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# Honour Killings and the Ongoing Struggle for Human Life

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## ABSTRACT

*This study explores the legality of honour killings within the Indian legal framework, focusing on their socio-legal components and judicial reactions. Honour killings, a deeply ingrained socio-cultural problem in different regions of India, include the assassination of persons, generally women, for purportedly bringing 'dishonour' upon their family or society by their marital choices. Despite India's extensive legal system and commitment to human rights, these deaths continue, creating difficult legal and ethical issues.*

*The paper opens by describing honour killings in Indian culture, emphasising their frequency and cultural foundations. It digs at the legal rules prohibiting murder and how they relate to the phenomena of honour killings. The paper goes on to look at the applicability of various laws relating to domestic violence and women's protection in these situations, highlighting the gaps and difficulty in legal interpretation and enforcement.*

*The article also investigates historic judicial decisions and the role of the Indian judiciary in creating the legal discourse on honour killings. It assesses the effectiveness of current legislation and judicial decisions in discouraging such behaviour and safeguarding victims. The role of law enforcement agencies and their often contentious handling of honour killing cases is also discussed.*

*Finally, the report recommends for a stronger legal framework, stricter enforcement, and a revolutionary societal approach to end the practice of honour killings in India. It calls for the government, courts, civil society, and communities to work together to secure justice and protection for victims of this horrible crime. Honour killings, with women as primary targets and males as secondary targets in the majority of cases, have escalated into terrible forms of gender violence.*

**Keywords:** *Socio-cultural elements, Human Rights, Honour killing, Legal framework.*

## I. INTRODUCTION

Rights essentially reflect values and interests a right to life, a right to choose; a right to vote, a right to work, a right to strike; a right to one phone call, to a distinct genetic identity; a right to

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believe one's eyes. Recognizing and protecting human rights is one way we demonstrate our appreciation for everyone's intrinsic worth. Human rights can be broadly defined as a set of fundamental rights that people all over the world have agreed are necessary. Human rights are rights that all people have, regardless of race, gender, nationality, ethnicity, language, religion, or other status. Human rights include, among other things, the right to life and liberty, freedom from slavery and torture, the freedom of thought and speech, the right to labour and education, and many others. Everyone, without exception, is entitled to these rights.

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, was the first legal declaration to outline the fundamental human rights that should be universally guaranteed. The universal concept of human rights is the bedrock of international human rights legislation. This means that we all have equal access to our human rights. This idea, originally emphasized in the Universal Declaration of Human Rights, is reiterated in other international human rights accords, declarations, and resolutions. Human Rights are Inalienable. According to Article 1 of the UDHR, "All human beings are born free and equal in dignity and rights".<sup>3</sup>

Human rights are absolute. Achieving gender equality and eliminating all forms of discrimination against women are fundamental human rights. Despite this, Women's human rights have been violated throughout their lives, and recognizing women's human rights has not always been a priority. A full understanding of how women suffer discrimination and are denied equality is required to establish suitable tactics to eliminate such discrimination.

The concept of women's human rights is successful and growing in popularity because it is both mundane and revolutionary. The concept of women's human rights makes logical sense because women have human rights as well. As a result, anyone would be hard-pressed to establish and sustain the contrary claim that women are not human. As a result, the notion that women have human rights appears to be quite acceptable in many ways. However, from the perspective of women, "women's human rights" is a revolutionary idea with enormous potential because recognized women's human rights standards and practice forces recognition of countries worldwide miserable failure to accord women the human dignity and respect that they deserve—simply as human beings. There are several International Human Rights Instruments and Regional Instruments as well which have been formulated to protect and prevent discrimination and help them attain equality. But however there are several crimes for which we do not have any regulations nor steps to prevent the same. Women constitute half of

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<sup>3</sup> <https://www.latestlaws.com/bare-acts/central-acts-rules/international-laws-conventions/universal-declaration-human-rights1948>

the world population and we have many instrument such as International Covenant on Economic, Social and Cultural Rights , the Convention on the Rights of the Child , the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with disabilities <sup>4</sup>.Time and again there are several discrimination and violence against women which are discussed and at the least voiced at several forums. But however there has not been much focus on one more act which is an absolute violation of human rights in the name of Honour killing. 'Honour killing,' also known as 'customary killing,' is the murder of a family or clan member by one or more family members because the murderers, essentially the community at large, believe that the victim has brought shame on the family or clan.

A dishonour to the family's honour. Do we have the Law in place to punish the people who violate the law in the name of Honour Killing? The answer is negative in India, there is no specific law dealing with this heinous conduct of honour killings or any sanctions for it. The Honour Killings are absolute misnomers because there is nothing that is honour in it. It is a crimes that amounts to murder which is backed by religion and Caste. Women have several restriction regionally based on their religion, region, culture etc., to have recourse to human right promised to them.

