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VIOLENCE AGAINST WOMEN: NO HONOUR IN HONOUR KILLINGS

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Abstract :

Violence against women autonomy, in all matters and especially in matters of sexuality and marriage, is one of India's most widespread and tenacious forms of gender violence - and also the least recognised. It is a form of violence that hides in plain sight. Violence (against men and women both) to prevent a woman from exercising her choice in love and marriage is not properly documented, since India does not have a specific law against "honour" crimes .

'Honour killing' is a cultural crime or a cultural tradition prevalent amongst non-caucasian societies which perceive women as bearers of family honour. Indian cultures are very deep rooted. Many young people in India have been done to death every year owing to 'honour killings.' In India honour killings are based on the belief, deeply rooted in our culture, 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.

This paper describes the magnitude of this crime in India. It also examines the various reasons & contemporary laws governing honour killing . Hoping this paper will initiate a series of serious and productive deliberation on the topic.

Keywords : Violence, Women Autonomy, Honour Killing, Cultural Crimes, Sexuality.

Introduction

The term "honour" crimes is somewhat misleading not only because it implies that such crimes are "honourable". It also gives the impression that these crimes are a product of the "culture" - customs and traditions - specific to certain communities or faiths. Associating such crimes with rigid traditions and certain communities alone prevents acknowledgement of the fact that these crimes are extremely widespread in India, across regions and communities.

Every year around the world an increasing number of women are killed in the name of honour. Relatives, usually male, commit acts of violence against wives, sisters, daughters and mothers to reclaim their family honour from real or suspected actions that are perceived to have compromised it. Due to discriminator social beliefs and extremist views of gender, officials often condone or ignore the use of torture and brutality against women. As a result, the majority of so called honour killings so unreported and perpetrators face little or consequences.

In 2014, an English daily, The Hindu, tracked 583 rape cases decided by New Delhi's district courts in 2013. It found that the single largest category of cases (nearly 40 percent) involved consenting couples who had eloped, after which the parents (usually of the women's) had filed cases of rape. This startling fact meant that rape statistics are actually disguising something else: coercion and domestic violence against women's sexual autonomy. This sleight of hand, that conflates "relationships chosen freely by women" with "rape", allows authorities - police, women's hostels, factory managements - to continue to pass off restrictions on women's liberties as necessary for "safety from rape". Strict curfews, bans on using mobile phones, punishments for being found talking to a man, dress codes banning "immodest" or "western" clothes, informing a woman's parents if she is found being friendly with a man - these are just some of the "safety" rules imposed on women in educational institutions and workplaces that help maintain the ecosystem in which "honour" crimes take place. [1] Editorial, The Hindu 2014. It is clear that a wide range of measures are needed to effectively combat patriarchal crimes against love and against women's autonomy in India. women movements in india are fighting and campaigning for legislation for "honour based" crimes, this is supported by united nations which strongly recommends stringent laws against such crimes.

An urgent reformation is needed to get rid of the clause in special marriage act (+the law suggests inter-faith contracted in the courts requires couple to announce their marriage plans prior before month of their wedding. It is this waiting phase that gives parents & relatives an opportunity to plan and execute violence to prevent the marriage. India's women are campaigning not only against such patriarchal killings - but against any restrictions, on any pretext, on adult women autonomy, mobility, and choice. unfortunately, that struggle is especially hard now - with the ruling political forces backing a full-fledged ideological and physical assault on women's autonomy. [2] Editorial, IBN lives 2014

REASONS FOR PREVALENCE OF HONOUR KILLING

Caste system

The existence of caste system in Indian society is a curse on the nation , though many reforms are brought in law, many documentaries and value education is given to people, this view towards caste is still stable. Where on inter-caste marriage is denied by certain cultural groups, certain intra caste marriage is also denied as a person is not allowed to marry in his/her gotra or of their parents gotra , and not only inter-caste marriage leads to large number of honour killings but also interreligious marriages. The younger generations should understand and feel the importance's of caste to an extend that it teaches them good social values rather than holding tightly and dominating their behavior negatively.

Unless and until primitive ideology of casteism is eradicated, there cannot be peace equality and freedom of women rights in the society.

Patriarchal mindset

Honour killing is often associated with the term “honour”. In defining honour, many theorists emphasize the power of the parallel concept of shame, “honour” is a concept which is always linked with women of the family. And men are considered to monitor women and prevent women from abusing the so called honour. (IJHSSI) [3] This shows the patriarchal design still prevalent in our society. Men are allowed to move freely during late hours while women are not allowed to do so. From the way a women dress to the person she marries are related with the honour of the family. Women rights and their will and choices are seen as oppression against these social norms and traditions. Hence, only when people become open minded and respect the choices of women or men in deciding their personal life, these honour killings can come to an end.

khap panchayat and vote bank politics

khap panchayats are a group of persons or a community organization especially found in villages and in northern India to exert a social influence within the community.

khap panchayat take law in their own hands and indulge in offensive activities which endanger the personal lives of persons marrying according to their free will. There are many judicial decisions provided by the courts against the action of khap panchayats. (IJCJS & Editorial times of India. [4,5] . One such landmark case is Smt Laxmi Kachhwaha v. the State of Rajasthan (1999). In this case a public interest litigation was filed in the rajasthan high court against the illegal functioning of khap panchayat violating the individual's basic rights. The court ordered State authorities to restrict the functioning of such panchayat and ensure arrest and punishment of its members, inspite of this it is still prevailing.

