

A Critical Jurisprudential Appraisal of Law and Justice in Crime of Honour Killings in India

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Abstract

Indian cultures are very deep rooted. Many young people in India have been done to death every year owing to 'Honour Killings'. It is because so called honour killings are based on the belief, deeply rooted in Indian cultures, which consider the women as objects and commodities, and not as human beings endowed with dignity and rights. Most honour killings occur in countries like India where the concept of women is considered as a vessel of the family reputation.

While honor killings have elicited considerable attention and outrage, the jurists and human rights activists argue that it is a matter of great concern and they should be regarded as part of a much larger problem of violence against women. Numbers of women are murdered by their families each year in the name of family "honor." It is difficult to get precise numbers on the phenomenon of honor killing; the murders frequently go unreported, the perpetrators unpunished, and the concept of family honour justifies the act in the eyes of some societies. Officials often claim that nothing can be done to halt the practice because the concept of women's rights is not culturally relevant to deeply patriarchal societies. There is no specific law in India to cover this crime.

This paper is an attempt to analyze the jurisprudential aspects of the crime of honour killings in India, and some suggestions have also been made to tackle this menace of society.

Keywords: Honour killing, Jurisprudential aspects, Indian culture

Introduction

Caste system has been the basic institution of the Hindu society for the last over four thousand years. In olden times, Indian society was a victim of various evils, one of which was caste system. It is said that the caste system was designed with an objective of dividing the society into four distinct groups depending on the kind of work they were involved in. The main hindu caste groups in order of social and cultural respects have been Brahmin, Kshtriya, Vaishya, and shudra, and each of these Hindu caste groups has been having many castes and sub-castes. These sub-castes have their own customary codes of conduct followed by the members very religiously. They are so rigid in nature that their violations may result into boycott by the whole society of which the violator belongs. Same is the case with the marriages taking place

between couples of different caste groups. If inter-caste marriages take place it becomes a customary violation for which innocent couple are forced to pay for the same by death by their own fellow members/relatives or by the clan councils i.e. “Khap Panchayats”. To be young and in love has proved fatal for many young girls and boys in parts of north India recently as an intolerant and bigoted society refuses to accept any such kind of violation.

The Khap Panchayats of Haryana have once again been catapulted to the headlines in the print and electronic media after the conviction by the additional sessions Judge, Karnal of a Khap leader Ganga Raj and four others involved in the killing of Manoj and Babli for marrying against its wishes with death. The question here arises: Who are Khap Panchayats?...who gave them the right to kill in the name of the honour..? . These Khaps are an affront to human rights along with their social evils like dowry and child marriages and need to be dealt with as strongly as possible just as the country fights naxals or ultras¹.

The reasons governing these Khaps is that different societies have different customs or systems of prohibitions, according to which a male or a female cannot have marriage with another male or female of other caste. They follow the rule of **endogamy**²- it means the rule restricting marriage to members of the same tribe, village , caste, sub-caste, or other social group, in other words , one can marry within his/her own tribe , caste , sub-caste or community only to ensure the purity of his / her caste. Most people think that caste system is a static rigid feature of the Hindu society and it cannot change. But people observe that the traditional features and caste practices rigidity are disappearing due to education, legal and political changes, demographic philosophy and other several social factors in present times. But several social observers and social scientists have discovered that both these trends are simultaneously going on in the contemporary Indian society.

Caste As Defined By Kelkar³ :

The caste is a closed group whose membership is determined by one’s birth in it, one dies in the same caste. According to Kelker, “A caste is a social group having two characteristics-

- (1) Membership is confined to those born of members and includes all persons as such born.
- (2) The members are forbidden by an inexorable (i.e. which cannot be excused) social law to marry outside the group”.

