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HONOR KILLING: A COMPREHENSIVE STUDY

Author –

Ashish Kumar

Advocate

Allahabad High Court

ABSTRACT

Honor killing: A comprehensive study the term honor killing itself describe its meaning as Killing for honor. When a family member was murdered by their family to honor the reputation, then these types of murder are known as Honor killing. But Honor killing not only includes murder but also the violence. The violence including domestic violence is also part of this. Although women are major part of this Honor killing but the same is also suffered by the men and third gender. There are various reasons for the Honor killing and we can't assume that they are centralised to a single one, but recently most of the Honor killing cases are related to the love affairs with the person of another caste or another religion. The most interesting part of Honor killing is that India is not only country where these Killings happen , western countries are also part of this. Most of the cases of Honor killing are not reported to the police. The law relating to the provisions are so strong but the people who follow these trends are not affected by that. There are various recent murders where accused surrendered by themselves to the police after committing the crime. To stop these things, the thoughts of the community necessarily need to be changed. This type of change is necessary in the society to eliminate this evil from the society. Human life is more important than any other thing in this universe. The society was made for the ease of human life and if the orthodox thinking of the society starts eating its creator then the very purpose of formation of the society is ruined.

INTRODUCTION:

The term honor killing denotes the murder of a family person, by believing that the person has brought some dishonour to the family reputation. Honor crime is the most aggravated form of honor crime which is widespread almost in all the societies of the world with the variation of its phase. The first known use of honor Killing was in 1929. There are some dictionary meanings of this which are as follows:

According to **Oxford Dictionary**, “The deliberate pre-planned murder, usually of women, by or the behest of members of her family motivated by a perception that she has brought shame on the family.”

Marriam Webster Dictionary describes the term as, “the traditional practice in some countries of killing a family member who is believed to have bought shame on the family.”

In the **Collins** meaning of Honor killing,” A murder committed by a male on a female relative considered to have brought dishonour to the family, usually though sexual activities forbidden by religion or tradition.

These meanings have explicitly expressed that these murder take place to satisfy the reputation of the family in the first place. The Oxford and the Collins dictionaries meaning emphasis on the women where Marrian Webster is not stick to any particular gender. Now Two important questions emerged before us after getting into the dictionary meaning of Honor Killing and these questions necessarily needed a detailed discussion. They are:

- What is the reason of Honor Killing?
- Who are the victims of this killing?

WHAT IS THE REASON OF HONOR KILLING?

Human Rights Watch Defines,” Honor crimes are act of violence, usually murder, committed by a male family member against female family member who are perceived to have brought dishonour upon the family. A women can be targeted by her family for a variety of reason including, refusing to enter into a arrange marriage, being the victim of sexual assault, seeking the divorce even from an abusive husband or committing adultery. The mere perception that a women has acted in a manner to bring dishonour to the family is sufficient to trigger an attack.” The honor killing includes all those activities, which directly or indirectly, have violated the principle of community or a religion with an honor culture. It is the perpetrators belief that the act of victim has violated the reputation of their family or community and that can be redress only by way to kill that person. The victim has to sacrifice their life to satisfy the pleasure of the community. There are various motivations of Honor Killing like love marriage, homosexuality, inter caster marriage, divorce, choice of clothes etc. how people perceive Honor is dependes upon various factors as age, cultural background, faith and social relation. There is a common misconception that the perpetrators are only elders which is not true at all. This concept is also adhere by the younger and they can go to any extend to safeguard the reputation of their family.

WHO ARE THE VICTIMS OF THIS KILLING?

It is a common perception that only women are the victim of the honor killing but this perception is not complete truth. Albeit men are not suffering from the Honor killing like women are, but both men and women are the victim of honor killing. The women suffer the most from the honor killing as compare to men. In some culture there is a different standard of honor between men and women. Why there is gap between the two gender? It is because the women are considered as a liability in some part of societies. According to Shahid Khan, a professor at the AgaKhan University in Pakistan:” Women are considered the property of males in their family irrespective of their class, ethnic or religious group. The owner of the property has right to decide its fate. The concept of ownership has turned women into commodity which can be exchanged brought and sold”.

ANCIENT LEGAL FRAMEWORK WHICH SUPPORTED

HONOR KILLING:

It would be unpleasant to hear that statement but the ancient legal framework supported the Honor killings. These framework supported Honor killing criminated the act of extramarital affairs, indecent dressing in public place.

The Roman Empire permitted the murders of daughters and their lovers who committed adultery at the hands of their father and also permitted the murder of adulterous wife at eh hands of her husband. The rule describes in Roman law *LEX Julia de adulteriis coercendis* which is implemented by Augustus Caesar. Napoleonic Code discriminated between Men and Women. It did not allow women to murder adulterous husband while the husband was permitted to do so. Article 324 of the Napoleonic Code 1810 permitted this but the same was repealed in 1975. France penal code also discriminate between Men and Women. Accusation of adultery against women resulting in a maximum punishment of two years in prison while the man have to caught in the act and not merely accused, and are punished with only one year in prison. France Penal Code 1810 also inspired the Ottoman Penal Code 1858. France Penal Code also inspired various other Arab Countries. Middle East Arab countries were influenced by the Napoleonic Code 1810 and the same was described in 340 of *Jordan Article*. Similarly Pakistan penal code 1860 provides lenient

sentencing to the man who killed his wife for grave and sudden provocation but the same was reformed in 1990 by the Pakistan Federal Shariat Court.

