

“Honor Killing”: Whether Honorable or Dishonorable

Vineetha. S and Kannan Balakrishnan¹

Introduction

Instances of honour-related crimes have seen to be increasing in the Northern part of India, as our societies are generally intolerant and rigid when it comes to the practices associated with marriages, especially when women make choices of one's partner². Among 60 cases heard by the Vacation Bench of the Punjab and Haryana High Court in 2006, approximately 27 cases involve young couples who had sought protection or have applied for anticipatory bail, on fear of apprehension by the police (ibid). Most of these couples got married against the “bhaichara” (brotherhood) principle of the caste panchayats and hence considered as to bring dishonor to the society. The past two decades have witnessed thousands of cases where young couples were victimized for reasons of bypassing the boundaries set by their communities, or families. In 2009, the then Union Home Minister, P. Chidambaram, while addressing the Rajya Sabha and replying to a call for attention on increasing honour-related offences have called such crimes as a blot on the country³.

Honour related crimes have been reported from across the world, with a report showing increased incidences in South Asian countries. In patriarchal societies, predominantly in the Middle East and parts of South Asia, the literature suggests that sexual imprudence, especially by women, is assumed to bring disgrace to their families, who are forced to disburse terrible prices. The United Nations Commission on Human Rights also illustrates instances of honour killings in the rest of the world, with pieces of evidence from Bangladesh, Great Britain, Brazil, Ecuador, Egypt, India, Israel, Italy, Jordan, Pakistan, Morocco, Sweden, Turkey, and Uganda⁴. There are also pieces of evidence of honour-related crimes in Afghanistan, Iraq, and Iran.

¹ Post Graduate in Criminology and Criminal Justice Administration, University of Madras, Chennai, India. E-mail: tara.vinita@gmail.com, balakrishnankannan84@gmail.com

² Judge, Paramjit S, 2012, Love as Rebellion and Shame: Honour Killings in the Punjabi Literary Imagination. *Economic and Political Weekly* Vol. 47, No. 44

³ Srivastava, Mihir. 2009. Honour killings shame Chidambaram. *India Today*, <https://www.indiatoday.in/latest-headlines/story/honour-killings-shame-chidambaram-53048-2009-07-28>

⁴ Mayell, Hillary, 2002. Thousands of Women Killed for Family "Honor", <https://www.nationalgeographic.com/>

A large extent of literature on honour-related crimes understand it as an Islamic concept where families impose control over their women, however, Brown writes that there is nothing Islamic on honour-related crimes⁵. Dogan (2005) opines that even amongst the popular rhetoric, the problem is not found to be specific for Muslims and the most serious and concentrated occurrences of such offenses do not include Muslims at all. Labeling it as an Islamic crime tends to dilute the seriousness of the crime and portray it as a crime committed by Islamic men against their women (Brown 2016). There is also no uniformity in the methods adopted while imposing honour-related crimes. It could range from murder to attempted murder to rape to other physical and mental injuries. However, only a small percentage of women get subjected to such extreme forms of punishment, although most communities are ruled by notions of honour and shame. Such links between the behavior and expressions of women and honour of the community are a result of a faulty and distorted interpretation of various socio-cultural factors, including religion (ibid).

‘Crimes of Passion,’ a synonym of the same, are treated with exceeding lenience in Latin America⁶. Widney Brown, the Advocacy Director for Human Rights Watch in Islamist countries, draws similarities between ‘dowry deaths’ and ‘crimes of passion’. Society perceives these crimes as excusable and understandable⁷. The prevalence of these crimes is diverse and spreads across cultures and religions. Similar to dowry deaths, many women either get profusely injured or lose their life as a result of honour-related crimes. But, many of these instances remain unreported which also results in leaving perpetrators of such crimes unpunished. A major reason for the under-reporting of such offences is since society normalizes the same and conceives it as a justified way to ‘tackle unruliness’. Additionally, although it is generally committed against women, other women in the family and community also accept it as a general norm, strengthening the notions of ‘woman being a material possession’ and ‘violence against family members is a family issue and not a judicial issue.’ As a result, honour killings

⁵ Brown, Jonathan, 2016, Islam is not the Cause of Honor Killings. It’s Part of the Solution. <https://yaqeeninstitute.org/read/paper/islam-is-not-the-cause-of-honor-killings-its-part-of-the-solution>

⁶ Goldstein, Matthew A, 2002, The biological roots of heat-of-passion crimes and honor killings. *Politics and the Life Sciences* 21(2):28-37

⁷ Mayell, Hillary, 2002. Thousands of Women Killed for Family "Honor", <https://www.nationalgeographic.com/>

become justified by both the perpetrators and the supporters, as an attempt to uphold morals and behavioural codes set by religion or popular notions in the society.