¹ The Tribune, 28th March 2010

² Indian society: structure and change, pp 360

³ Ibid , pp 258

The Indian culture and society has still not been able to get rid of its caste system. Young couples belonging to different castes and religions find it very difficult to marry each other due to the protests from their families. Inter caste marriages are still seen as the blemish for the family and if the girl holds a modern outlook, she is treated as a rebel in the family. It was hoped that the pronouncement of capital punishment by the Sessions court of Karnal in Haryana to five accused and life term for two would act as a deterrent yet the Khap panchayats remain as defiant as ever⁴. Honour killing of the couples who marry within the same gotra are being reported with sickening regularity from national capital regions, adjoining states of Haryana, Punjab, and U.P. The NCW (National Commission for Women) has correctly described such killings as Horror killings as no honour is involved in this brutal act⁵, in fact this can be termed as murder and nothing less than an offence under sections 302 read with 34 or 149 of the Indian Penal Code.

Inter Caste Vs Intra Caste Marriages

Before we attempt an explanation as to what really might lie behind modern day Khap activism, it is important to understand the nature of marriages/relationships being targeted by the Khap panchayats. One major distinction needs to be made at the very outset- some of the marriages being targeted are inter-caste marriages, in which usually the man is a dalit and the woman belongs to the Jat caste. Contrasted to these are intra-caste marriages which transgress local rules of gotra exogamy i.e. they take place between prohibited gotras. Yet others are intra-village, as Haryana practises what is called “village exogamy”, i.e. people must marry outside the village, even if a gotra with which marriage is permissible is present in the groom or bride’s village. Village exogamy is sometimes further extended to what sociologists call “territorial exogamy” by which several villagers are in a brotherly (bhaichara) relationship with each other and hence marriageable girls and boys in such villages are considered brothers and sisters.

Self Choice Vs Arranged Marriages

There are other important differences. The inter-caste marriages fall into the category of “self-choice” marriages and also violate the rule of caste endogamy (whereby one should marry within one’s own caste). This is not necessarily the case with “inappropriate” gotra marriages which besides being intra-caste, may have been duly arranged by the parents of the couple.

⁴ In editorial, The Tribune, 15th April 2010

⁵ Honour in horror? , The Sunday Statesman, 1st Aug 2010

These marriages thus have approval of the family, village and society and are socially legitimised through public celebration and are also valid in the eyes of Hindu marriage law. In the case of inter-caste marriages the ire of the Jat community is especially reserved for dalits who dare to fall in love with and attempt to marry or do marry jat girls. The violence towards such marriages is easily explained by the challenge being offered to the dominant Jat community by untouchable castes, which have begun to prosper with the help of educational and employment opportunities. Marriage, as we know, is the last and strongest bastion for the preservation of caste – caste endogamy ensures the perpetuation of caste exclusivity. Equally, the intimate sphere of family and marriage upholds and perpetuates cultural community values and hence any perceived or real threat to these values draws a violent response from the community concerned. The gruesome killings and punishments such as expulsion from the village, social ostracism, etc, inflicted on couples and their families have propelled some civil society bodies to take up legal and social actions on behalf of the beleaguered couples.

Origin of Khap Panchayats and Their Source of Strength

The Khap Panchayats are reported to have come into existence as a social system maintenance mechanism in agrarian societies. These are the legacies of the tribal councils, formed by various tribes with a purpose of facilitating resolution of intra-tribal disputes and inter-tribal intercourse⁶. When these tribes got co-opted into the caste system, these were retained by them as an internal control mechanism for combating the external threats as well as for being the bodies used for bargaining with the rulers in Delhi.⁷

These khap panchayats are believed to have been multi-caste as all caste bodies at one point of time, were represented by all the castes. But presently they have become purely a jat institution. Khap panchayats are constantly in the news these days for their role in what are being called as “honour killings”. Most of these crimes involve killing and the couples united in marriages that are inappropriate according to local Haryanvi or western UP society. These marriages are taken as ‘offence’ and khap panchayats as heads and members of the community proceed to judge and punish couples and their families. The moral pressure exercised by these extra-constitutional bodies and the fear of challenging their barbaric injustice propels or encourages close relatives to eliminate the married couple and fellow villagers ostracize their

⁶ The need to tame khap panchayats , Economic and Political weekly p 17, Vol XLV No 21

⁷ Ibid

families. Not surprisingly, even police fails to help the hapless victims, and they allow revenge and condone the punishment of the so called transgressors.

