



## HONOUR KILLINGS IN INDIA: A CRITICAL ROLE OF CASTE AND PATRIARCHY SYSTEM

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### ABSTRACT

The practice of honour killings in India is a serious interplay between caste and patriarchy and conservatism in their culture, the pride of the family and the society take precedence over the freedom of the individual and the rights defined in their constitution. These are not merely killings where people who have married one community with another or what is termed as self choice marriages are killed but are significantly based in the strict adherence to caste endogamy and gender norms particularly in rural and semi-urban areas. Such violence is still justified and enforced by extra-legal entities such as Khap Panchayats and more than often, with the implicit backing of political and institutional influence. Although there is constitutional guarantee that people are equal, have liberty and cannot be discriminated, there is a low force of law as a result of lack of direct legislation, bureaucratic lethargy and social collusion. Such situations arise as an institutional failure to break patriarchal and caste based systems of power. In order to combat this systemic violence, India needs to move beyond unspecific laws on crime, and come up with specific laws on the ground, and must put law enforcers and the judiciary under accountability, recognize law enforcers through sensitization, and bring about a societal change through education, and community mobilization.

**Keywords:** Honour killings, Caste system, Patriarchy, Khap Panchayats, Constitutional rights.

### INTRODUCTION

#### 1.HISTORICAL AND SOCIAL CONTEXT

Honour killings in India is a socio-historical culturally rooted practice of honour killings embedded in the social echelon of caste hierarchy and patriarchal authority. In the past, the Indian society has valued family name and caste chastity, and honor of the community more than personal freedom and rights especially when it comes to sexual behaviour and marriage among the women. The word honour in this case is not the individual virtue rather it is the hereditary aspect where caste position, lineage and gender role are involved.



In colonial era, authorities of British recorded a number of community approved violence that arose against inter-caste as well as self-choice marriages, particularly in Northern India. Efforts by the British to criminalize so called honour-based punishments was mostly unenforceable because of their inability to understand the sociocultural dynamics of caste-endogamy. There were informal courts which were caste councils (pre-cursor to the present day Indian Khap Panchayats) and informal judiciary. The caste councils issued punishment that was socially binding, like physical assault or ostracism, regarding contravention of caste rules.

After independence, although the Constitution of India ensured equality (Article 14), non-discrimination (Article 15) and the abolishment of untouchability (Article 17), the practice of the society was incongruent with the legal provisions. Forest and semi cities have maintained parallel structures of power in form of Khap Panchayats and supremacy of castes. Such groups discourage inter-caste and inter-faith marriages especially those of Dalits or women taking control of their bodies, and proceed to take punitive action. The inability of the state to eliminate these extra-legal institutions has made them a matter-of-course and thus has accepted their existence and power, especially in Haryana, Rajasthan and Western Uttar Pradesh.

They have to be worked in the impunity of these informal caste based institutions because a need to maintain caste purity and patriarchal domination is at stake. These norms are reinforced not only by social pressure but also out-right violence by land-owning dominant castes that have considerable political power. Honour killing, therefore, becomes the last resort of ensuring communal morality in that in most cases, women are the most likely to be the victim considered as the custodians of family honour and purity of caste.

### **1.1.Honour vs. Individual Rights: The Moral Dilemma**

There is an old rooted conflict in India between the tradition of honour embodied in collectivist communities of India- not otherwise expressed and declared in the constitution as a right to individual freedom. Honour killing is one such clash of interests especially when people insist on rights to choose to marry whom they want regardless of the defined caste, religion, or kinship group. Although Article 21 of the Indian Constitution proposes the right to life and the respect to personal liberty, the retaliation of the society usually becomes fatal. The feminist scholars refer to it as the respect-based oppression where the honour of the community is used as an excuse to impose drastic restrictions on women and their freedom of choices, reducing their bodies and independent wills to family and caste properties.

Such murders are rarely outbursts; instead, they are group murders, or murders with prior planning with the full support of others, such as family, community, and even so-called informal governing bodies such as khap panchayats. Their main role is to redefine the patriarchal power and cast order. To add on this precarious situation, the legal system fails to punish the perpetrators based on diffuse responsibility, complicity of the society and its deficits. Clauses such as gravity and sudden provocation as reduced punishment clauses stated in Section 300 of the IPCs are usually used to reduce punishment. Moral crisis is funded in the fact that victims and survivors are exposed to intimidation, stigma and lack of care in the aspect of indifference in the institutions and the inability of the state to adequately serve their interest in upholding individual right through the respect of regressive cultural norms.