The United Nations Population Fund (UNFPA) estimates that the annual worldwide number of honour killings is as high as 5,000 women and girls, The paper attempts to exhibit the violation of Human Rights through a Practice which prevails from centuries and yet in practice that is the "Honour Killing". Honour Killing is generally defined as “the murder of women for suspected deviation from sexual norms imposed by society”.<sup>5</sup>

“Violence against Women and Honour Crimes”-Human Rights Watch defined honour killings as “the 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 "dishonours" her family is sufficient to trigger an attack on her life.”<sup>6</sup>

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<sup>4</sup> Women’s Rights are Human Rights,Office of High Commissioner, United Nations Publication,2014

<sup>5</sup> Honour Killings in India, Widonlule Newme, 2018 JETIR September 2018, Volume 5, Issue 9 <https://www.jetir.org/papers/JETIR1809070.pdf>

<sup>6</sup> Sneha Annavarapu, Human Rights, Honour Killings and the Indian Law, Volume 48. Economic andPolitical Weeekly, 2013.

## II. UNDERSTANDING THE 'HONOUR' IN HONOUR KILLINGS

Historically, there are no definitive explanations regarding the origins of honour killing. Honour killing has occurred in many societies and throughout different historical periods. Honour killing can be found in the Codes of Hammurabi (1772 BC) and the Assyrian Law (1075 BC). Beliefs that a husband had the right to kill his unfaithful wife can be traced to the Codes of Hammurabi, Nesilim and Assura. According to the Codes of Hammurabi and Assura, honour culture is expressed in many ways, as for instances, a woman's virginity belongs to the family and if a virgin voluntarily gives herself to a man, the father shall do with his daughter what he pleases. If a married woman commits adultery with another man, she can be executed, or her punishment can be decided by her husband.<sup>7</sup>

The cause of honour killings has never been proven with certainty in the past. Many authors claimed that honour killing occurs around the world, while others said that it only occurs in certain South Asian and Middle Eastern societies and has been practiced as a deeply ingrained part of culture since the dawn of time. Some academics claim that the practice of honour killing originated in the Baluch and Pashtun tribal customs of Baluchistan and extended to other nations as these people immigrated to different regions of those nations. Honour killings were a widespread practice in Baluchistan during the British colonial era.

Honour killing, also known as customary assassination, is a long-standing custom that has been practised in numerous nations for more than 2000 years. Since the beginning of time, adultery and rape were considered immoral activities in Rome. To protect the honour of their families and society, they have taken away women's lives. Evidence of honour crimes can be found throughout history in the customs and cultures of many different nations<sup>8</sup>.

In Greek society, women are viewed as less than men and frequently suffer at the hands of men. It has been noticed that several women who were accused of committing or suspected of committing adultery in ancient Egyptian and American tribes were sentenced to harsh punishments under the name of "honour crimes" and died as a result.

One of the most severe forms of abuse men commit against women is called an "honour killing." As of late, the International Women's Human Rights Group has reported that honour killings also take place in Bangladesh, Brazil, Ecuador, India, Israel, Italy, Morocco, Sweden, Turkey, Uganda, and the United Kingdom<sup>9</sup>. Most Muslim-majority nations are affected by it.

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<sup>7</sup> Honour Killings in India, Widoonlule Newme, 2018 JETIR September 2018, Volume 5, Issue 9

<sup>8</sup> Umm Rashid "Honour Crimes and Muslims" (May 03, 2023, 11:05 AM)  
<http://www.islamicawakning.com/viewartical.php?articeIID=1330>.

<sup>9</sup> Vol.11, No.5, Law Z, Issue 105 May 2010, P.25

States like Punjab, Rajasthan, Haryana, Uttarakhand, the western region of Uttar Pradesh, and some regions of Bihar are the worst affected in India.<sup>10</sup> In south India, the western Maharashtra and Gujarat states, as well as other areas, honour crime issues are less prevalent

### **III. HONOUR KILLING WORLD-WIDE**

In practically all civilizations, there exist several bad conventional practices. It is a global issue; honour murder is not just a problem in our nation. Youth is the main focus of it. All nations' futures rest with their youth. When we punish young people for having the courage to select and wed their life partner, we inevitably ruin the future of our country and drain its strength. It has been noticed that most of the victims were young, between the ages of twelve to twenty-four. Because of this, young people who may be planning to get married are put in fear, and couples who are under this pressure frequently commit suicide, which is a grave violation of their right to life with dignity and other basic rights. Honour-based violence happens all around the world, from Asia to South America. The majority of the reported cases are found in South Asia and the Middle East. Unknown are the actual numbers of men and women who have died for the sake of honour. It's a crime that can be challenging to catch because not all nations record official statistics. However, thousands of deaths are thought to have occurred.

It has been noted that Asama Jahangir, a special rapporteur for the United Nations, stated that honour murders were becoming more common in 2000. "According to the United Nations Population Fund (UNFPA), the number of people killed in honour killings each year might reach 5000"<sup>11</sup>. It illustrates how widespread conventional, unethical behaviour is across the globe. In accordance with a study conducted by the United Nations by the rapporteur on traditional behaviours in households that are damaging to women, abuse towards women occurs all around the entire globe.