These khap panchayats generally consist of powerful elements of the dominant caste. They are generally senior citizens who claim to be considered as upholders of village norms, custodians of rural culture and guardians of public morality. They have a great hold both at the local and provincial levels.⁸ No one wants to annoy these powerful persons. Hence, even knowing of the complaints by aggrieved persons, Om Prakash Chautala, then chief minister of Haryana, declared in 2004 that “whatever the (caste) panchayat decides is right”. Similarly the present chief minister of Haryana, Bhupinder Singh Hooda also reiterated the same in different manner. He also failed to take the bold decisions in the interests of rule of law or to meet the ends of justice. He said-“these are social situations. If we take any rash step, it can have an adverse impact on the law and order situation in the State. We have assured, concerned the families that they will be protected”⁹.

But where the police gone at the time of death of Vedpal Mor at the hands of a village mob in Jind raises the questions about the credibility of such assurances? Mor had married Sonia of Singwal village against their parents’ wishes. He later moved to Punjab and Haryana High Court and had come to Matour village accompanied by policeman to take his wife from her parents’ home. However, a mob lynched him to death on 22 July. This clearly means that in Hooda’s reign khap panchayats will continue to rule and the fear of death will continue to hover over lovers or spouses.

Source of strength of Khap Panchayats:

According to Ranbir Singh¹⁰ in his article, the following submissions may be made for the sources of strength of khaps:

1. The main secret of the strength of the khap panchayats is the persistence of strong kinship feelings among various clans (gotras) of Jats due to the continued belief that they being the progeny of a common ancestor have ties of blood.
2. Prevalence of the concept of *seem-simli* i.e. the concept of bhaichara(brotherhood) among the clans living in neighbouring villages having common boundaries.

⁸ Economic and political weekly , p 18 Dec 26,2009, vol XLIV No. 52

⁹ “Till khap panchayats do them apart” , Indian Express, Delhi edition , 29th July 2009

¹⁰ “Feudal roots” , Frontline, 28th Aug 2009

3. The existence of traditional institution of neighbourhood panchayats (**Ghwand panchayats**) for resolving the inter-caste disputes in the adjoining villages.
4. The presence of the feelings of bhaichara among different gotras, living in the same village and avoiding the matrimonial relations between them.
5. No one raises the voice against the verdict of khaps as they also are in favour of the verdict.
6. The weakness of Panchayati Raj Institutions(PRI's) is also responsible for the continued strength of the khaps.
7. The conversion of khap panchayats into vote banks has also made them virtually unchallengeable.
8. All the major political parties have been reluctant to raise their voices against them.

Khap panchayats are a part of the rural social architecture and have existed in the past. There are four kinds¹¹ of traditional panchayats in rural north India¹². The traditional panchayats are having peculiarity that they are all male institutions. Their appeal and effectiveness are massive because powerful elements of the dominant castes usually participate in their deliberations and stand guarantors to their decisions.

What is Honour Killing ?

There is no specific definition of honour killing. However, these "honour killings" are murders committed by family members and the people belonging to the concerned caste/ class on the verdict of khap panchayats of family members of such who are believed to have brought "shame" or "dishonour" on the family name. The apparent "shame" could be caused by a victim refusing to enter into an arranged marriage or for having a relationship that the family considers to be inappropriate¹³. The perceived dishonour is normally the result of the following behaviors, or the suspicion of such behaviors:

- a. Dress in such a manner which is not acceptable by the community,
- b. Wanting to terminate or prevent an arranged marriage or desiring to marry by own choice,
and
- c. Engaging in certain sexual acts, including those with the opposite or same sex.