Historical pieces of evidence for honour killings can be traced from the Mexican Jewish legal interpretations. For example, the punishment for women who committed adultery in the valley of Mexico during 150 BCE - 1521 CE was death either by stoning or by strangulation. Interpretations to Halakha (the Jewish Law) by Leviticus and Deuteronomy show that courts used to impose severe penal provisions like the death penalty, for sexual aberrations exhibited by both men and women. Similar laws also existed in other jurisdictions as well. For instance, until 1975, the French Penal Code exempted the husband who murders the wife from any legal consequences, if the murder has been committed on the grounds of adultery.

Honour Crimes in Indian Context

Although honour crimes across the world have been conceived as crimes committed to protecting family honour, in the Indian rural context they have a different underpinning altogether. Standard definitions of honour killing illustrate it as crimes committed against the women folk by their own family members, generally male, who are, compelled to eliminate the disgrace brought to the family by the female members. In India, rejecting to marry someone the family has proscribed, choosing one's sexual partner, being a victim of sexual assault, or even demanding a divorce is believed to bring disgrace to the family. In addition, the notions of family honour are believed to be threatened when the woman explores her sexual freedom. Unlike the notions of crime, where the commission of the act becomes the evidence of the disgrace, here the mere perception that 'dishonour' is being brought to the family by a woman could result in her being victimized (Human Rights Watch, 2001)⁸.

An analysis of the instances of reported cases of honour-related crimes in India shows the reasons of such crime perpetration to be varied. It could range from engaging in a romantic relationship with someone, especially when the person belongs to a different ethnic or religious affiliation, to a woman who chooses to convert herself into another religion or embrace the customs or practices of another community. The practice of

⁸ Human Rights Watch (2001) "Integration of the human rights of women and the gender perspective: Violence Against Women and "Honor" Crimes" <https://www.hrw.org/news/2001/04/05/item-12-integration-human-rights-women-and-gender-perspective-violence-against-women>

homosexuality, or being a victim of rape was also found to be reason for the perpetuation of honor related crimes in India.

The incidences of honour related crimes have been witnessed more in the rural communities than in urban centers. The reason for the same could be closely knit social structures in rural areas where the notions of honour are also upheld in high spirits. Honour killings stigmatize the Indian rural communities as the crime rate is highly increasing. Until the recent decade, the Indian society never acknowledged the incidents of honour-related crimes in India and has sidelined it as a phenomenon limited to Islamic societies. However, a survey conducted in mid-2007 by a Delhi-based organization, named Indian Population Statistics Survey (IPSS), around 655 cases of honour killing have been registered as a case of homicide, as honour-related crimes are not recognized as a separate crimes in India. The survey shows increasing rates of honour related murders in Punjab and Delhi, with Muzaffarnagar district of Uttar Pradesh reporting the highest number of similar crimes until mid-2007. Further, in 2015, the Times of India reported that 215 people were killed in the name of honour in the year, which is a sharp increase of 796 percent from the year 2014. The state of Uttar Pradesh (131) reported the highest number of cases during the year followed by Madhya Pradesh, Punjab, and Haryana (George 2016)⁹. It needs to be noted that the report points to the murders that occurred and not other crimes, for example missing individuals.

Honour Crimes and its relationship with Social Structures

The Hindu caste has under it various sub-castes which have developed their own codes of conduct which are expected to be followed by its members. Such codes could be developed for many conducts, including dress codes specific to each gender, choosing one's partner in marriage, sexual orientations, sexual freedoms, etc. Any violation of these codes would result in strong repulsions from the community to maintain and restore the sanctity of these codes. Honour crimes in India, unlike that, is practiced in other parts of the world, are one such repulsion to buttress the societal codes.