According to the Human Right Commission study, "the practice of honour killing is not just observed in our country; it also has dark undertones in Bangladesh, Brazil, Israel, Sweden, Turkey, Uganda, Pakistan, Morocco, and the United Kingdom."<sup>12</sup>

#### **(A) Honour Killing in India**

Honour killing has a long history. India may have engaged in the practice of honour killing for countless years. The existence of killings being accepted within societal, religious, and cultural borders as well as the strong social structures, laws, and practises of blinding may have stopped

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<sup>10</sup> Vol. 1 Issue IV Legal Era, Aug 2010 P.7.

<sup>11</sup> Vol. 118 Part- 1353, The State of World Population 2000- Chapter 3; Ending Violence against Women and Girls United Nations Population Fund, Criminal Law Journal Sept, 2012

<sup>12</sup> Vol. 118 Part- 1353, Criminal Law Journal Sept, 2012

certain actions from taking place that would have resulted in such severe repercussions. It first appeared in the pre-Islamic period and gained strength during the Islamic era.<sup>13</sup>

Manu, who is regarded as the foremost authority on Hindu law, explicitly said that women were always to be subordinated and that men should have the right to restrict their freedom. A woman was expected to answer to her father while she was young, her husband when she was an adult, and her sons after her spouse passed away.<sup>14</sup>

Even in the Mahabharata, a well-known Indian epic, there are references to women, and the older characters in the story presented them in a very negative way. Women have been compared to dwarfs, hump-backed people, skinny men, lame and blind men, stupid and eunuchs, and have been forbidden from holding public services in the Shanti Parva 18th and longest book of the Mahabharata. Their personalities have been described as being weak and inadequate, like those of those who have physical disabilities.<sup>15</sup>

A historical examination of the current situation in India reveals that the caste system evolved into a hereditary system of the profession during the post-Aryan period, which is when the trend to avoid getting married outside of one's caste began.<sup>16</sup> Although women had a degree of freedom in selecting their husbands, parents ultimately had the most influence.<sup>17</sup>

However, the Vedic period signalled the end of this permissive time in which girls could choose their husbands on their own, and stricter limitations were imposed on girls by the not-so-liberal society. Due to growing hatred between the various castes, this difference grew even wider. A brahmana would get married to a brahmana, and a shudra would get married to a shudra. With the beginning of the medieval period as a result of the Muslim and British invasions, it has been noted that women's status in the home and society as a whole has deteriorated to their highest point. Numerous sinful, illogical, and harmful socio-religious habits must have entered the culture. The horrific hardships, miseries, and deteriorating social position of women were perhaps the worst aspects of societal degradation. Most people in India want to get wed within their caste, community, and religion. Since the Mughal era, the concept of honour crimes has been recognised. The Hindus were compelled to murder their daughters with the intention to preserve the honour of the family, their caste, and their community during that time when they

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<sup>13</sup> Vol. No. XL (1), Indian Bar Review, P. 25, 2013

<sup>14</sup> Mojab, Shahrzad; Abdo, N., *Violence in the name of Honour: Theoretical and Political Challenges*, Istanbul: Bilgi University Press, 2014.

Prem Chowdhry, *Contentious Marriages, Eloping Couples: Gender, Caste and Patriarchy in Northern India*, 2016.

<sup>15</sup> Liddle & Joshi, the rules of marriage within the caste were established in the post Aryan period when caste became hereditary, P. 61, 1986

<sup>16</sup> Bowen, P. 57, 1998., Dewan, P. 33, 2000., Rao, P. 21, 2008., Though women enjoyed equal rights in selecting marital partner in the Vedic period, the parents exercised great control in this regard.

presented the idea of women as possessions.

The use of violence is frequently justified by the desire to uphold the honour of a community, family, or caste. The misconducts include the execution of couples in front of the public without a trial and the suicide murder of a man or woman. They have acted in the past by beating, disfiguring their faces, imposing fines, and engaging in social boycotts.

Even after India gained its freedom, the cruel practice of honour killings continued. There were socially evil practices carried out at the time of India and Pakistan's division. Numerous Hindu ladies from India were compelled to wed Pakistani Muslims, and vice versa. Due to their belief that such weddings constituted an insult to society, the family, and faith, some ladies, and girls, together with relatives, went in search of the women who had been coerced into such unions. It is possible to trace the origin of Indian society's honour-killing customs back to that time.<sup>18</sup>

After obtaining freedom, it was anticipated that the nation was going to create a Contemporary Socialist Kingdom devoid of caste, religious, or sex-based oppression or exploitation. Although the dominant practises and rituals of earlier times will be replaced by principles of liberty, equality, and brotherly love that uphold the worth of everyone and promote equal opportunity for everyone in the nation.<sup>19</sup>

India's culture is regarded as the world's ideal culture in the age of globalisation; however, Indian civilization is entirely based on several kinds of evil customs, traditions, and religious beliefs. The practice of honour killing is widespread in the nation and is justified by customary practices. Numerous young individuals have lost their lives as a result of these oppressive, cruel conventional practices, and a menace has been formed among the youth. Since all of recorded history, women's status in India has not been satisfying. Women were treated like commodities and cattle.<sup>20</sup>

#### **IV. HONOUR KILLING IN TODAY**

Honour killing is not specifically defined in any legislation, nor is there any other description that can be considered to be accepted by all. However, a widely accepted argument is that "murder and forced suicide in the name of imposing certain moral values, the transgressions of which are professed as intolerable are honour killing".<sup>21</sup>

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<sup>18</sup> Vol. No. 02, Joanne, Honour killing on the rise in India and Nepal, [www.stophonourkilling.com](http://www.stophonourkilling.com), *Indian Human rights Law Review*, P. 231, 2011.

