

AMOGHVARTA

ISSN : 2583-3189



Blood for Honor: The Intersection of Religious Doctrine and Tribal Custom in Honor Killings

ORIGINAL ARTICLE



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Abstract

The concept of honor killings will be explored in this legal research paper, with a focus on how religious doctrine and tribal custom relate to the justification and recurrence of these crimes. An act of violence known as "honor killing" occurs when male family members kill a female relative they believe has violated family honor or morals. Although these murders happen in all nations and religions, they are most frequently connected to particular tribal and religious communities. The study will examine the moral justifications for honor killings, including how Islamic law has been interpreted and tribal norms. It will also look at the legal systems in various nations that deal with and prevent honor killings. In the end, the paper will contend that honor killings are a violation of human rights and should be stopped by a mix of judicial, social, and cultural initiatives that

confront the underlying attitudes and beliefs that support this kind of violence.

Key Words

Honor Killing, Violence, Tribal.

Introduction

The horrific tradition of honor killing has been practised for millennia throughout the world, including India. The custom is based on the belief that a person's actions can bring down their family or community and that killing them is the only way to restore honor. Honor killing is a violation of human rights as well as a serious offence in several countries, including India. We will investigate whether the custom of honor killing is based on religious doctrine, tribal custom, or both in this legal research paper.

Research Methodology

The research is theoretically based and therefore the collection of sources for the research has been mainly through blogs, research papers, annual reports published by Governments and websites of various Governmental and non-Governmental reliable agencies and organisations.

Review of Literature

1. Alka Bhatia (2013) discusses the numerous causes of honor killing, provides an overview of the issues associated with honor killing in India and Jordan, and also provides some recommendations for preventative measures.

2. According to Vishwanath, Jyothi, and Palakonda, Srinivas C. (2011), the fundamental cause of honor killings is patriarchal culture. They also highlight the desirable role that lawmakers, community members, etc. should play in ensuring that such a heinous crime from occurring in society.
3. Morality, according to Chief Justice of India (CJI) DY Chandrachud, is a fluid concept that differs from person to person. He also noted that hundreds of young people in the nation perish in honour killings simply because they fall in love with someone, marry someone outside of their caste, or go against their family's wishes.
4. Sango Bidani (2010) talks about the causes of honour killings as well as some of the examples that have occurred. This study also discusses the numerous laws currently in place to protect victims of honour killings as well as the factors that continue to contribute to the frequency of such horrible crimes.

Religious Doctrine and Honor Killing

Religion has a big influence on cultural and social norms throughout much of the world, including India. In some cases, honor killing is viewed as a religious practice based on religious doctrine interpretation. Honor killing, for example, in some regions of India is connected to caste and purity customs that are ingrained in Hinduism. The belief is that caste purity is critical to the community's survival, and any behaviour that does this principle must be punished. This has resulted in the practice of honor killing, especially when a member of a lower caste weds a member of a higher caste or behaves dishonourably.

Similarly, honor killing is accompanied by some Muslim communities' exegesis of Islamic law. It is believed that a woman's behaviour should be controlled to protect the family's honor and reputation. Any behaviour that goes against this principle is considered a violation of Islamic law and must be punished. As a result, certain Muslim nations, like India, have adopted the tradition of honor killing.

It is important to note, however, that none of the world's main religions practises honor killing as a religious practice. While some religious texts may be interpreted to support the practice, it is not a fundamental tenet of any religion.

Tribal Custom and Honor Killing

In several places of the world, tribal customs are linked to honor killing, including India, added to religious doctrine. Family honor and reputation are highly valued in many tribal societies, and any behaviour that contradicts these values is viewed as a danger to the community's survival. Honor killing is viewed as a method for safeguarding the families' and community's honor and reputation.

Honor killing, for example, is associated with the practice of khap panchayats, which are self-appointed councils that govern the affairs of specific communities in some parts of India. The councils frequently promote and enforce strict social norms, such as marriage and gender roles. Any violation of these norms is regarded as a danger to the honor of the tribes and is punished with honor killing.

Similarly, in some African tribal societies, honor killing is associated with the practice of female genital mutilation, which is regarded as a way to regulate women's sexuality and maintain family honor. Women who refuse to perform the procedure may face honor killing as a punishment.