¹¹ Economic and Political Weekly , Dec 26, 2009 Vol XLIV No. 52 p-17

¹² Caste panchayat , village multi-caste panchayat, the farmer retainer panchayat and any single purpose panchayat. And the four corner-stones of rural life which are followed strictly are: aikya (unity), izzat (honour), biradari (community) and bhaichara (brotherhood).

¹³ <http://marriage.about.com/od/arrangedmarriages/g/honourkilling>

Honour killing is the outcome of a clash between tradition and modernity. The traditional norms of the society are being challenged by the younger generation who want to take their own decisions and prefer to be not shackled by the values of the past. The increasing independence of women is threatening the patriarchal society which considers women as the “property” of the caste and the community. And women’s chastity is viewed as an honour of the community. This honour is directly linked to their conformity to traditional and restrictive roles. Talking about same *gotra* marriages being forbidden in Hindu scriptures is being cited as the reason behind these killings. Honour killing is not however, a typically Indian phenomenon. The United Population Fund (UPF) estimates that the annual “honour killing” victims the world over may be as high as 5000¹⁴. However, these figures may be the tip of the iceberg. They do not reveal the magnitude of the problem. In Pakistan, over the span of six years (1999 -2004)¹⁵, 4000 women became victims of this barbaric practice. Despite widespread condemnation by Human Rights groups, Pakistani society tends to support ‘honour killings’.

What Law Says?

There is no specific law in India which deals with this gruesome act of honour killings and any punishments regarding the same. They are treated as ‘murders’ under the provisions of IPC or the Code of Criminal Procedure Code as it is not a crime specified separately under the laws and no data about this crime has been collected by the National Crime Records Bureau¹⁶. Moreover, it is difficult to identify and classify an ‘honour’ killing in any given community, since the reasons often remain a closely guarded matter showing criminality at its worst, with mother killing her own child in collusion with father, and brother turning a wild conspirator. And the major active role is played by these caste panchayats who are running a ‘parallel legal system’ giving orders by their own or in connivance with the family members making it difficult to pinpoint the culprits and gather evidence, ultimately getting their orders implemented by means of killing of innocent couples. It seems that we people are living in India where democracy, the greatest ideal is being subverted in many ways. Apart from that, the most shameful situation emerges at that moment when the FIR’s were not being registered in such cases, and even the cases that get pursued, their conviction rate is very low.

¹⁴ The Sunday Statesman, 1 Aug 2010

¹⁵ Ibid

¹⁶ The Hindu, Aug 6,2010, p 11

Special Marriage Act which got passed in year 1956 had its prime objective to provide a special form of marriage for the people of India and all Indian nationals in foreign countries, irrespective of the religion or faith followed by either party. The other reasons were:

1. To provide a special form of marriage in certain cases where inter-caste marriages could get legal recognition.
2. To provide for registration of certain marriages.

But the only criterion which falls in this enactment is that both the parties should not be within the degrees of prohibited relationship; provided where a custom governing at least one of the parties permits of a marriage between them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationships. But apart from this, caste still remains one of the most important factors governing the lives of many people in some parts of India. The huge number of honour killings that sometimes go unrecorded happen because of inter caste marriages. India's social system is based on a caste hierarchy but over the years people living in the cities have come out of the rigid caste framework. There has been an increase in the number of inter-caste marriages between couples in the cities. But somehow the laws never seem to reach the villages, and they continue to function on their own belief system in utter disregard of the related laws. The problem in the villages is the strong presence of a *panchayat* or informal court that consists of members of the same caste and which decides all matters relating to their community. This informal 'court' passes judgment on issues of marital disagreements and land disputes, water disputes and so on. Many times, villagers give more importance to judgments passed by this self-appointed court than the judgments passed by the legal courts.

In many villages, the leader of the self-appointed court has so much power that the police are kept away from village politics. On many occasions parents kill and dump the bodies of their children in the name of honour and the police do not care even if the matter comes to their knowledge. This is why there are so many unrecorded deaths.