<sup>19</sup> Sharma, Divya, "Honour Killing; A Slur on Humanity", *Lawyers update*, P. 46, Sept, 2009.

<sup>20</sup> *Criminal Law Journal* "Violence and Oppression against Women- A critical analysis", P. 217, 2010.

<sup>21</sup> Gurdip Singh and V. K. Ahuja "Human Rights in 21st Century Changing Dimensions", *Pub Universal Law Publishing Co. Pvt. Ltd. New Delhi, India. P.239*, new edition 2012



According to Rao Ali Khan, "Assassinating loved one for the glory of a specific social class because the murderers (and perhaps the larger society) believe that the target has caused shame to members of the community or family is known as an "honour killing," also known as a "customary killing."<sup>22</sup> In terms of comparison, honour killings primarily affect women and girls.

According to Sadia Saroj, "The honour of the family is very much dependent on a woman's virginity".<sup>23</sup> Virginity belongs to the men in a woman's life, first her father and then her husband, who receives it as a gift. It is the family's responsibility to uphold its honour.

Hinajilani claims that the murder was committed "by a family to punish a female family member who has allegedly brought dishonour upon the family." According to her, there are a number of behaviours that can lead to dishonour, including:

- wearing attire in a way unacceptable for a person's family or culture
- engaging in adultery; -experiencing rape or sexual assault;
- becoming pregnant before marriage;
- requesting divorce;
- desiring to marry of one's own free will;
- rejecting an arranged marriage; and
- engaging in homosexual behaviour women and girls are killed at a much higher rate than men.
- Pre-marital sex,<sup>24</sup>
- an unapproved relationship,
- a marriage performed inside the same gotra,
- a marriage performed outside of one's religion or caste, and
- having an extramarital relationship are all prohibited.

Men are often killed for the sake of honour and victims of honour killings are mostly women or girls<sup>25</sup>.

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<sup>22</sup> Rao Arif Ali Khan "Honour Killing; Root and Remedies- Global View", Mittal Publication, New Delhi, First Edition, 2012

<sup>23</sup> Vol No, XL (1) Empowerment project at the Gaza Community Mental Health Project, Indian Bar Review, P.49, 2013.

<sup>24</sup> Iqbal Hamid, "Definition of Honour Killing" <http://www.frontlineonnet.com>. accessed on 24<sup>th</sup> Jan. 2012.

<sup>25</sup> Vol. XL (01), Indian Bar Review, E. G. In Pakistan If a man's or family's honour has been defiled by a woman

## V. ROOT CAUSE OF HONOUR KILLING IN INDIA

Patriarchal civilizations are those in which the male is viewed as primarily superior to all the females of the family. The man in the family is in charge of making decisions and exercising supervision over all of the rights and liberties that the women are allowed to exercise, and the women are supposed to follow the male family members.

In such civilizations, a girl child is merely the property of her father, if not her grandfather. Depending on the circumstances, the father or grandfather has the full right to determine the path that the family's female members should take in life. Women have no political, cultural, or economic rights.<sup>26</sup>

She is to be treated as assets of her spouse for the rest of her life after leaving her father's home. These are the traits of the patriarchal society and its oppression of domestic women.<sup>27</sup>

### (A) Caste Based Discrimination:

The impact of Indian society's patriarchal system has been thoroughly examined. The caste system, which has been in the Indian system for many years, is a significant barrier to the development and expansion of the Indian mind in addition to the patriarchal structure. Brahmins, Kshatriyas, Vaishyas, and Shudras were the four main divisions of Indian society. The god-worshippers are identified as Brahmins, the warriors are identified as Kshatriyas, the businesspeople are identified as Vaishyas, and the untouchables are identified as Shudras.

A caste system and a patriarchal society together create an unsafe combination of social conditions. These two factors are substantially responsible for numerous kinds of crimes, including female infanticide, dowry offences, and honour killings. Caste is one of the important reasons behind honour killings.

Different castes have different primary gods, practises, rituals, and ways of life altogether. In India, it is thought that the girl marries the man's family rather than the man himself at the time of marriage. Families do not support the union of people from different castes because of this, as well as the resulting status in society. Honour crimes frequently result from this non-approval, depending on the severity of the contempt.<sup>28</sup>

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alleged or real sexual behaviour is only partly restored by killing her the so-called Kari black woman, in order for the honour to be completely restored also the man involved in the relationship (Karo, Blackman) has to be killed. See Amnesty 1999), P.25, 2013.

<sup>26</sup> Ferguson, Kathy E. Patriarchy. In Tierney, Helen. Women's studies encyclopedia, Volume 2. Greenwood Publishing. P. 1048, 1999.

<sup>27</sup> Giddens, Anthony & Griffiths, Simon. Sociology (5th ed.). Polity. P. 473, 2006.