## **2.CASTE SYSTEM AND ENDOGAMY**

The caste system has become one of the stiffest and most persistent ways of the Indian society and has directly affected the marriage patterns, social mobility, and interpersonal relationship. Originally based on the varna system, caste stratification has taken a form of a multi-complicated jati/sub-jati system which regulates the everyday life more so marital alliances. Endogamy, or marrying someone within the own caste or sub-caste, may be considered one of the main principles of the given religion. It is not merely an ideal in the culture but also a way to maintain social order, purity of caste and control of property and line.

The family simply has a preference but this is not simply a matter of endogamous marriage which is enforced by the systemic vehicles of caste surveillance and violence. These norms are more viciously enforced by dominant castes which may or may not necessarily hold land, wealth and political influence. Inter caste marriages, in particular the inter caste-Dalit marriages are perceived as being anti hierarchical to the caste system and are often hostile to them in the form of social boycott as well as by direct targeted murderous violence.

Khap Panchayats as the guardians of their norms are often bent on interfering with the inter-caste or intra-gotra marriages. These non-elected patriarchal committees usually play a judge and jury role in the regions, where they give out punishments such as fines, exile, and honour killings. They still enjoy impunity in areas of Haryana, Rajasthan, Uttar Pradesh, and in even in a few southern districts today though they were declared as unconstitutional by the Supreme Court.

Caste also works at fine levels, even in urban centers as discrimination of housing, job trends, and matrimonial ads that revolve around caste are present. Therefore, endogamy remains the rule in rural and urban India, although it has different ways of enforcement.

Even though constitution under Article 15 and Article 17 bar discrimination on grounds of caste and untouchability, the fact is that the caste system still defines marriage, sexuality, and social mobility. Inter-caste couple can be threatened, separated or even the worst, honour killing takes place in order to have the so called, purity of the community.

### **2.1.Caste-Based Endogamy and Social Control**

In India, caste endogamy works as a system of societal control that is institutionalized, much more than being a personal or a familial will. It ensures regimentation of marriage alliances in order to maintain the hierarchy of the caste, tourism members, and access to social and economic resources. Any variation, particularly inter-caste marriage, is regarded to cause grave damage to group honour and is frequently dealt with by means of penalties varying between casual social exclusion or financial boycotts and actual brutality. These norms are enforced by the Khap Panchayats and caste councils, which do not have a formal legal ground even though they have a lot of influence exercised by them in the form of issuing punitive decrees and social support of the ability to punish. Their dominance is strengthened by the representatives of the dominant castes as well as local politicians and this is a situation whereby the violations are dealt with swiftly and harshly.



The enforcements at this communal layer are also well reinforced by passive or compliant institutions of state. The Government regularly fails to follow up on the case of the perpetrators who are dominant castes and police tend to disappear in cases where a couple in different caste faces violence or intimidation. Delays in courts and poor conviction rates in honor killing cases indicate the institutional incapacity of the system to values enshrined in the constitution regarding equality and freedom. Such an atmosphere leads to the entrenchment of caste endogamy because the fear of being an outcast, getting punished, or even death looms. To bring this edifice down here is not only a need to change the law but also a need to change the state through the active direction it gives and change at the grass roots where people accept relationships across and challenge the caste privilege.

### **3.PATRIARCHY AND GENDER NORMS**

Gender-based discrimination in India is anchored by patriarchy as the social construct where men have privileges. Women do not have any autonomy in this system about their decisions particularly the aspects of love, marriage and sexuality. In most families, the honor of a woman is directly associated with the reputation of the family members and the social standing. As a result, any noncompliance with gender roles in the prescribed behavior may be interpreted as a violation of morals, which should be punished: whether it is the right to choose whom to get married to, rejection of an arranged marriage, and even show of affection before marriage.

Honour killings are a very inhuman method to make these patriarchal norms. According to feminist researchers, such murders cannot be described as mere instances of familial violence but, instead, intentional processes that allow men to regain power over women and their actions. The killings are normally engineered by the close relatives (male) members of the family, such as fathers, brothers or uncles who play a role of moral custodians of the family face. In this patriarchal reasoning, the sexuality of women is not considered as personal entitlement but is regarded a property of the family.

The violence is further aggravated because of the intersectionality between caste and gender. This particularly afflicts Dalit and lower-caste women since liaisons with upper caste men are either romanticized or forcibly stomped down. When Dalit men engage into relationship with upper caste women the reprisal is usually quick and lethal since it questions both the gender and caste order. In this situation honour killings become instances of gender subordination as well as caste maintenance.