Honour related crimes that occur in India can be divided into two broad categories: those committed by individual members of the family against their own family

⁹ George, Nirmala, 2016, "India records huge spike in 'honor killings' in 2015", The Seattle Times <https://www.seattletimes.com/nation-world/india-records-huge-spike-in-honor-killings-in-2015/>

members to remove the disgrace brought to that family and those committed by the members of the community for protecting the honour of the community and prevent others from committing similar 'disgraces' (Ramakrishnan 2009). In the Northern part of India, such a group comprising of members of the community form the Khap panchayats. Such panchayats have empowered themselves as quasi-judicial bodies, who adhere themselves to the traditional customs and values and impose stringent punishments so that the cultural values can be upheld. These panchayats act as bodies that could settle disputes and disagreements within the community.

Certain acts by the members of the community are considered more serious than others and the panchayats use all measures to curb them. Codes governing customary marriages are taken more seriously than a dress code and hence invite more stringent punishments. The punishments pronounced by such panchayats in case of 'prohibited' marriages include declaring the couple as siblings, annulment of marriage, ostracizing the couple and their families, ordering for rape or parading naked, killing of the people involved, etc. 'Prohibited' nature of the relationship is determined by the principle of 'kinship exogamy', which considers people belonging to same gotra/caste as siblings and prevented from engaging in marital relationships. The customary marriages in many parts of North India follow caste endogamy and adopt the rule of 'got' exogamy¹⁰. In addition to kinship exogamy, is the extension of the same principle, that is, the rule of territorial exogamy. According to this principle marriages among people belonging to the same villages are prohibited. Both these principles together lead to the elimination of a large number of gotras from marrying each other. As generations expand, the inhabitants of one village will not be able to marry within their village but also from neighbouring villages.

Evidences show that in many cases of honour-related crimes in India, the crimes were committed as a result of the violation or suspected violation of codes governing customary marriage or claiming sexual autonomy. Indian history also shows that many times families are forced to commit the same by the caste groups to retain their position in the community. Literature suggests that honour-related crimes in India have emerged as an attempt to retain the dominance of higher castes over the lower castes in the

¹⁰ Most caste follow got exogamy of three or four gotra, which prevents marital relationship between members of these gotras. This principle prevents marriage between one's own gotra, one's father's gotra and mother's gotra, or two generations earlier.

society. Many of the victims were unaware of their spouses or romantic partners to be their brothers/sisters as part of the principle of kinship exogamy or territorial exogamy. Further, recent instances have also shown that the phenomenon of honour killing is not limited to rural or Northern India. There are examples like the case of Bibi Jagir Kaur, a high profile minister and the first woman president of Shiromani Gurdawara Prabhandak Committee in 2000, case of D P Yadav, an MP of Uttar Pradesh (2002), the case of Todi family (2007), etc. Another characteristic of honour-related crimes is that the perpetrators of the crime believe that they have performed their responsibility as member of the family or community to uphold their honour. These facts make it different from the other crimes.

Legal Framework on Honour Crimes in India

India does not have specific legislation to deal with honour crimes and they are generally recorded under the general Indian Penal Code (IPC) offences. The Constitution of India ensures various rights to citizens of India, including the right to equality before the law (Article 14), the right against discrimination (Article 15(1)), creating special provisions for women and children (Article 15(3)), right to freedom of speech (Article 19), right to life and personal liberty (Article 21) and offering equal opportunities to grow safely and protecting young people from abuse (Article 39 (f)). Honour related crimes can be seen as violative of all the above-mentioned rights. Since honour crimes are largely directed against women, which lead to inequality. Such crimes against women also result in discrimination against them leading to violation of Article 15 (1) of the Constitution of India. Further, if such instances have resulted in the loss of life of the person or result in fatal injuries, then it leads to violation of Article 21 of the Constitution of India. The Government of India also observed the urgency of the situation suggesting to amend IPC and the Evidence Act and also to come up with a new law to deter such instances. The amendments were proposed to sections 300 and 354 of IPC; Sec 105 of Evidence Act and provisions of the Special Marriage Act (1954).