<sup>28</sup> Purshottam Das Dalmia v. State of West Bengal 1961 AIR1589

In India, it is practically unheard of for a boy from any family to marry a Dalit girl. It causes earthquakes in rural society, and in the rare instances when the families approve of the union, the kangaroo courts and community members put a lot of pressure on them. The sexual desires of the Indian police and armed personnel frequently prey on Dalit and tribal girls. It is frequently said that these two protectors of India sexually abused women from lower social classes. In this regard, the Armed Services Special Powers Act, which shields the armed services from crimes including murder and rape, is frequently criticised for its brutal administration.<sup>29</sup>

Honour murders cannot be attributed to a single fundamental reason. The long-standing social divides and causes that led to the current situation are numerous. The effects of income disparity, religious divides, caste-based splits inside religious divisions, and geographical and cultural disparities on community cannot be ignored. Numerous problems are brought on by the innate patriarchal framework that privileges males above women and the long-standing beliefs that separate both sex-based divisions.

## **VI. HONOUR KILLING LAWS IN INDIA**

There are several national regulations and laws in place to prevent violence and reduce crime. Legal documents also include a number of clauses that a person can use to fight crime and assert their rights. There is no need for specific laws in India to address the issue of honour killing crimes. But certain legal restrictions may be helpful to reduce crimes involving honour, such as honour killing. Such an offence becomes murder<sup>30</sup> and prosecuted in accordance with the Indian Penal Code, 1860.

The condition of women remains unchanged according to Indian societies history. Discrimination, degradation, exploitation, oppression, and humiliation are all forms of injustice that society is powerless to stop. In the venerable position, women hold an important position. The following list of laws that protect women and men is comprised of numerous laws.

### **(A) The Constitution Of India, 1950**

The supreme law of India is the Constitution. Given its degree of complexity, it should not be interpreted as only legislation but rather as the process by which laws are formed. It guarantees that the Indian government will operate democratically. It is an organic document that outlines the authority and responsibilities of the various governmental organs. Fundamental rights, such

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<sup>29</sup> The Kalinga Times (2008). "Dalit Woman made to eat Human Excreta", 8 August cited in S. Chakma (ed.) Asian Centre for Human Rights (ACHR), India Human Rights Report, 2009.

<sup>30</sup> Sec. 302 of Indian Penal Code, 1860

as the right to equality, the right to freedom, and the right to legal recourse, are guaranteed to citizens under the Constitution. These rights are necessary for a person's ability to grow as a person. As widely recognised, on January 26, 1950, the Constitution was ratified in order to safeguard and guarantee citizens' rights.

The Preamble, which is the foundation of the Constitution, states that it exists "to secure to all of its citizens...justice, social, economic, and political...liberty of thought, expression, belief, faith, and worship...of status and opportunity."<sup>31</sup> The preamble of the Constitution, for instance, enriches the idea of gender equality. Example: Fundamental obligations, fundamental rights, and guiding principles for state actions. The Constitution does not only call for the realignment of various social forces in order to establish a newly born democratic republic based on the values of liberty, fraternity, and remedy to all economic and political groups.<sup>32</sup>

Everyone in the country now has constitutional rights. It supports preserving the integrity and unity of the country. The dream of the Constitution's drafters was for the country to advance and for every citizen to live happily and freely. "No one can be completely moral unless everyone is moral. Until everyone is happy, nobody can truly be happy."<sup>33</sup> However, the wish of the father of the constitution, Dr. Babasaheb Ambedkar, has sadly not come true. Everything in the world becomes corrupted. Honour killings, a major issue in crimes involving honour, are happening more frequently.

The position of society has not much improved despite the passage of numerous laws. The attitude of an Indian individual towards women and girls has not altered. Religious and traditional cruel practises, such as murders motivated by honour, such as honour killing, continue to bind them. Due to outdated patriarchal beliefs and customs surrounding son preference families, traditional types of marriage, and maintaining family honour, parents used to kill their own children and relatives. Most often in rural areas, religious people are not ready to accept modern cultural norms regarding live-in relationships, intercaste marriage, and love marriage.

To retain humanity among us, all religions holy texts offer principles and directives regarding morality and the virtuous way. We learn "how to live life with peace and how to let live with peace" through religion as well. Unfortunately, no one adheres to the rules and regulations set forth in religion sacred texts. In the case of intercaste or love marriage, everyone is against

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<sup>31</sup> Durga Das Basu "Constitutional Law of India", pub, LexisNexis Butterworth's Wadhwa Nagpur, India P. 1, eight edition reprint 2011

<sup>32</sup> Dr. Suresh Mane, 'Indian constitutional Law; Dynamic and Challenges', pub, Aarati and co Mumbai, P. 1

<sup>33</sup> Lexis Nexis, 'The Indian Constitution in 2050' (accessed on 20th September 2011)

humanity. Now, communism opposes humanism. Most of the communal group disapproved of these kinds of unions. They are not yet prepared to approve of intercommunity marriages between young people. They risk facing violence and receiving an extrajudicial death sentence from the community if they chose to marry each other despite coming from different castes or if they choose their life partner on their own.