The Union Government Ready for Tough Law against Khap Panchayats

Alarmed by sharp increase in the incidents of honour killing, the Union government intends to bring a law on the matter in the current parliament session itself and has decided to amend the Special Marriage Act to abolish 30 days notice period so as to protect the lives of the young couples who dare to go for inter-caste or inter religion marriage against the wishes of their

family members. During the notice period of 30 days, family members who are opposed to such marriages use all types of tactics to stop the marriage and they even go to the extent of murdering the defiant boy or girl. The present procedure of getting a marriage registered is quite a long process. The complete process takes 45 days. During this period the couple gets vulnerable. So the steps need to be taken to simplify and expedite registration process. On the other hand, Khap panchayats have been demanding amendment in the Hindu Marriage Act to declare same gotra marriages illegal but the government has refused to abide by the demand of this Khap panchayat. According to the Home Minister P. Chidambaram, “honour killings are bringing dishonour to the families, the community and the country”,¹⁷. The government on the other hand is ready with another bill providing stringent punishment for those indulging in honour killing and making it specific offence under the Indian Penal Code, and the entire Khap panchayat ordering such killings would also be prosecuted for the abetment of the crime and the onus will be on the accused to prove his or her innocence while normally the onus is on the state to prove the guilt of the accused. The proposed law would identify the crime and punish the offender, whether an individual or group. The draft bill which is to be submitted in the parliament would define what constituted ‘honour killings’ and would cover the cases of women being forced to strip in public and people being ostracised from villages.

Criminal Jurisprudence of Honour Killings

There are no specific laws to deal with honour killings and if they are treated as murder they fall under the category of sec 300 of Indian Penal Code 1860. Clause fourth of Sec 300 IPC specifies that if the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such bodily injury as aforesaid commits the offence of murder. This very explanation covers the act of killings which are done for honour. Here the act is intentional, imminently dangerous and in all probability has the chances of causing death, so it will not be improper to say that the culprits involved in honour killings should be punished as the murderers and capital punishment should be imposed on them. Moving on the same issue to tackle with the honour killings, the government is coming up with a revised draft bill of Indian Penal Code and other laws (Amendment) Bill 2010 through

¹⁷ The Hindu , Centre promises law on ‘Honour killings’ Aug 06, p 11

which it is planning to bring amendments in sec 300 (committing an intentional act which causes death) and 354 (assault or criminal force to woman with intent to outrage her modesty) of IPC and Section 105 (burden of proving that the case of accused comes within exceptions) of the Indian Evidence Act where the onus would be on the members of khap panchayats and family members to prove their innocence.

In sec 300 of IPC, the government is planning to introduce honour killings as the fifth clause¹⁸, which at present defines 'murder' under the *four* categories. The proposed *fifth* clause says,

"If it is done by any person or persons acting in concert with, or at the behest of, a member of the family or a member of a body or group of the caste or clan or community or caste panchayat (by whatever name called) in the belief that the victim has brought dishonour or perceived to have brought dishonour upon the family or caste or clan or community or caste panchayats."

In the explanations given for the clause, the proposal says that "dishonour" and "perceived to have brought dishonour" will include "acts of any person adopting a dress code which is unacceptable to his or her family or caste or clan or community or caste panchayat". The murders for choosing to marry within or outside the 'gotra' (sub-caste) or caste or clan or community against the wishes of one's family or caste or clan or community will also come under the ambit of the honour killings. Killing somebody for engaging in sexual relations which are unacceptable to the community or caste panchayat or family will also fall under it. Externment of a person in the belief that he or she has brought dishonour will also be punished with imprisonment of either description for a term which may extend to two years or with fine or with both. On the point that who all come under the ambit of honour killings, the draft suggests that all members of a body or group of caste or clan or community or caste panchayat, ordering or abetting the commission of murder will be deemed guilty of having committed the murder and that would make it liable for the maximum penalty i.e. death sentence.

