

# Honour Killing: Legal Framework In India

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## Abstract

Living in the 21<sup>st</sup> century Honour based violence yet remains a heinous crime that has been rampant in the Northern Parts of India. With the changing needs of the society the laws have been inadequate to curb such crime. The assassination of a family or clan member by one or more family members who believe the victim has dishonoured the family honour by his or her acts is known as honour killing. The paper discusses the legal provisions in India related to honour killing.

**Keywords:** Honour Killing, Legal Framework, Provisions in India

## Introduction

The family member who performs an act of honour killing sees it as wrong and wishes to bring the family. The family commits murder on family members in order to bring honour to the family and erase the shame and dishonor brought on by the family member. The male member of the family murders the female who disobeys their wishes and dishonors the family. This is a type of premeditated murder done by family members against the member who had brought shame to the family. These acts are frequently the consequence of triggers set off by family members, the community, or neighbors that make the accused feel degraded and enraged. The females in these situations are suspected of perpetrating sexual and marital offences. They create a situation in which they should not exist by opposing members of the situation who should be supporting the female. India is a democratic country because every citizen is allowed to violate their moral convictions and constitutional rights. In a society where everyone is treated equally and without discrimination, when a family member chooses someone from a different caste, they are viewed as bringing dishonor to the family. (Keane 2016) In the current world, the main causes of honour killing are caste and status, because a girl's caste and status shift when she reaches her husband's house. The study's goal is to learn more about honour killing, highlight its seriousness, educate society about its consequences, and investigate the elements that contribute to it.

## MEANING OF HONOUR KILLING

The assassination of a family or clan member by one or more family members who believe the victim has dishonoured the family honour by his or her acts is known as honour killing. A crime is defined as one that has its roots in a person's culture, ethnicity, or even a long-standing custom. As the embodiment of the honour of the men to whom they "belong," women are viewed as the property of male families. Women's bodies are seen as the repositories of family honour. Male rank and family status are especially important in nations where "honour" killings occur and women are viewed as being responsible for protecting a family's "honour." If a woman or girl is proven to have acted in a way that jeopardizes the status of a man or family, her family may exact terrible retaliation, which commonly results in gruesome death. Regardless of whether the charges are supported by facts or evidence, any allegation of dishonour against a woman is always enough for family members to take matters into their own hands. Presumed dishonor is usually induced by one or more of the following activities, or by 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,
- C. Engaging in certain sexual acts, including those with the opposite or same sex.

**Honour Killings in India:**

Honour-based violence, particularly honour killings, has a long history in India and has been practiced for decades. These incidents are more common in the states of Punjab, Haryana, Rajasthan, and Western Uttar Pradesh, while there have been reports of cases throughout India. No governmental or non-governmental group has reliable statistics on the severity of the incidents. However, examinations conducted by various civil society organizations reveal that India is one of the worst affected countries. According to estimates, over 1000 people (including men and women) die in India each year as a result of suspected honour killings. Honor killings are one of the numerous consequences of India's various societal norms. Numerous researchers believe that the upper castes' aversion of female intercaste marriage and premarital causes is the biggest contributor to honour killings in India. Marriages into the same gotra (lineage, clan) have been identified as causes of honour killings in northern India, particularly in the state of Haryana. Aside from inter- or intra-caste conflicts, inter-religious marriages have been recognized as a cause in people killing their daughters in order to restore their lost honour.

**Constitutional and Legislative Provisions in India:**

Honor killings also violate Articles 14, 15 (1) and (3), 17, 18, 19, and 21 of the Indian Constitution. Article 21 of the Fundamental Rights chapter of the Indian Constitution guarantees the right to life and liberty to all persons, whether or not they are citizens. In multiple judgments, the Supreme Court of India has declared that the provisions in the constitution are sufficient to secure various human rights, including the right to life. The important decisions interpreting the rights to life reach the conclusion that the right to life includes the right to live with dignity as well as the right to a livelihood, education, and health, among other things. Although the right to live with dignity is implied, the interpretation provided by judgments does not clearly include the right to marry the girl or boy of one's choice.

Honor killings are serious homicide charges under the IPC (Indian Penal Code). While Section 300 of the IPC deals with murder, Sections 299 and 301 deal with culpable homicide that does not amount to murder. Honour killing is homicide and murder because it is done with the goal to kill the victims for bringing shame on the family. The culprits could face punishment under Section 302 of the IPC. Family and community members who urge the suicide of someone who violates the so-called community norms are likewise prosecutable under Section 302 of the IPC.