Although the Indian Constitution contains many provisions to safeguard citizens' rights, honour-related crimes violate all those rights, as well as fundamental rights and directing principles of state policies intended to better and protect citizens' lives. This undermines the very purpose of the Constitution, which is served poorly by the honour-related crime of honour killing in the case of young people in India. All constitutional rights are now being infringed for a variety of causes and in different ways.

Unfortunately, in crimes involving honour, parents who are constantly concerned with the growth of their own children from an early age violate their rights by killing and taking their own lives in the name of honour. Family members committed a really horrible conduct against their own relatives.

“The following constitutional provisions were found by the researcher to be effective in eradicating injustice, discrimination, and inequality. Additionally, fundamental human rights are protected. Honor-related crimes like honour killings violate the constitution.

- Art. 14 (the Right to Equality)- According to this provision, every individual is created equal and is protected from all forms of discrimination,
- Art. 15 (1) and (3) (Prohibiting Discrimination based on Religion, Race, Caste, Sex, or Place of Birth)- According to this, no individual deserves to be excluded based on their caste, religion, race, sex, or other characteristics,
- Art. 17 (Abolition of Untouchability),
- Art. 19 (1) (Freedom of Speech and Expression), and
- Art. 21 (the Right to Life and Personal Liberty) are the constitutional provisions that provide protection against honour killing.

Honour killings, which in most cases target women first and men second, develop into a horrible type of gender violence. A person's fundamental rights are violated when a woman's or man's freedom to express their decision is suppressed, resulting in such deaths. Killing cannot be justified on the grounds of dividing society because it is mainly driven by religion or caste. The Constitution cannot be interpreted to permit this behaviour. While not mandatory,

the Directive Principles of State Policy (DPSP) when utilised to evaluate the nation's capacity for efficient governance. As a result, Art. 39(a) mandates that the government must offer every individual with adequate ways to obtain sustenance. Nevertheless, most honour killings result in the victim's demise, and Art. 39(e) and (f) require the state to protect kids and teens from maltreatment and increasing or rising material abandonment.”<sup>34</sup>

Contrary to this widespread habit of honour killing, several kids, teens, and married people get death threats and have their lives placed in risk. Therefore, it should be the responsibility of the government to protect these defenceless individuals and their livelihoods from this horrible act.

### **(B) Indian Penal Code and Criminal Procedure Code**

As noted earlier, those who commit honour killings are regarded as murderers. Since homicides are frequently covered up by the community, it is possible that it will be challenging to identify offenders. The offender may alternatively assert that nothing was planned or arranged and that he just reacted to a significant provocation in accordance with Sec. 300 of the Indian Penal Code, 1860. The victim's actions were so heart-breaking that the witness lost all self-control and committed an act of family dishonour based only on what he saw.

In addition to Sections 300, 302 Murder and its Penalty, Sections 304, 307 Murder Attempt In order to distinguish an act of murder from a killing, Sections 120A and 120B of the Criminal Code as well as Sections 34 and 35 of Common Intention are examined. The only offences for which these killings are reported are murder (section 302 of the Indian Penal Code) and culpable homicide (section 304 of the IPC).<sup>35</sup>

It is challenging for law enforcement to track down the real perpetrators in northern states since the legal system is administered by Khap Panchayats, who enact laws mandating the punishment of death sentences against their own relatives. The authorities have not filed any FIRs because the law failed to find the culprits and obtain proof. The probability of conviction is basically zero<sup>36</sup> if an investigation report is made and the matters are taken seriously.

### **(C) The Indian Majority Act, 1875**

The Indian Majority Act was violated on multiple occasions when family members and the Khap Panchayat forcibly split up married couples who were of legal age to marry. This Act offers rules for what constitutes a major person and what qualifies someone for that status. They will be able to sign any contract, for example a contract of marriage, of their own.

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<sup>34</sup> Ibid

<sup>35</sup> The India penal code, 1860 and Criminal procedure code, 1973

<sup>36</sup> Anand Mishra, Honour Killing: The Law It Is and The Law It Ought To Be, Manupatra.

As stated in Section 3:

- 1) Everyone who lives on Indian soil must be at least 18 years old before becoming a legal adult.
- 2) To determine a person's age, the day of their birth must be taken into account as a whole day, and they are considered to have reached majority when they turn eighteen years old and not before.<sup>37</sup>

#### **(D) The Human Rights Act, 2006**

This Act guarantees the protection of everyone's human rights and establishes commissions and courts to carry out such objectives. Honour killings persist in spite of these laws, leading to serious human rights violations.<sup>38</sup>

Therefore, if we examine the context of existing laws, it is plain that no particular measure will address the problem of honour killings. Under the excuse of bringing shame to the families, thousands of young lives are brutally slaughtered. The legal frameworks and judgements of the courts continue to be unable to fully understand the danger posed by honour killing. The criminal carelessness of governments in dealing with these crimes is being held against them. The crime has no statutory definition, no legislative acknowledgment of its multiple components, inadequate protection for self-selected couples, no safeguards against it, no accountability, and no sanctions. The vast majority of these killings go unreported since the bulk of them are labelled as either culpable homicides or murders. There has been a lack of accurate data on these killings in India because of these changes. There is no systematic data on these kinds of incidents in the government's records.