The fifth clause of Section 300 was suggested to be amended to include “persons or a member of the family or member of a group of a specific clan or community or caste panchayat believing that the victim has brought either real or perceived dishonor”. Further, an explanation of dishonor was suggested to include the adoption of dress

codes that are unacceptable to the community. The amendment to the Evidence Act suggested shifting the onus of innocence to the offender or group. Further, there were also suggestions to abolish the period of notice, which is currently 30 days, in cases of inter-religious/inter-caste marriages.

A report of the Law Commission of India on “Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework” was proposed to arrest the interference of caste councils towards the life and liberty of young persons. In the introduction to the proposed bill, it is noted that the terms honour killings and honour crimes are many a time loosely used to refer to incidents of violence against young people intending to get married against the wishes of their family members. The report also realizes the need for new legislation to address the growing number of crimes committed in the name of honour. The Supreme Court of India has also observed in several cases, including *Arumugam Servai vs. State of Tamil Nadu*¹¹ and *Lata Singh vs. the State of U.P.*¹² had condemned the activities of such caste-based communities that take law in their hands and propagate violence against young couples. The proposed bill recognises honour crimes as a socio-cultural problem that is rooted in superstitious beliefs and authoritarianism and argues that such causes should not result in the violation of the right to life and liberty of young couples. This Bill tried to bring such violent activities of caste panchayats punishable under our criminal law and to make the officials accountable for failing to perform their duties. Further, the bill shifts the burden of proof on the mere accusation of involvement in a serious offence. However, even after the draft Bill and stressing upon special legislation, there are no new laws introduced. Currently, honour crimes are recorded under a range of crimes, including culpable homicide, culpable homicide amounting to murder, attempt to murder, rape, hurt, grievous hurt, criminal conspiracy, abetment, etc, of the IPC.

Political Systems and Honour Crimes

Khap Panchayats have currently emerged as parallel institutions that perform the functions of the executive, legislature, and judiciary. Evidences also show that the current criminal justice framework in India is not capable to challenge the authority of

¹¹ 2011 6 SCC 405

¹² 2006, 5 SCC 475

these parallel bodies. Such institutions also receive high levels of support as they act as community organizations for settling 'issues' faced by the community, which are largely the functions of the Panchayati raj institutions and the criminal justice system. It needs to be acknowledged that such parallel bodies have emerged due to the weakening of Panchayati Raj institutions of respective states. The failure of such institutions has led to khap panchayats taking control over various ranges of social intercourses. In addition, these community groups have also become vote bank determinants which also prevent political parties to take cognizance over the matter.

Conclusion

Honour related crimes have been a common phenomenon in India in the past decade claiming the lives of many young couples. Analysis of the instances in India shows that such crimes do not receive the required attention from either the executive or the legislature. The judiciary has time again condemned such occurrences and has also formed a Law Commission to draft model legislation to combat such offences. However, a lack of a political will could be seen as a reason for the non-adoption of the legislation. In addition, the structures in the society and underlying caste hierarchies have also overtly supported the caste-based communities who have spearheaded the commission of such instances in India. Since there is no support from the society nor the legislature, the law enforcement agencies also could not do much towards their prevention or prosecution of the guilty.

In addition, a blame game between the law enforcement officers and the political parties could also be seen in the growing instances of honour-related crimes in India. When the police officers and political parties blame the political parties to be non-complacent, the political parties even go to the extent of defending such practices claiming it as a part of the social custom and tradition. The political parties never dare towards declaration of such caste panchayats as illegitimate extra-judicial bodies fearing loss of their support in retaining political power.

So by considering the seriousness of the present scenario and the lack of political will of the major parties, a strong legal enactment can only help to nail the perpetrators of such serious crimes. Such a legal enactment should consider not only the act of honour killings as offences but also glorification as crime and it should give Magistrate special

powers to take cognizance and injunctions against caste panchayats. There is a need for sufficient research into the crime to define it clearly along with the modus operandi and to have overall statistics of this particular crime. Hope the elected representatives will be sensitive to these social issues and the political system will not use these social injustices for political mobilization.