The system of patriarchy is also observed in the way honour killings are covered, prosecutions pursue the murder and are understood in the society. There is victim-blaming like crazy. Male offenders are also cast in the role of being under duress to respond to the family honour (especially women) who have incited violence by making their own decisions. Such stereotypes can be reflected even by law enforcement and judiciary applications, making matters even worse, marginalizing further the victims and survivors.

#### **3.1.Understanding the Concept of Honour Killing**

Honour killing can not be considered as any other kind of homicide because the intellectual basis behind such killings is completely different and is based on social ideologies, which can be creatively defined in terms of caste, family honour, and patriarchy. These offences are directed at people who break accepted rules by loving whom they chose or being independent which is a threat to family and



society status. Women in the traditional societies are defined as the carriers of cultural purity and their sexuality must be controlled in order to maintain a social order. Honour killings serve as performative acts meaning that they are implemented by the use of invitations and sometimes the obligations are even adopted by family and community elders accompanied by shaming whenever there is no agreement on correction via approved punishment (which probably occurs sometimes through violence). Their tribal aspect makes it difficult to legally hold anyone responsible and this creates the notion that honour goes above the law. To address this form of systemic violence more than the punitive actions are needed; it demands the extinguishing of patriarchal and caste-based ideology which involves education and legal change subjected to execution, Law emphasis and sensitization to find empowerment in the maintenance of individual rights and human dignity.

#### **4.LEGAL AND CONSTITUTIONAL PERSPECTIVES**

Honour killings in India remain the area through which the contradiction between the constitutional ideals and social realities can be seen. Even though the Indian Constitution entitles the citizens to the right to life and personal liberty under Article 21 of the Constitution, the right to equality under Article 14 of the Constitution, and the right to non-discrimination under Article 15 of the Constitution, the rights are systematically crushed when honour-based violence takes place. Failure to put in place these safeguards systematically has made honour killings to continue across the regions and communities.

India lacks a specific law to handle honour killing as a particular crime. These acts tend to be tried under the Indian Penal Code (IPC) or the new version of the statute law, the Bharatiya Nyaya Sanhita (BNS) that contain such sections as:

- Section 302 (IPC) / Section 101 (BNS) – Punishment for murder
- Section 120B (IPC) – Criminal conspiracy
- Section 307 (IPC) – Attempt to murder
- Section 34 (IPC) – Acts done by several persons in furtherance of common intention

Nevertheless, such stipulations treat honour killings the same way as any other homicide and do not allow considering the specific social background, pre-meditation, and the communal-based intentions of such crimes. Such generic treatment usually leads to reduced conviction rates and feeble deterrent.

This has been held in the landmark case of *Shakti Vahini v. In Union of India* (2018), the Supreme Court of India has set optimistic directives to avoid honour-related danger and violence along the lines of inter-caste and inter-faith couples. State governments were requested to set up special helplines, safe house and special units of the police to address the situation by the Court. Though these orders are in place the delivery given to that has been piecemeal and incomplete thanks to political will, red tape and conservative forces as well.

Many such legislative initiatives have been proposed to fill this legislative gap, the most prominent of them the Prevention of Crimes in the Name of Honour and Tradition Bill (2010). The purpose of this



bill was to criminalise honour killings in their literal sense and the individuals responsible, as well as non-institutional actors such as the Khap Panchayats. Nevertheless, it is not yet passed and thus, there is a considerable gap in the legal responsibility.

There are no specific measures that are related to the honour killings, which is why people who engage in this practice, usually close relatives of the victim(s), or community elders, are capable of abusing the flaws that exist in the penal system.

As an illustration, application of mitigating circumstances when passing sentence or compromise settlement usually leads to soft penalty or acquittal. Moreover, carrying out justice is less often pursued by the families of the victims since the victims are in most cases the perpetrators; thus there is no case pursuance or it takes an extended period to terminate the case.

### **5.SOCIO-POLITICAL DYNAMICS AND KHAP PANCHAYATS**

There is a high influence of Khap Panchayats, usually consisting of male elders of powerful castes, in some of the North Indian states, especially Haryana, Rajasthan and northern Uttar Pradesh. These are not recognized legally or constitutionally but these are informal courts of law and enforcers of the traditional morality. They also decide on the conflict involving marriage or property issues and even socially accepted actions or practices especially when they feel it breaches the caste or gender tenets or conducts.

One of the main roles of Khap Panchayats especially about honour killings is that of preserving the gotra exogamy and caste endogamy social code. Same gotra marriages as well as intercaste marriages are condemned. They refer to such a union as something immoral or unnatural, whereas it is not only justified by the law, but also welcomed by both partners. In most instances, Khap leaders issue what can be termed as verdicts requiring punishment which may form social boycotts, financial fines, enforced separations and go as far as murdering the involved couples.