**Causes and Methods of Honour Killings in India**

The Roots and Treatments of India's Honour Killings The occurrence of honour killings can be attributed to a wide variety of factors and causes, many of which interact with one another:

- Wearing clothes that are considered offensive or unsuitable by one's family or community.
- One of the most common root causes of an honour killing is the victim's refusal of an arranged marriage and subsequent desire to marry of her own free will. If the marriage doesn't go through as planned, the family's reputation will take a hit. A 21-year-old Delhi woman was the victim of an honour killing in 2014; her parents strangled her to death because they believed she had ruined their family's reputation by marrying a man from a different caste; in January 2015, a girl was stoned to death by her father and brother because they believed she was in a "compromising position" with a boy from a different community; and there have been many other cases like these in recent years.
- Seeking a divorce: A woman seeking a divorce or legal separation from her husband without his permission. It's not just immediate family members who can spark an honour killing. Divorce is often seen as an affront to the men who negotiated the marriage contract and the exchange of goods between families in societies where marriages are arranged. Women are judged to be bringing public shame upon their families when they go to others to vent about problems in their marriages.
- Allegation and rumours about family members, in certain cultures: The stigmatising effects of an accusation made against a woman can be so great that her family is driven to murder her out of shame.

- **Becoming the victim of rape:** Women who have been raped often face extreme violence, including honour killings, from their families and communities. Women who have been the victims of rape are often stigmatised because of the shame they are thought to have brought on their families. If the victim gets pregnant, this becomes an even more pressing concern. It is essential to a woman's honour in many cultures that she remain chaste until she marries. According to author Suzanne Ruggi, "a woman's virginity is the property of the men around her, first her father, and later a gift for her husband; a virtual dowry as she graduates to marriage."

### **Protection of Victims of Honour Killing under Constitutional Provisions**

Great provisions in the Indian Constitution protect citizens from honour-related crimes like honour killings and allow them to practise their religion, caste, and gender of choice. Here are some articles of the Constitution that back up this claim: According to the Indian Penal Code, honour killings are classified as "highly aggravated crimes" (IPC). Culpable homicide not amounting to murder is addressed in Sections 299 and 301 of the IPC, while murder is addressed in Section 300.

Homicide and murder are the same thing, and honour killings are no exception. The victims are killed because they are thought to have brought shame on the family. Section 302 of the IPC provides for punishment of the offenders. Those who break Khap community norms may be incited to suicide by Khap Panchayats or family members, who could be charged under Section 302 of the Indian Penal Code. Moreover, Articles 14, 15(1&3), 17, 18, 19, and 21 of the Indian Constitution are all broken when this kind of murder occurs. According to Article 14 of the Indian Constitution, everyone has the right to be treated equally under the law. The ordinary courts have jurisdiction over everyone, regardless of their status or circumstances. Thus, the Indian Constitution explicitly recognises the right to equality. As a result, the right to life guaranteed by the Indian Constitution is violently opposed by honour killings. Honor killings are a form of gender violence because they disproportionately affect women.

### **Reasons of Honour Killing**

Regardless of how many plausible explanations are advanced, the fact remains that our society is still dominated by ideas and beliefs that associate sexual relationships with family dishonour and justify murdering a close relative in the name of vengeance. Some explanations for honour killings, on the other hand, include:

1. **Mentality:** The inability of society to accept marriages that take place within or outside of the same gotra persists even today. In order to justify their opposition to the right to choose a spouse, people in today's society cite nebulous factors like the mobilisation of caste and the restriction of other castes.
2. **Khap Panchayat:** Back in 14th century India, the wealthy and the upper castes frequently convened Khap Panchayats in an effort to further solidify their position and power. Males now make up a sizable majority in these groups. When there aren't any constitutional checks and balances in place, like a Panchayat Smiti or a meeting to draught a new constitution, the resulting lawlessness can be brutal. Decisions made by Khap Panchayats may have had some bearing in the past, before laws were in place to explicitly recognise and protect individual rights, but now that these laws do exist, there is no longer any justification for the existence of such an institution.
3. **Illiteracy:** Honour killings are so common because many people are unaware of their rights and the resources available to them. The honour crime is a violation of the Indian Constitution, specifically Articles 14, 15, 1, 3, 19, and 39 (f). India's international obligations are being violated. It goes against what the UDHR and ICCPR stand for. Regrettably, the term "honour crime" is still not defined in Indian law. Sections 299–304, 307–308, 120A–B, 107–116, 34, and 35 of the Indian Penal Code contain the applicable punishments for this type of crime.
4. **Sex Ratio:** The widening gender gap is another factor contributing to the rise in honour killings. Girls are being bought for marriages and honour killings are occurring as a result of the low sex ratio. The girls are just another commodity. The dominant Jat caste in Haryana and western Uttar Pradesh is feeling the effects of what demographers call a "male marriage squeeze." With sex ratios in the low

800s, the male marriage pool is being squeezed over time because fewer women are being born into each new cohort and more men are remaining single. One in four men in Haryana are likely to never get married unless they travel to places like Assam, West Bengal, Kerala, or any of a number of other states to find a suitable bride.