So the only issue remains here is that how much time this proposed draft takes to become a law so as to extirpate the very menace of honour killings. Under the prevailing law such motive and result in honour killings due to the suicide committed by lovers because of

¹⁸ <http://www.hindustantimes.com/GoM-to-consider-proposals-to-tackle-honour-killings/Article1580702.aspx>

threats or importunate stiff resistance from their families are the same as murder¹⁹. However, the Courts of law have started granting capital punishment as the offence of honour killing is none else than murder and becomes rarest of the rare case or life imprisonment to other accomplices on the basis of quantum of guilt if it is a case of honour killing under sec 302 IPC. In the jurisprudential spectacle of the inhuman practices of honour killings, I would like to draw the attention to some of the thoughts of noted criminal law jurists and other theorists:

1. Firstly, starting with the celebrated criminal law jurist Jeremy Bentham who opines that utilitarianism is the purpose of any public law like criminal law. He is against too many laws to be made, as it will lead to criminal consciousness but also remarks that if such grievous situation appears, social forces should be galvanised to help the civil society to imbibe the spirit of basic law e.g. the Constitutional law, criminal law, marriage laws etc.

Thus, it can be safely inferred from the above that the leaders of masses should take vows to ameliorate the pity like honour killing from some quarters of the country particularly and elsewhere generally.²⁰

2. Next Jean Hampton is of the view that criminal law has an educative role and the punishments should be so deterrent that the effect is like electric shock.²¹

It is therefore worth noting that action plans should be drafted by the state and the intelligentsia to find out enforce methods to spread the educative impacts of deterrence of punishment for offence in the masses in most effective manners. It is the call for justice by **We the people of India** in the independent India which will provide justice not only to the victims of honour killings but also to their situation as it was iterated by Louis Brandeis that a lawyer's duty is not to his client but to his client's situation²².

3. Thirdly, the great Jurist Lon L Fuller depicting the "**Allegory of Rex**" and highlighting the 'eight ways to fail to make law' identifies publication as one of the most desirable ways.

It is thus, germane to infer that proposed Bill of 1910 in the Parliament on the subject of Honour Killing should be well publicised by the State, educated citizens, administrators, police, educational institutions, advocates, representatives of people in

¹⁹ Section 306 of the IPC (abetment to commit suicide) and provides for a punishment of either description for a term which may extend to 10 years, along with fine.

²⁰Wayne, Morrison; Theoretical Criminology: From Modernity to Post-modernism, 1995, pp 74-76 and 201.

²¹ Jean Hampton; Message from Punishment, (1980)

²² D'Amato Anthony; Introduction to Law and Legal Thinking, 1996, p 187. Also see Rights and Law Analysis and Theory by Andrew Halpin, 1997, p.3.

different legal fora, as well as members of non-governmental organisations as well. The NCC Camps should be made by cadets as well as commanders to extend support in the educative purpose in nooks and corners of the country.²³

4. Citing the brief views of celebrated thinker of Sociological Jurisprudence Ihering who explained social origins of laws and legal institutions. The roots of law lay in sociological factors and man is dominantly actuated by selfish purpose in order to resolve the conflicting interests between individuals and society. He propounds for achieving this purpose- the principles of lever of social motion having four components: **reward, coercion** and two altruistic methods of **duty and love**.

Thus, in light of his principle, it is desirable that the conflicting interests of individual couple as well as Khap Panchayats can be resolved successfully by employing the four principles of levers of social motion provided there is strong political will to translate this principle effectively.²⁴

5. The feminist jurisprudes also draw the attention towards lack of **sylogistic legal reasoning** and state that positive laws are largely instruments of subjugation and oppression of women folk at large is thus law is politics and made by the men for women to serve their different political and other purposes.

Thus, in the era of empowerment of women under the provisions of the Directive Principles of State Policy of the Constitution of India²⁵, and International declarations like UHDR²⁶, CEDAW²⁷ and others, it is urgently called for that the Honour killing must be looked at from the perspectives of the victims. This is in tune with claims of criminology and criminal laws incorporating Victimology into redressal of grievances of women victims.