Even after judicial denouncement; in *Shakti Vahini v. In U.I.* (2018) in which the Supreme court ruled these acts, ordered by Khap, as illegal- these groups still thrive on political patronage and respect by the community. Many politicians would go to great lengths not to act against them since influential castes groups form a significant electoral base. Some local politicians have gone even to the extent of justifying Khap rulings instead of condemning honour killings, and this has further strengthened their position.

The activity of law enforcement is also affected. District police which are controlled by Khaps tend to hesitate when filing FIRs or to give security to the couples in danger. In other instances, they help in persuading runaway couples back to their families although there is the risk of violence. Coupled with silence and non-action of state institutions, the rest of the trend is the institutional complicity, in which honour killing is not considered a crime but *sui generis*.

In addition, several of the Khap leaders are in political power or are very close to the parties that are in governments therefore almost unreachable. Such political nexus also makes it so that despite openly encouraging violence with the Khap Panchayats, they are hardly ever punished by law. They weaken



the power of the constitution and the rule of law and establish a parallel system of rule with patriarchy and caste dominance in the minds of power.

### **5.1.The Political Silence and Institutional Complicity**

The Khap Panchayats and honour killings that even persists today cannot be blamed on mere traditional values that run deep in our minds; it is also the by-product of political indifference and institutional complacency. Local politicians are also reluctant to challenge such extra constitutional agencies lest they will lose the support of the caste groups that are domineering and constitute a significant voting base. Such passive approach is equivalent to the informal support of vigilante justice and gender-based violence. By not coming out to condemn any verdict issued by the Khap or honour-based crimes, politicians endorse the honour of the community when they have a constitutional duty to protect rights and freedoms of individuals. As a result the victims of honour killings not only lose their lives but are deprived essential dignity as well as their legal protection. Lack of effective political leadership denigrating it politically has led to creating a culture where this phenomenon is seen as a social violation instead of keeping it as a criminal act, as it forms a grave precedent to stop criticizing the authorities, and a continuing patriarchal and casteist hierarchy of life over the autonomy to an individual.

This silence and complicity is typically reflected by state institutions that should act as a guardian of justice and equality. The police are often biased to the interests of the dominant caste and make a routine decision to not or postpone the filing of FIRs in the interest of honour killings, or in the worst cases become convenient facilitators of the extermination of inter-caste couples by re-handing them over to their aggressor families. Even the justice system is quite ineffective as it takes a long time during trials and cases are under-prosecuted and therapists are not in a hurry to deal with the honour-based crimes. Despite the protective measures, like, safe houses, special marriage officers and at district helplines, these are hardly functional or even available mainly in rural India where Khap is the most powerful. Another source of this issue is media that negatively contributes to the situation by revengefully killing these murders as understands nothing more than typical “love tragedies” or “various family quarrels”. This commercialization breeds a climate of apathy in the society and also enables violence to be tolerated as a part of tradition. Solving the problem of honour killings requires not just the stricter legislation and its impartial enforcement but also a strong political position and an institutional culture of change. So long as the extra-legal bodies such as the Khap Panchayat are not brought to justice and anything and everything done to safeguard the interests of the individual, such parallel structures of authority are bound to flourish in the shadow of political triviality, and a blind eye.

## **CONCLUSION**

Honour killings in India are not just black and white issues of violence, but they are majorly engraved into India socio-cultural backgrounds whereby they have created their own social structures of rigid castes and patriarchal powers. These killing can be seen as a cumulative result of the social obligation of endogamous marriage rules and male regulation over women in the community, of which the individual will, particularly of the women and Dalits, is a danger to social dignity. Though there is constitutional protection which ensures equality (Article 14), non-discrimination (Article 15), and



personal liberty (Article 21), honour killings take place because of the inability of the law to be imposed and a lack of explicit legislation, as well as the active impunity of political actors and institutions. Caste-based councils and the Khap panchayats still extend to give unwarranted powers and authority, which in most instances are backed by political patronage and social respect especially in the rural and semi-urban areas. The police often resort to inaction or favour the interests of higher castes and the courts are slow and erratic. This is a multi-layered question and so to deal with the problem there must be a multifaceted solution addressing honours killings by passing special statutes to stop the practise, breaking up extra legal institutions such as Khaps, training law enforcement personnel to be sensitive and accepting of the practise leading to a change of culture though education and acceptance of the new social norms through active involvement of the community. Only then is the Indian state well placed to fulfill the constitutional dream of justice, liberty and human dignity of all citizens.

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