5. Politician future: Political leaders are primarily motivated to safeguard Khap Panchayat in order to secure their own electoral fortunes. They have the support of so-called "serious" Members of Parliament (MPs) as Naveen Jindal and Chautala. Kangaroo courts are inherently unfair, immoral, and unlawful.

6. Status: The status that one is given is more significant than the status that one actually attains. When a person is born into a certain social class, that class is assigned to them involuntarily. The problem has been resolved. While a status that has been achieved is one that has been earned through effort and success.

7. Inter, intra-caste marriage: Love marriages between people of different castes continue to be frowned upon in modern society, often leading to extreme measures like murder.

8. Decision by Male Community: Typically, a male member of society makes the decision that leads to an honour killing. Members of the community, primarily men, commit these atrocities when they perceive a threat to their dominant position and seek to silence any potential opponents.

9. Prestige of Every Caste: The practise of murdering someone to avenge a perceived slight is not limited to those of a higher social status, but is also common among those of a lower social status as well. They take part in such heinous crimes in an effort to prove that they are just as honourable as anyone else.

#### **LAWS TO PREVENT HONOUR KILLING IN INDIA:**

When a family member is killed because they are thought to have brought dishonour to the family's reputation, it is called a "honour killing." One example is when a male family member murders a female relative in order to protect the honour of the family. The term can also refer to the premeditated killing of a woman by her family or those under their command because of the stigma they believe she has brought upon them. India has ratified a number of international treaties and legislation that provides legal cover for these kinds of offences.

1. The Indian Constitution provides ample protections against honour related crimes, such as honour killings, and the freedom of choice for all citizens, regardless of caste, religion, or gender. As well as breaking Articles 14, 15, 17, 18, 19, and 21, such murders are illegal under India's constitution. Equal protection under the law is a fundamental human right, and in India's constitution, Article 14 makes that promise to all citizens. The ordinary courts have jurisdiction over everyone, regardless of their position or circumstances.

2. Honour killings fall under the purview of Sections 299 and 300 of the Indian Penal Code because they involve the targeted murder of a specific person, most often a woman. Both Article 19 and Article 21 of the Constitution are broken.

3. the Special Marriage Act, 1954 was passed for the express purpose of facilitating marriages between citizens of India and all Indians living abroad, regardless of the faiths or traditions of the prospective spouses. Cases where married couples of legal marriage age have been forcibly separated by Khap Panchayats are covered by the Act.

4. To prevent atrocities from occurring against SC/ST people, the Parliament of India passed the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Many cases of honour killing are connected to issues of caste and religion, which is why the Act is associated with this problem.

## **National Level Legislations**

### **Special Marriage Act, 1954**

Indian nationals and Indian residents living abroad are able to get married in a unique way thanks to this law. It doesn't matter what faith or religion the couple is, the Special Marriage Act allows them to get married. Honour killing is illegal because it is common for couples to be forbidden from marrying outside of their caste and then be brutally killed if they disobey the order .

### **Domestic Violence Act, 2005**

In the case of Vishwanath and Palakonda, it was held that a woman is being emotionally restricted if she can't marry the person she wants to. This is stated in the Domestic Violence Act, 2005..

### **Protection of Human Rights (Amendment) Act, 2006**

All people's fundamental human rights are guaranteed by this Act. Institutions like courts and commissions must be set up to guarantee everyone the chance to live a life free from fear of violation of their human rights. Human rights are flagrantly disregarded in honour killings, and yet this heinous crime continues to be perpetuated in our society despite the existence of strict laws against it.

### **Indian Majority Act, 1859**

According to Section 3 of the Indian Majority Act, a citizen who reaches the age of 18 (i.e., Majority) or who has completed their 18th year of age is free to marry the person of his or her choice. Adults have the legal right to marry anyone, regardless of their caste, religion, or community, and there are no restrictions on interracial marriage.

## **PENALTIES UNDER INDIAN PENAL CODE**

“Sections 299-304”: Murder and other forms of criminally negligent homicide are punished here. Murder carries the mandatory minimum penalty of life in prison without parole. Life in prison or up to 10 years in prison plus a fine constitutes the penalty for culpable homicide that does not rise to the level of murder.