## **VII. HONOUR KILLING AND INTERNATIONAL LEGAL FRAMEWORK**

Since its establishment in 1945, the United Nations has sought to ensure the legal equality of women. Through numerous kinds of general agreements and social programmes, the UN has established a comprehensive agenda to advance the position of women.<sup>39</sup> In its resolution, the General Assembly highlighted the urgent need for the application of “women's rights to equality, security, liberty, integrity, and dignity globally.”<sup>40</sup>

As an affiliated country of the United Nations along with other cooperative international

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<sup>37</sup> Section 3 of the Indian Majority Act, 1857

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Dr. S. C. Tripathi “women and Criminal Law “First edition, Pub, Central Law Publication, 107, Darbhanga, Allahabad-2 P. 5.

<sup>40</sup> U.N. General Assembly Resolution 34/180, dt 19th Dec, 1979

organisations, India has ratified a large number of international treaties and agreements. For instance, India adopted the 1979 United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The terms of the treaty, which generally prohibit all physical or psychological anguish caused to women, instantly include all facets and features of honour murders committed towards female members of the public at large.

Therefore, murder and other assassinations that cannot be equated to murder are covered by the CEDAW's requirements. The executive must take all necessary precautions to guarantee that the CEDAW member nations adopt proactive strategies to safeguard women and forbid any kind of prejudice towards them. similar to the Indian Constitution's Articles 15 and 16, which state: "Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth,"

- (1) No citizen will be subjected to discrimination by the State solely on the basis of race, religion, caste, sex, or place of birth.
- (2) No citizen shall be subject to any disability, liability, restriction, or condition regarding
  - (a) access to stores, public restaurants, hotels, and entertainment palaces; or (b) the use of wells, tanks, bathing ghats, roads, and places of public resort maintained entirely or in part with funds from the State or designated for the use of the general public.
- (3) Nothing in this article prohibits the State from establishing any specific provisions for women and children.
- (4) The State may make any specific provisions for the advancement of any socially and educationally disadvantaged sections of citizens, as well as for the Scheduled Castes and the Scheduled Tribes, without being hindered by the provisions of this article or Article 29 clause (2).

Additionally, Article 16 states that "Equality of opportunity in matters of public employment"

- (1) Every individual shall have the same chances in matters pertaining to hiring or being appointed to any authority under the jurisdiction of the state.
- (2) No citizen will be excluded from or subject to discrimination in any employment or office under the State solely on the basis of religion, race, caste, sex, descent, place of birth, or domicile, or any combination of them.
- (3) Nothing in this provision shall hinder Parliament from enacting legislation determining a residency requirement when applying for employment or appointment to a particular category or categories of offices below the control of the government or by any other



authority or municipality underneath, a State or Union territory.

- (4) Nothing in this article shall prohibit the State from providing for the reservation of appointments or posts in favour of any underprivileged class of people that, in the State's opinion, is not appropriately represented in the services provided by the State.

The CEDAW forbids unfair treatment of women, protecting them as a group or category. Nothing in this provision shall modify the functioning of any law that mandates that any officer or participant in the governing board of a religious or denominational institution must be a person expressing any particular faith or associated with a specific religious organisation.<sup>41</sup>

The "International Convention on Economic, Social and Cultural Rights" (ICESCR) was established in 1976. State parties are required to take all reasonable measures to ensure that everyone has access to the "highest attainable standard of physical and mental health" under Article 12 of the International Convention on Economic, Social, and Cultural Rights (ICESCR 1976). The aforementioned events that have been reported to demonstrate that honour killings include elements of mental, physical, and sexual violence. It is the responsibility of the executive branches of the government to uphold these rights and to punish severely anyone who violates them in support of honour crimes.<sup>42</sup>

There are other conventions that, while not having legal force, have persuasive value in terms of guidelines for states to follow in outlawing honour killings. The "Beijing Platform for Action" (BPFA) of 1995, which states in para 232 that "human rights of women include their right to have control over and decide freely and responsibly on matters relating to their sexuality, including sexual and reproductive health, free from coercion, discrimination, and violence," is an example of the same. The BPFA also instructs the

executive authorities to "take urgent action to combat and eliminate violence against women, which is a human rights violation."<sup>43</sup>

Honour crimes are clearly against Indian law as well as international law, which India is required to maintain. In order to prevent honour killings in the nation, the legal structure is in place to ensure that the police take the necessary action. To guarantee that the frequency of their violations is kept to a minimum, these restrictions must be consistently imposed

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<sup>41</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html>

<sup>42</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

<sup>43</sup> United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995, available at: <http://www.refworld.org/docid/3dde04324.html>

substantially. "Declaration on the Elimination of Violence Against Women" of 1993<sup>44</sup> and "Working Towards the Elimination of Crimes against Women Committed in the Name of Honour" of 2003<sup>45</sup> are two UN documents that specifically address the crimes of honour killings.

According to these documents, "Conflict against women constitutes one of the biggest social systems by which women are made to occupy a position of inferiority in contrast to men. This is because the abuse of women is a behaviour of traditionally unequal power dynamics among men and women, and these have resulted in racial prejudice over and against women primarily by men and prevented women from achieving full equality." However, the legislation itself is not the issue, and only partially is its execution. The bigger problem is that the communities that live in the regions where honour crimes are more likely to occur actually support this type of criminal behaviour. The honour crime prevention force's biggest challenge is this specific issue.

