also raise suspicion and lead to honor violence.

In one case, a gay Jordanian man was shot and wounded by his brother. In another case, in 2008, a homosexual Turkish-Kurdish student, Ahmet Yildiz, was shot outside a cafe and later died in the hospital. Sociologists have called this Turkey's first publicized gay honor killing. [In 2012, a 17-year-old gay youth was murdered by his father in Turkey in the south-eastern province of Diyarbakır.

United Nations High Commissioner for Refugees state that "claims made by LGBT persons often reveal exposure to physical and sexual violence, extended periods of detention, medical abuse, threat of execution and honour killing.

Penalties under Indian penal code

Sections 299-304: Penalizes any person guilty of murder and culpable homicide not amounting to murder. The punishment for murder is life sentence or death and fine. The punishment for culpable homicide not amounting to murder is life imprisonment or imprisonment for upto 10 years and fine.

Section 307: Penalizes attempt to murder with imprisonment for upto 10 years and a fine. If a person is hurt, the penalty can extend to life imprisonment.

Section 308: Penalizes attempt to commit culpable homicide by imprisonment for upto 3 years or with fine or with both. If it causes hurt, the person shall be imprisoned for upto 7 years or fined or both.

Section 120A and B: Penalizes any person who is a party to a criminal conspiracy.

Sections 107-116: Penalizes persons for abetment of offences including murder and culpable homicide.

Section 34 and 35: Penalizes criminal acts done by several persons in furtherance of common intention.

Section 300: introduce "fifthly" clause to Section 300 of IPC which at present defines "murder" under four categories. The additional definition would make khap-dictated honour killings a distinct offence and make all those who participate in the decision liable to be tried for the main charge, that is murder, and liable maximum penalty, death.

Constitutional Provisions

The Constitution of India has ample provisions allowing an individual to exercise his/her choice independent of caste, religion or gender and protection from honour related crimes including honour killings.

Following are those Constitutional provisions that substantiate this

Honour Killings are cases of homicide and murder which are grave crimes under the Indian Penal Code (IPC). Section 299 and 301 of the IPC, deals with culpable homicide not amounting to murder while Section 300, deals with murder. Honour killing amounts to homicide and murder because the acts are done with the intention of murdering the victims as they have purportedly brought dishonour upon the family. The perpetrators can be punished as per Section 302 of the IPC.

The khap panchayats or family members can also be booked under Section 302 of IPC for instigating suicide those who transgress the so called norms of the community.

Such killings also violates Articles 14, 15 (1) & (3), 17, 18, 19 and 21 of the Constitution of India.

Article 14 of the Indian Constitution guarantees to every person the right to equality before the law or the equal protection of the laws. Every person, whatever is his or her status or situation is subject to the jurisdiction of the ordinary courts.

This right to equality is thus documented as one of the fundamental features of the Indian Constitution. Honour Killings are thus hideously against this very Constitutional Right provided for the protection of Indian citizens. Honour killings are mainly directed towards women and thus give rise to gender violence.

Honour killings involve the murder of a particular person especially a woman and thus come under the ambit of Section 299 and Section 300 of the Indian Penal Code. It is also violation of Article 19 and Article 21 of the Constitution. Such brutal murders, under the garb of saving the honour of the family, are clearly against the Constitutional provisions enshrined in Article 21. Khap panchayats violate a person's fundamental right to life as they kill or instigate murder, in the name of honour. Every person has a right to live. The capital punishment is possible only when granted by law.

In cases where the khap panchayats have compellingly separated married couples who are of eligible age to get married, these have violated the provisions under the Indian Constitution.

The Indian Majority Act

Section-3, 1857 states that every person domiciled in India shall attain the age of majority on completion of 18 years and not before. Unless a particular personal law specifies otherwise, every person domiciled in India is deemed to have attained majority upon completion of 18 years of age. However, in the case of a minor for whose person or property, or both, a guardian has been appointed or declared by any court of justice before the age of 18 years, and in case of every minor the superintendence of whose property has been alleged by the Court of Wards, age of majority will be 21 years and not 18.

The Act is relevant in cases where the khap panchayats have forcefully separated married couples who are of eligible age to get married. It is a violation of the provisions under this Act.

The main reason behind the enactment of the Special Marriage Act, 1954 was to provide a special form of marriage for the people of India and all Indians residing in foreign countries, irrespective of the religion or faith followed by either party, to perform the intended marriage.

Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 was enacted by the Parliament of India, in order to avert atrocities against Scheduled Castes and Scheduled Tribes. The intention of the Act was to help the social inclusion of Dalits into Indian society. It defines acts such as forcing an SC/ST to eat or drink any inedible or obnoxious substance, removing clothes, parading naked or with painted face or body, assaulting, dishonouring and outraging the modesty of an SC/ST woman, sexual exploitation of an SC/ST woman, forcing an SC/ST to leave his or her house or village as punishable. The Act is linked to honour killings because numerous incidents of honour killing are in relation to caste and religion.

The Protection of Human Rights (Amendment) Act, 2006 makes the provision for protection of individual rights of human beings and the constitution of a National Human Rights Commission, State Human Rights Commission and Human Rights Courts for better protection of human rights of individuals.

The Protection of Women from Domestic Violence Act, 2005 provides for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –

- a. Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b. Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c. Has the effect of threatening the aggrieved person or any person related to the by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

The Indian Evidence Act, 1872 makes provision to punish those who conceal fact, either before or at the time of, or after the alleged crime. Article 13 of the Act: Facts relevant when right or custom is in question -Where the question is as to existence of any right or custom, the following facts are relevant:

- a. Any transaction by which the right or custom in question was created, claimed modified, recognized, asserted or denied, or which was inconsistent with its existence;
- b. Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from. The Act is relevant to bring to justice those who become victim because of the verdicts issued by the khap panchayats.

The new wave of young blood, gradually becoming aware of its individual space, influenced as it is by the winds of change brought about by the democratic ethos and liberalisation, is learning to take its own decisions. The right to vote at 18— why not the right to choose your own partner at the legally prescribed age? And there lies the story of two mind sets

pitted against each other in the backdrop of a society struggling to emerge from its earlier avatar. The individual's right at a legally prescribed age should be respected.

The honor killing can be stopped in India by educating people, both men and women. The education which gives them the concept of individual rights of each and every Indian. Although India is the biggest democracy in the world. Democracy in India is confined to state national elections and corporator election. The basic unit of a nation is a home, unfortunately there is no democracy in most of the Indian homes. For the Indian society, the concept of equality among people is the most alien concept. People have very little concept of democracy and they openly lash out routinely on personal rights of Indian people.

People have very little regard for personal freedom of other adult Indians. Adult children have very little freedom to make a decision for their own lives. Most of young adults are coerced into decisions made by their parents. We need to learn about individual freedom of Indian citizens, and we need to learn to be less obsessed with the notion that we are the best country, the best people, the best religion the best culture, and off course the best caste. That is the reason that people disparage other caste other religions and customs and when their young adults choose to marry in an unconventional way, they get extremely furious and sometimes go to the extent of killing their own girl or boy or both.

Our parents have to be taught, it is their own choice to bring children to this world but once they do they have the duty to raise them. Raising a kid is a humangous job but still just because they raised them they don't own them like a property, Once kids reach the adulthood they are individuals and they have the right to marry who they want, choose the profession they want, live in the city they want. Honor killing or constant criticism or even emotional blackmail is criminal behavior although it is considered very normal in India.

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