Needless to point here that women in India are the largest workforce contributing as many as 16 years of their youth in begetting children and upcoming them. Therefore, their contribution to the national progress should never be overlooked or dwindled. Furthermore, to pen here a very sad fact that in the areas where honour killings are being reported, illegal abortions after illegal sex determination tests are practised the most which depicts male sexual chauvinism bringing morbidity and mortality simply for the reason that the

²³ Lon L. Fuller ; Morality of Law, (2009), pp 35- 95.

²⁴ Dias R.W.M.; Jurisprudence , 1994 , pp 423- 424.

²⁵ Article 38 states to secure a social order for the promotion of welfare of the people and Article 39 A deals with equal justice and free legal aid.

²⁶ Universal Declaration of Human Rights, 1945

²⁷ Convention on Elimination Of Discrimination Against Women, 1979

population largely prefers to have sons. This enclosed fact is in spite of high literacy rate in the region but honour killing is nothing less ferocious and pernicious than insult to wound of the subjugated and oppressed womenfolk, engulfing the counterpart also.

Thus, the urgent call is to pass stern laws, enforce them rigorously and punish the offenders' very deterrently so that electric shock in the idea of Jean Hampton ever flows in the nervous and circulatory systems of 'Khap panchayats' and of the deaf and dumb civil society member there over.

Arguments against New Law

- a. The existing penalties²⁸ for the offence of murder are sufficient if they are implemented strictly and effectively. If the police is able to provide sufficient evidence against the panchayat giving the call for killing, then the existing laws for criminal conspiracy (Section 120-B of IPC) and to kill with a common intention (Sections 34 and 36 of IPC) are strong enough to try the panchayat members as conspirators.
- b. A new set of laws would not deter honour killings because the basic issue is social sanction for acts committed to curtail same gotra marriage, inter-caste marriage, inter-religion marriage.
- c. There is need for creating mass awareness by chosen members of the communities through education and abolish the evil completely from our society.
- d. Holding khap panchayats collectively accountable can be detrimental to members who do not support such killing. Also, it could be misused for vindictive agendas like holding all members of a khap panchayat guilty of murder. Thus it may create difficulties to implement, because it will be a disclaim in States like Haryana, where there has been a rash of 'honour' killings, as many political parties there derive their strength from khap panchayats.

Supreme Court Views on Honour Killings

²⁸ **Sections 299-304:** Penalizes any person guilty of murder and culpable homicide not amounting to murder. The punishment for murder is life sentence or death and fine. The punishment for culpable homicide not amounting to murder is life imprisonment or imprisonment for upto 10 years and fine.

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

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

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

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

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

In the case of State of U.P. Vs Krishna Master and anr ²⁹ , the Supreme Court has awarded life sentence to three persons in an honour killing case, in which six members of a family were gunned down, but said the accused deserved capital punishment. The apex court however, refrained from awarding death penalty to Master Krishna, Ram Sewak and Kishori as the incident was two decades old and slammed the High Court for acquitting them by rejecting the testimonies of a child and another witnesses.

Next case in the row is of Lata Singh Vs State of U.P. and Anr ³⁰ where the two Judge Bench expressed concern over the several instances of harassment, threats and violence against young men and women who marry outside their caste and held that “such acts or threats or harassment are wholly illegal and those who commit them must be severally punished”. Observing that “inter-caste marriages are in fact in the national interest as they will result in destroying the caste system”, the Bench held that “once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage.” Accordingly, the Bench directed the administration / police authorities throughout the country to see to it “that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.” Referring to instances of ‘honour killings’ of persons undergoing inter-caste or inter-religious marriage of their own free will, the Bench said “there is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal and feudal minded persons who deserve harsh punishment.”