HONOR KILLING WHERE DIRECT MURDER IS NOT INVOLVED:

In the countries like south eastern Turkey honor killing developed another way to avoid punishment. The family members do not directly kill the family member themselves but forced him or her do commit suicide. The same practices are also followed by the Iran. By the virtue of Human Right against the Kurdish Minority report 565 women lost their life in honor related crime of which 375 were reported as self-immolation.

Forced marriage is also used as a weapon by the families to restore the honor. In a case of a unmarried women or a girl who was associated with a man, having relationship or being reaped, the family used to force the marriage to the girl. The girl has to accept that marriage without any choice. This situation is perfect when the girl is in relationship with the man but the situation is worst in the case of rape. The victim has to spend her entire life with the same man who destroyed her life.

INTERNATIONAL REFORM ON HONOR KILLING:

The International organisation took a strong view against Honor Killing. General Assembly of the United Nation strongly condoned the practice of Honor killing. General Assembly strongly opposed the Honor killing in its resolution. The resolution of *UN Division for the Advancement of Women- Reports and Resolution on violence against women* was adopted on 2000 by the 55/66 majority. World Health organisation also criticise the Honor killing and United National Office on Drugs and Crime also noted that his killing takes place to satisfy the honor of the family which is also sometimes supported by local justice officials by not taking any formal action. Human Rights Watch Oral Intervention at the 57th Session of the UN Commission on the Human Rights (Geneva 6 April, 2001) addressed all the failure of the state to to end the impunity for so called honor crimes. And called the Commission of Human Rights to condemn all forms of violence

against women and to uniformly reject all the act to justify the violence against the women as legitimate defence.

Council of Europe- Convention on prevention and combating violence against women and domestic violence retrieved on 20 April 2015. Article 42 of the convention explicitly added Honor killing as a form of heinous crime.

Legal aspects of honor killing in different countries were also reformed when they found that it is directly harm to the society. Societies where discrimination is directly based on gender, is not going to survive for a longer period of time. Reformation became necessary for the development of society. Jordan has amended its 340th Article where there is defence for honor killing. In the year 2005 Haiti has also followed the same principle and abolished the defence of the husband for killing the wife due to adultery. Syria also did the same by amending the Article 548 in the year 2009. The Countries like Brazil has also denied providing the defence of honor killing. The Supreme Court of Brazil has denied granting protection of honor to the accused of honor killing in the year 1991 stating that there is no such protection available in the Brazilian law. Turkey's Law is severe in the matter related to Honor killing. The person who commits this offence in Turkey would be liable to imprisonment for a term which may extend to life. Turkey's Court have also sentenced the whole family to life imprisonment for an honor killing.

INDIAN LAWS THAT PERTAINING HONOR KILLING:

Indian Khap Panchayat played a major role in the concept of honor killing. These khap panchayat used to support the concept of Honor Killing. Even when the families don't want to do these acts but they reluctantly have to follow because they have to live in the society and these societies have a orthodox view related to this concept. There were various rules framed to prevent the honor killing in India.

Indian law has always displeased with the concept of Honor killing. There are various Indian laws which penalise honor killing whether direct or indirect. Not only substantive law favours penalisation but also judicial activism also supports the penalisation concept. The laws which pertaining honor killing are as follows:

- Section 300 of Indian Penal Code 1860 describes the murder. There is a direct nexus between Murder and Honor killing. Every Honor killing is a murder but not vice versa. Honor killing is a pre-planned, well executed exercise by the family member along with societies and other persons. Thus its fall within the ambit of Murder.
- The Indian constitution provides every citizen to live their live with the free will without interruption of any other person. All act of Honor killing are the violation of the fundamental rights of the citizen. It is the violation of Article 14, Article 15 Article 19 and Article 21. Article 14 provides every citizen to be treated equally. Article 15 prohibits all types of discrimination. Article 19 gives the right to freedom of speech and Article 21 provides protection to the life of person along with personal liberty.
- The Special Marriage Act 1954: The main reason for enactment of the act is to legalise the marriage of the person with the person of another caste or religion. It provides legality to the intercaste marriage and interreligious marriage.
- The Schedule caste and Schedule tribes Act 1989 was enacted to prevent the person of schedule caste and schedule tribe from the savagery. The savagery includes all the acts which amounts to hurt the modesty of a person.
- The protection of a women form Domestic violence Act, 2005 emphasis the rights of a women provided under the constitution to the victims of violence of any kind accruing with in the family for the matter of domestic act and incident connected thereto.
- Indian Evidence Act 1872 provides the punishment of the person who is a direct wrongdoer along with all the persons who are indirectly engaged in the crime. It also makes those people liable who conceal the evidence or temper the evidence.