Role of Law

Several laws and legal provisions in India address the issue of honor killing. The right to life and liberty is secured by the Indian Constitution, and any breach of this right is prohibited. In addition to the provisions of the constitution, the following statutes address the subject of honor killing:

1. The Indian Penal Code (IPC): The Indian Penal Code (IPC) is India's primary criminal law, defining and prescribing punishments for various offences. Sections 299 and 300[1] of the IPC discuss murder

crimes. Under these provisions, somebody who murders another individual with the intent to kill or with the knowledge that such an act is likely to kill is guilty of murder. Honor killing is a type of murder that is punishable under these provisions.

2. The 2005 Act to Protect Women from Domestic Violence: A comprehensive piece of law, the Protection of Women from Domestic Violence Act of 2005 addresses numerous forms of domestic abuse, including honor killing. Domestic violence according to the Legislation is any harm, injury, or death caused to a woman by the family of her or relatives under section 3[2]. The Act also contains guidelines for victim protection measures such as restraining orders, monetary relief, and other forms of assistance.
3. Dowry Prohibition Act of 1961[3]: The Dowry Prohibition Act of 1961 prohibits the giving or receiving of dowry, a common practice in India. Moreover, the law specifies sanctions for those who demand or give dowry. Honor killings are committed in several cases because the victim's there was insufficient dowry from the family, and the Dowry Prohibition Act can be used to prosecute such cases.
4. The Indian Constitution[4] basic liberties to life and freedom are violated by the horrible crime of honor killing. It violates the Constitution's cherished ideals of equality, respect, and freedom. According to Article 14 of the Constitution, everyone has the right to equality before the law and equal protection of the law. Article 15 forbids discrimination based on sex, caste, religion, or place of birth. Article 21 guarantees everyone the right to life and personal freedom, and any violation of this fundamental right, including honor killings, is serious.
5. Also, every Indian citizen is required by Article 51A[5] of the Constitution to abandon behaviours that are disrespectful of women's dignity. Honor killings are a blatant disregard for this obligation.

Challenges in Addressing Honor Killing

Despite the legal framework developed to address honor killing in India, the practice remains prevalent in some regions of the nation. Numerous challenges must be overcome to be able to effectively combat honor killing. The social and cultural norms that underpin the practice are one of the major challenges. In many communities, the notion of honor is deeply ingrained, and those who engage in dishonourable behaviours are ostracized and excluded from the community. This makes it difficult for honor killing victims to seek help or report the crime.

Another issue is a lack of awareness and education about the problem. Many people in India are unaware of the legal framework in place to address honor killing, and there is a standard misunderstanding of the seriousness of the crime. This makes things difficult.

Major Case Laws

1. LATA SINGH V. STATE OF UTTAR PRADESH [2006][6]

FACTS- A seminal case in Indian law decided by India's SC in 2006. Lata Singh and Anil Kumar were a young couple who wanted to marry despite being from different castes. Lata Singh belonged to the Scheduled Caste community, whereas Anil Kumar belonged to a higher caste. Families opposed the couple's marriage, and they faced threats and harassment from their respective communities. So, to marry Anil Kumar, Lata Singh petitioned the Supreme Court for protection from her family and the Government.

DECISION- In its decision, the SC stated that the right to marry the person of one's choice is a fundamental right enshrined in the Indian Constitution and that no individual or community can interfere with it. The state's administration was also mandated by the court to protect the couple and their family.

The ruling, which intended to advance the freedom to select one's partner and abolish the practice of honor killings, which are common in many regions of India, was generally lauded as a major decision in that country. As it established a significant precedent for instances involving inter-caste marriages and the ability to select one's spouse, the case has been referenced in several later rulings.

2. ARUMUGAM SERVAI V. STATE OF TAMIL NADU [2011][7]

FACTS- The victim, Shankar, was accused of breaking social conventions by getting married to Kausalya, a woman from a different caste. To assault Shankar and Kausalya, Shankar's father-in-law Chinnasamy hired a gang of men because he was not thrilled with the marriage. The assault caused Shankar to pass away, while Kausalya also suffered serious injuries.