Concluding Observations

Killing the crimes on the name of honour can be calculated as cold blooded murders, and this ghastly practice amounts to grave violation of the human rights. Such case of honour killings

²⁹ Criminal appeal no 1180 of 2004, decided on 3rd Aug 2010

³⁰ Criminal writ petition no 208 of 2004, decided on 7th July 2006, AIR 2006 SC 2522

are stemmed primarily from the structured caste – based discrimination in a male dominated society. This leads us to the question. “How can this menace be tamed?” It is very unfortunate that the caste system in India has turned into a social evil for many. It is horrible that many young people have lost their lives in the name of honour, and there are many more who are at the gunpoint of this rigid belief system. It is a false notion that honour killings only involve the killings of women. Men are equally victims of this practice, especially when it affects the reputation of a particular caste and community. Many grooms have been killed by the father or the brother of the bride.

Shameful as it may sound, such things still exist in many parts of the country. Even after 64 years of its independence, if we look at India as a whole we see two different worlds. First, those living in the city, who are progressing not only economically and technologically, but also in terms of their ideas and outlook towards their lives, then, those in the villages who are still bound by the rigid beliefs of the caste system that existed hundreds of years ago and refuse to move ahead. Where will these two worlds meet?

There is nothing like to be against the traditional belief systems that exist in India. But what baffles is the fact that so many innocent lives are lost in the name of this belief. It hampers the growth of a human mind and forces it to live within the illusionary world that it has created for itself. There is a strong need for government intervention. The government needs to enforce strict measures to stop honour killings. There should be a total ban on all decisions made by these self appointed courts in the villages. They have proved fatal for many innocent lives. India is world’s largest democracy and in a country where people have the right to voice their opinions freely, to be young and to marry the person of one’s choice shouldn’t be fatal anymore for the reasons that the choices of the youth of legally marriageable ages have the fundamental right to life u/Art. 21 of the Constitution of India, which enforces all rights that support a meaningful happy life according to person’s likes. Apart from this, such couples or youth have the freedom of speech and expression u/Art. 19 (1) (a) of the Constitution of India to support their independent decision making process of setting marriage.

Here are some suggestions in order to tame the crime of honour killings in India . They are as follows:

- First of all, there should be a uniform definition of honour killing so that there is no room left for ambiguity as to what constitutes that crime.

- Several help lines numbers and special cells all over the affected areas of honour killings should be established with special police task and action group force to nab the culprits and extend proper protection to the couples or victims.
- It will be worthwhile to empower Panchayati Raj Institutions (PRIs) and to change the orientation of the Panchayati raj leadership to take up social development and eradication of social evils as matters of top priority.
- Besides, a mass awareness campaign launched by the civil society on a mission may help in the rural areas for making the people realise that this anachronistic institution which existed when there was no constitution, no criminal law, no rule of law, no modern judicial system, no representative government, no democratically elected panchayats have lost relevance or rationale for continuation in the changed social, economic and political milieu. The Universities, NGOs and the media can also play vital role in this regard.
- The central government should step in and ensure that the powerful and retrogressive khap panchayats are dealt with firmly. Both the State and Central governments need to strengthen the observance of reformed marriage laws likely to be reformed. Furthermore, this recognition of the law of the land regarding marriage will loosen hold of extra- constitutional bodies on the right of couples and families to make their own marriage decisions.
- To deal with the cases of honour killings fast track courts should be constituted, and amendments should be immediately done in Special Marriage Act so as to reduce the period of registration of marriage from one month to one week.

Last but not the least, the Government of India should remember its obligations and commitment to protect its citizens from such violence under the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW) of which India is a signatory and has also ratified it. It is also against the spirit of Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. It should also be kept in mind that mere passage of stern laws will not help. Public opinion against this vicious practice has to be built up through awareness campaigns. The standard remedy to any serious social illness is to pass a stern law with effective implementation drives. Most of the legislation remain in the statute book and are unimplemented, which is not proper. The laws will have to be enforced by the States, and unless there is a strong political will, the enforcement should never be sluggish and half- hearted. In such cases as Haryana, electoral considerations have impeded action against the khaps. No important leader has denounced the oppression of the khap panchayats. This

absence of political will aggravates the problem further still. The political leadership of the State will have to show their statesmanship and gather courage for curbing these illegal activities. Moreover, let us hope positively the coruscating beam of victory over the sinister practice of honour killing in near future.

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