“Section 307”: The penalty for an attempt to murder under this section of the IPC is up to 10 years in prison and a fine of up to ten million rupees. Life in prison is possible for an offender who attempts murder and causes bodily harm.

“Section 308”: Under this provision, those convicted of attempting to commit culpable homicide may be sentenced to up to three years in prison, a fine of up to three thousand dollars, or both. If someone gets hurt because of it, they could face up to 7 years in prison, a hefty fine, or both.

Section 120A and B: Any Person who is a party to criminal conspiracy is penalized under this section. Sections 107-116”: This section Penalizes persons for abetment of offences including murder and culpable homicide.

“Section 34 and 35”: Criminal acts done by several persons in furtherance of common intention are penalized under this Act.

“Section 300”: to Section 300 of the IPC, which currently defines "murder" under four categories, add a "fifthly" clause. By adding this definition, khap-ordered murders will be recognised as a separate crime, and all those involved will be able to face the death penalty for their role in the killing.

## **Different laws in India pertaining to honour killing**

### **The Indian Penal Code**

#### **Section 300**

MURDER –(Firstly) - Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or

(Secondly) - If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or  
(Thirdly) - If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or (Fourthly) - To commit an act with the knowledge that its very commission carries with it a high risk of death or of bodily injury so severe as to be mortally dangerous, and with no justification for taking that risk, as defined above.

In order to determine how Honour killing relates to Sec 300, it is necessary to determine whether or not a killing is motivated by honour. Killings committed in the name of honour are usually well-planned and meticulously carried out with the complicity of family members, society, and even police officers. In this light, the Act of Honour killing is clearly covered by Indian Penal Code section 300. It's true that at their core, all honour killings are acts of murder, but to say the opposite is false. In the context of honour killings, only murders committed with the intent to protect family honour or the sanctity of wrong traditions prevalent in societies or communities are considered to be murder. This is so because honour killings are considered a form of murder, which carries the board's standard penalties. A person is not always guilty of murder if certain conditions are met. The defence of extreme and unexpected provocation is one of the common grounds for reduced penalties in honour killing cases.

### **Constitution of India**

Articles 14, 15, 1, 3, 19, and 21 of the Indian Constitution are also broken. According to Article 14 of the Indian Constitution, everyone has the right to be treated equally under the law. No matter one's status in society or the gender of his or her identity, everyone is ultimately answerable to the law and the ordinary courts. The phrase "equal protection of the laws" (or "the equal protection of the laws") is more of a corollary to the first expression; it is grounded in the final clause of the first section of the Fourteenth Amendment to the United States Constitution, which states that all persons within the territorial jurisdiction of the Union shall be guaranteed the same protection and the same privileges under the law. Therefore, this fundamental right guaranteed to all Americans in the Constitution is diametrically opposed to honour killings. As was previously mentioned, the prevalence of honour killings is directly correlated to the prevalence of gender inequality.

Moreover, this goes against the Constitution's Articles 19 and 21. Article 21 of the Constitution makes it clear that murders committed in the name of protecting a family's reputation are illegal. When khap panchayats issue death sentences or incite violence in the name of honour, they are violating the inalienable right to life of the victims.

### **The Indian majority Act, 1857**

Unless otherwise provided by personal law, persons ordinarily resident in India are considered to have reached the age of majority upon reaching the age of eighteen (18) under Section 3 of the Indian Majority Act, 1857. On the other hand, if a guardian is appointed for such a minor, the age of majority will be 21 instead of 18. Cases where khap panchayats have forcibly separated married couples who would have been legally able to remarry due to age restrictions etc. are where the Act comes into play. The provisions of this Act have been flagrantly disregarded in this case.

### **The special marriage Act, 1954**

The Special Marriage Act, 1954 was passed for the express purpose of facilitating marriages between citizens and permanent residents of India and all Indians living abroad, regardless of the religion or faith practised by either party.

### **The scheduled castes and scheduled tribes (Prevention of Atrocities) Act, 1989**

The Indian Parliament passed this law to protect the country's vulnerable Scheduled Castes and Scheduled Tribes from persecution. One of the goals of the Act was to make it easier for Dalits to

integrate into Indian society as a whole. Assaulting, dishonouring, or outraging the modesty of a SC/ST woman; sexually exploiting a SC/ST woman; forcing a SC/ST to leave his or her home or village are all considered atrocities under this Act. Due to the fact that many cases of honour killing are rooted in issues of caste and religion, the Act is associated with such homicides.