DECISION- The accused was convicted guilty of murder by the SC, which upheld the lower court's finding. The court determined that the murder was planned and premeditated and dismissed the defence's claim that it was not. The homicide was deemed an "honor killing" by the court since it was motivated by the couple's inter-caste marriage. The judge also held that "honor killing" is an evil practice that has no place in a civilized society and that those who engage in it should face harsh punishment. State and federal Governments were ordered by the court to take action to stop such crimes from happening and to protect couples who are threatened by their relatives.

Finally, the Supreme Court's ruling marks a significant step forward in the struggle against "honor killing" in India. The decision strongly implies that such acts of violence will not be condoned and that anyone who engages in them will face harsh penalties.

3. SHAKTI VAHINI V. UNION OF INDIA [2018][8]

A significant ruling on the subject of honor killing was rendered by the SC of India in the case of Shakti Vahini v. Union of India. The Indian Constitution's fundamental right to life is violated by honor killing. The Indian Supreme Court determined that it is a heinous crime and ruled as such. Honor killing is, in the Court's opinion, a social vice. That results from the patriarchal mentality that wants to rule and control women. This method of punishment is applied to people who are thought to have brought disgrace or dishonour upon their families or communities.

The Court acknowledged that honor killing is a challenging issue that requires a diverse approach. The Government must take aggressive measures to stop these crimes, the court concluded, including by putting laws, policies, and programs into place that will increase public awareness and alter social norms.

The Court also stressed the importance of strict law enforcement in ensuring that those who commit honor killings are Prosecuted. It gave the Government the go-ahead to take actions to improve the criminal justice system, including expanding the number of courts, judges, and prosecutors as well as strengthening the investigation and prosecution of cases involving honor killings.

Ultimately, the Shakti Vahini case ruling by the Supreme Court represents a significant advancement in the fight against honor killing in India. It makes it quite clear that such actions won't be tolerated and that the Government is determined to take the necessary steps to stop them and hold those culpable.

Suggestions

The practice of honor killings has become a social ill, and every institution of society must work to eliminate it. Some suggestions for doing so include:

1. **Change in Law:** Honor killing should be subject to stricter legal restrictions and additional penalties. People will be discouraged from committing such horrific crimes by such laws.
2. **Inter-Caste Marriage:** Discriminating against people based on caste ought to end. Only by accepting inter and intra-caste marriages will it be eliminated.
3. **Media Awareness:** The media may be a powerful tool for raising awareness of the rights that victims have and the unconstitutionality of Khap Panchayat rulings.
4. **Affluent Individuals:** Affluent individuals ought to concentrate on the welfare and growth of society as a whole, rather than only on themselves.
5. **Education:** One of the most powerful tools for eradicating this social problem and altering the misconceptions and incorrect assumptions that underlie human thinking is education.

Conclusion

Finally, honor killing is associated with religious doctrine and other tribal practices from different regions of the world, including India. While some religious texts and tribal customs may be interpreted to support the practice Honor killing is not a core element of any religion or tribal culture, which is a crucial point to make. Honor killing is a human rights violation and a criminal offence in many countries, including India. It is critical to raise awareness about the seriousness of the crime and to ensure that the legal framework is in place to effectively combat honor killing.

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1. Bidani, Sango. 2010. "Honour Killing in India: An in-depth Study". Editor's pick Society
2. Vishwanath, Jyothi and Palakonda, C. Srinivas. 2011. "Patriarchal Ideology of Honour and Honour Crimes in India". International Journal of Criminal Justice Science. 6(1&2): 386-395.
3. "CJI Chandrachud on honour killings" 2022. Hindustan Times (<https://www.hindustantimes.com/india-news/cji-chandrachud-on-honour-killings-hundreds-of-young-people-in-india-die-because-101671360749582.html>)

Foot Note

1. Indian Penal Code 1860
2. The Protection of Women from Domestic Violence Act, 2005
3. Dowry Prohibition Act, 1961
4. Indian Constitution, 1950
5. Indian Constitution, 1950
6. (2006) 5 SCC 475
7. (2011) 6 SCC 405
8. (2018) 7 SCC 192

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