## **VIII. ANALYSIS OF HONOUR KILLING CASES**

**FACTS:** Manoj and Babli were the victims. They both eloped and got married to every other. The members of the family on knowing this got furious and located the victims. The family had taken the case to the khap panchayat United Nations agency at the start expressed that somebody United Nations agency has contact with the victim would ought to pay twenty-five thousand and hence not a soul ought to contact them. Once finding their whereabouts, the family had brought them before the khap panchayat was against the wedding. They gave the choice against the victim as a result of the victims belonged to completely different caste. The choice was religious- caste based mostly for the interest of the society. The khap panchayat was conjointly the suspect concerned in killing of the victim due honouring of the family. Relatives of Babli were concerned within the murder as Babli's grandfather was the khap leader. Notwithstanding, the victims were kidnapped and killed by them.

**Court Decision:** However, when this matter went before the court of Karnal district, they had sentenced five perpetrators who were involved in the murder to life sentence. This is the first honour killing case hitting as landmark judgment on giving life sentence to the accused of honour killing. The driver who involved in the abduction was sentenced to imprisonment of

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<sup>44</sup> UN General Assembly, Declaration on the Elimination of Violence against Women, 20 December 1993, A/RES/48/104, available at: <http://www.refworld.org/docid/3b00f25d2c.html>

<sup>45</sup> UN General Assembly, working towards the elimination of crimes against women committed in the name of honour: Resolution adopted by the General Assembly, 30 January 2003, A/RES/57/179, available at: <http://www.refworld.org/docid/3f4352da4.html>

seven years. Honour killing is also considered as the most serious offence.<sup>46</sup>

In the Manoj-Babli case five of the seven convicts were sentenced to life imprisonment by the Punjab and Haryana High Court. The court also ordered action against the police officers who delayed the case.<sup>47</sup>

### **Lata Singh vs. State of U.P & Anr.**

The Supreme Court quashed the criminal proceedings against the petitioner's husband and relative stating them to be falsely accused for the same. It held that no offence was committed by the accused persons and it was mere abuse and violation of the process of court as well as the administrative authorities which created lots of troubles for the appellant as well as for her husband and family. This judgment made it clear that women have a right to choose her own life partner and marrying outside caste is not a crime.<sup>48</sup>

**State of U.P vs. Krishna Master & Ors.** The Supreme Court awarded the life sentence to three persons who caused the death of six persons of a family in a case of Honour Killing at a village in Uttar Pradesh. The Bench said that: that killing a whole family and wiping out almost the whole family is flimsy ground of saving the honour. Therefore, the capital punishment is justified.<sup>49</sup>

## **IX. CONCLUSION**

Women's sexuality is an important object of control in systems of honor. An individual is expected to sacrifice personal freedom and desires in accordance with the specified codes of honor for the benefit of the society that he or she is a part of. Punishment for misconduct is viewed as a form of altruism that benefits the group at the expense of the individual. As a symbolic construct, honor carries numerous connotations that vary in different regions.<sup>50</sup> Murder is considered to be the most suitable way to redeem the family honor. In such cultures, women's sexuality belongs by default to the male members of the family and the group, such as fathers, brothers, or husbands. The 'integrity' of women's sexuality is seen as an important source of honor for the family. To preserve their family's honor, women are required to safeguard their sexuality and control their social behaviors through social norms and values

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<sup>46</sup> Gurbaaz Singh Puri and Ekansh Jaiswal, Honour Killing, 6 (2) IJLMH Page 3200 - 3208 (2023), DOI: <https://doi.org/10.1000/IJLMH.114716>

<sup>47</sup> Ibid

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Singh, D., & Bhandari, D. S. (2021). Legacy of Honor and Violence: An Analysis of Factors Responsible for Honor Killings in Afghanistan, Canada, India, and Pakistan as Discussed in Selected Documentaries on Real Cases. SAGE Open, 11(2). <https://doi.org/10.1177/21582440211022323>

such as ‘chastity’, ‘modesty’, ‘purity’, and ‘selfrestraint’. By not ‘safeguarding’ their sexuality and deviating from social norms, women are perceived to bring shame on the family, in the sense of damaging the social standing of the family in the eyes of other community members. Since in an honour-based culture women’s sexuality and social behaviors are an important source of honor for the family or group, the transgression of sexual and chastity codes by women has consequences for men’s social standing and participation in public life. Such transgression is then often followed by honor crimes committed by men.

The fear of losing this honour makes the men rationalize and justify masculine aggression and violence against women. Violence against women has a public face and is always committed in response to the cultural expectations of the later community. Honour killing refers to the murder committed by family members and the people belonging to the concerned caste/gotra/class of family members who are believed to have brought shame and dishonour on the family name. This is the most heinous crime which violates the Human Right of every individual not only women. State needs to take important steps to crub these crimes in the name of Honour. This is not an issue only in our country we have all the developing countries with this Honour Crimes.

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