### **The protection of women from domestic violence Act, 2005**

Women who have been victims of domestic violence are afforded greater protection under the law thanks to the Protection of Women from Domestic Violence Act of 2005, which also addresses issues that are related to or arise out of domestic violence.

### **Indian evidence Act, 1872**

In addition, the Indian Evidence Act of 1872 specifies penalties for those who conceal evidence before, during, or after an investigation into an alleged crime. In accordance with Article 13 of the Act: Where the existence of a right or custom is in dispute, the following facts may be considered: (a) any transaction by which the right or custom in question was created, claimed modified, recognised, asserted or denied, or which was inconsistent with its existence; (b) specific instances in which the right or custom was claimed, recognised, or exercised, or in which its exercise was disputed, asserted, or deviated from the customary course of events. Victims of khap panchayat decisions can seek redress through the Act.

### **Judicial approach and decisions in India**

Judging by the recent decisions of the various courts, it is clear that the judicial climate has shifted away from its previous stance, and that honour killings are no longer referred to by a different name. In their rulings, the courts of India reaffirmed that it is illegal to kill someone in the name of honour, and that anyone who violates the Constitution will face legal repercussions. Manoj Banwala (23) and Babli (19), both members of the same clan, eloped and married in June 2007; their mutilated bodies were found a week later from an irrigation canal. In a landmark judgement issued in March 2010, the Karnal District Court ordered the execution of the five perpetrators in an honour killing case, while giving a life sentence to the khap (Local caste based Council) head who ordered the killings. This Court has gone through sleepless nights and tried to put itself in the shoes of the offenders," District Judge Vani Gopal Sharma wrote in her ruling. Khap Panchayats have been operating in defiance of the Constitution, making fun of it, and treating it as if it were not law. The case marked the first time a court in India had ever convicted khap panchayats and the first time a death sentence had been issued for an honour killing. Legal professionals and members of the Indian media hailed it as a "landmark judgement." In addition, the groom's family has never before filed a lawsuit in a case of honour killing before the court.

Bhavna got married to Abhishek Seth, a 24-year-old assistant programmer at the Cabinet secretariat, on November 12 at an Arya Samaj temple. Abhishek is from Punjab, but Bhavna was a Yadav from Rajasthan. Sankar murder case, 12 dec, 201731- In a shocking case of a "honour killing," the Tirupur Principal District and Sessions Court in Tamil Nadu sentenced six people to death on Tuesday for the daylight murder of 23-year-old dalit V Sankar, who had married a woman from a higher caste. The murder happened in a busy marketplace, and CCTV cameras caught it. Of the 11 people who were accused, six, including the girl's father Chinnasamy, were given the death penalty, one got a double life sentence, one got a five-year sentence, and three, including the girl's mother Annalakshmi, were found not guilty. This part of the research is only about the empirical study, which tried to find out some facts about honour killings on the ground. The analysis in this chapter shows what people think about this idea and how they feel about this problem. This chapter is about the research and putting together of ideas about the topic of "honour killing." That the data from the respondents is shown in pie charts as a percentage. The doctrinal and non-doctrinal parts of the study are used to interpret and analyse the data that is received.

## Conclusion

The family member who kills in the name of honour is doing something filthy and should be avoided if they care about the purity of the family. It's murder committed by family members on other family members in order to clear the family's name of the disgrace that the deceased member had brought upon it. If a female family member disobeys the male and brings shame to the family, he is to be killed. This might be thought of as a premeditated murder committed by family members against the offender who had brought shame upon the family. The accused usually commits these acts after being disgraced or provoked by members of his or her own family, community, or acquaintances. Most of these crimes are committed against women, who are typically blamed for sexual and marital indiscretions. When people who should be there to help women instead work against them, it creates an unfair environment in which women have no place. All Indian citizens enjoy protections and liberties under the law, making India a true democracy. Even in a culture where everyone is treated equally, the choice to marry someone from a different caste might cause a family member to face shame and even death. (Keane 2016) Due to the fact that a woman's social standing and caste are often elevated to that of her husband's family after marriage, caste and status are major factors in modern honour killings. The study aims to learn about honour killing, emphasise the gravity of the crime, inform the public about its consequences, and dissect the causes of honour killing.

## Suggestions

Despite the existence of numerous protections and laws intended to put an end to honour killings, the crime remains prevalent worldwide. The accused persists in committing this crime despite knowing full well the severe consequences that await him or her, because the victim's honour is less important than the family's. A punishment is preferable to the shame of disgracing the family, so they are willing to take it. The importance of every human life on Earth should be taught to every citizen. People in both rural and urban areas need to be educated about the consequences of violent crimes and these lessons need to be made public.

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