JUDICIAL APPROACH ON HONOR KILLING IN INDIA:

Judicial approach is kaleidoscopic in nature. It keeps reformative according to the situation of the society it always favours the wider view. Apex Court though their judgement always expressed that killing someone in the name of honor is always the violation of Constitution of India. *The landmark judgement of Manoj-Babli honor killing case (March 2010)* : Manoj Banwala(23) and Babli(19) who eloped and married in June 2007 and after a week their dead body was found. In March 2010 a Karnal District Court sentenced the five accused to be executed. This was the first

time when Indian court followed this type of practice in honor killing case. Supreme Court of India has also adopted strict approach towards the honor killing case.

In the case of *Krishna Master and anr. V. State of UP*¹ the Supreme Court awarded life imprisonment to three people in an honor killing case. There is another important case where Supreme Court concern over the sexual harassment, threats and violation against men and women who solemnised inter caste marriage or inter religious marriage and held that whoever commits any act of harassment or threats are liable to be punished and if there are several person then all of them should be punished severally punished. Intercaste marriage is good for society because it abolishes the caste system and when any person attains the age of majority then he/she is free to live with the person of his/her choice. These rights are provided in fundamental rights and they can't be abide by anyone. The Apex Court delivered in the case of *Lata Singh V State of UP and Anr*². Supreme Court strongly depreciated the activities of Khap panchayat indulging the activities which endangers the life of a person. The expression cited in the case of *Arumugam Servai V. State of Tamil Nadu*.³

The supreme Court expressed that when there is any situation arise in the intercaste marriage, the court need to satisfy only about two things, the first thing is the Age of girl is 18 years and the second is the wish of the girl. [*Faiz Ahmad Ahanger V. State of J&k*]⁴

RECENT INCIDENTS OF HONOR KILLING:

The recent incident took place in the Hardoi District of U.P., where a man killed his 17-year-old daughter with an axe, when he found her daughter with a man in compromising position. Picture of a man carrying the girls head were viral over the social media. The man surrendered himself to the police and also confessed his crime.⁵

¹ (AIR 2010 SC 3071)

² AIR 2006 SC 2522

³ 2011 (6) SCC405

⁴ 2009(3) RAJ 692

⁵ <https://nationalpost.com/pmnl/news-pmnl/crime-pmnl/teenage-girls-beheading-spurs-calls-for-honor-killings-law-in-india>

The women of 25-year-old thrown out of the car and a man of 27-year-old was found killed. The divorce petition of the women was pending in the court. According to the locals both men and women had been spotted each other several times and they were in relationship with each other. The women was married to the CRPF jawan 4 years ago and she was about to get the divorce with him.⁶

A father from the Rajasthan killed her daughter and then surrendered to the police. He killed her daughter because she was in a relationship with the man from another caste. Although Protection was granted to the Couple from the Rajasthan High Court.⁷

A brother from Jabalpur, MP killed the husband of her sister. Both the couple were eloped and they solemnised marriage with each other. The Brother was not agree with the intercaste marriage so when they returned home after 14 days he killed the husband. He beheaded the husband and went to the police station with the head of the man.⁸

There is another shocking incident of the honor killing in UP. In Sant kabir Nagar District, The family hired a contract killer to kill her daughter. They hire him to flame the girl. The family felt dishonour with the love affair of the girl. The family paid 1.5 lakhs rupees to burn the girl alive.⁹

These incidents are not end here. There is lots of murder happening in India to satisfy the honor of family. Most of them are concentrated to the love affairs.

CONCLUSION:

Not only the international organisation but also national government is reforming the laws related to Honor Killing. They both are trying very hard to eliminate all the chances of the accused to escape from the conviction. But the main question is “*Can only the strong penal provision able to eliminate the Honor Killing?*” The answer is no. Without the proper support of the society nothing

⁶ <https://www.newindianexpress.com/nation/2021/feb/12/honour-killing-man-killed-woman-thrown-out-of-moving-car-over-love-affair-in-uttar-pradesh-2263139.html>

⁷ <https://zeenews.india.com/hindi/india/rajasthan/rajasthan-dausa-news-big-case-of-honor-killing-father-gave-death-notice-to-daughter-by-killing-herself-after-reaching-police-station/859428>

⁸ <https://www.patrika.com/jabalpur-news/brother-cuts-off-head-of-sister-s-husband-sister-also-suicide-at-home-6740227/>

⁹ <https://zeenews.india.com/hindi/crime/uttar-pradesh-honor-killing-in-sant-kabir-nagar-district-burns-daughter-alive/849352>

is going to be successful. Most of the cases of the Honor killing are related to the Lover affairs with intercaste marriage and the family used to kill the person to satisfy their honor. The families need to understand that the societies were made for the convenient of the people not to kill the people to satisfy the honor of the society. The Government and the judicial system are already doing their best to eliminate the evil form the societies, now it's time for the Society and the people of the society to eliminate the evil.