No separate and strict laws

Honour killing though seen as a customary crime is not yet recognized in Indian laws. In spite of increase in honour related crimes and judgments and expressions of outrage in courts across India, the government have displayed criminal negligence in their approach to these crimes. There is no definition of the crime, no legal recognition of various aspects of the crime, no protection afforded to self- choice couples, no measures to prevent such crimes, no accountability and no punishment. These killings are reported only under two categories –Murder (section 302 of Indian Penal Code) and Culpable Homicide (Section 304 of IPC).Due to this, most of the killings were unreported or reported under murder. Hence there is no proper statistics of such killings in India.

But only because of sustained campaign by women groups, a separate category was created for compiling honour killing cases. Only in 2014, the National Crime Bureau (NCRB, Crimes in India -2015)started data collection of honour killings which revealed 297% number jump on rigorous data collection on this issue. The country has registered 251 honour killing cases in 2015 against 28 in 2014 recording a big spike in murders carried in the name of honour.

Lack of Education:

The lack of awareness and education of people on the rights guaranteed to them and how to claim their rights are one of the reason for such honour killings.

Sati and Honour killing:

Sati is an ancient evil practice where women burned on pyre along with the dead body of husband. This is an orthodox practice where consent of woman is not asked but life is taken away as a rule. This was done out of the state of shock and social pressure. In the year 1987 after enactment of the legislation, The Commission of Sati Prevention Act, the social evil prevailing in our country controlled the problem. When considering the customary practice of Sati and Honour killing, the common driving factor is social pressure. Hence, there is a need for proper legislation to govern such menace.

LEGAL ASPECTS OF HONOUR KILLING

In 2006, an SC judgement called such incidences "barbaric. But the irony is that there exists no separate law to punish those found guilty of such murders, and prosecutions are usually among various sections of the Indian Penal Code for homicide and culpable homicide not amounting to murder. IJIMS [6]

Constitutional Violation

Indian Constitution has been the basic document and guiding force which vests ample of rights to its citizens. Honour killing violates few such provisions in the constitution thus contrary to the basic rights of people. (Economic and Political Weekly, Vol.48, Issue 50, 2014) [7]

Such Rights are:

Article 1 & Article 2 "all human beings are born free and equal in dignity and rights."

Article 3 everyone has right to life, liberty and security".

Article 5 "right to be free from torture or cruel, inhumane and or degrading treatment" these articles are violated as women or men are inflicted lot of mental and physical pain while commission of the crime.

Article 14 Right to Equality

Article 15(1) and (3) prohibition of discrimination on grounds of religion, race, caste, sex or place of birth,

Article 16 the choice of marriage given to men and women of full age without any limitation due to race, nationality or religion.

Article 17 Abolition of Untouchability

Article 19(1) freedom to speech and expression

Article 21 right to life and personal liberty

Most of the honour killings directly focus on women and very few on men and thus lead to gender violence. The freedom of expressing a women or men choice is suppressed and this suppression further leads to such killings thereby violating the fundamental rights of that person. And the perpetrators use religion or caste as grounds for "dishonor" thereby trying to validate such killings. This act is totally contrary to the Constitution.

The Directive Principle of State Policy (DPSP) though not enforceable can be considered for good governance of the Country.

Article 39(a) provides for the State to secure that all citizens are provided with adequate means of livelihood. But honour killing deprives the life of the woman in most of the cases.

Article 39 (e) and (f) provides for the state to ensure that the childhood and youth are protected from exploitation and against growing and material abandonment. whereas due to this customary practice of honour killing many young, youth and married couples are exploited of their life, they are placed in an unprotected circumstance. Hence it is the duty of the state to protect such vulnerable people and protect their lives against this evil practice.

National legislations : (Rule of Law and Human Rights in India) [8, 9]

Special Marriage Act, 1954

The objective of this Act is to provide a special form of marriage for citizens of India as well as for Indians residing in foreign nations. The marriage is done irrespective of caste, religion or faith of the intending parties to marriage. But the customary practice of honour killing is done contrary to this perspective amounts to violation of this Act. Since the registration process is a long one and there are chances of the couple being subjected to violence during such period.

Protection of Human Rights (Amendment) Act, 2006

This Act provides for protection of human rights of every individual and constitution of commissions and courts for securing the respective objective. In spite of such legislation, still there is prevalence of honour killing practices leading to grave violation of human rights.

Indian Majority Act, 1859

Right to marry is a constitutional right granted by Article 21 and under Section 3 of Indian Majority Act, 1857, a person who is the citizen of India attains age of majority after completion of 18 years. A person who is major, wanting to get married to a person of another caste or inter community marriage is not prohibited by law and any honour killings initiated on this ground is unlawful and to be initiated severe measures (Surjit kumar v. State of Uttar Pradesh & Ors, 2002 (456) ACC

Domestic Violence Act, 2005

Under this Act, if a woman is prevented from marrying the person of her choice amounts to emotional abuse of the woman.

But honour killing takes away the dignity and life of the person and affects the person freedom of choice of marriage. Such practice subjects the person to cruel and inhumane treatment. Hence honour killing constitute grave disregard to universal human rights and violation of fundamental rights guaranteed in Constitution. India is a signatory to United Nations Convention on Elimination of all forms of Discrimination against Women (CEDAW 1979) and has also ratified it. There is a legally binding obligation for India, as a state party to the convention, to take measures to end all form of practices of honour killing and ensure all discriminations against women in matters relating to marriage and family relations are eliminated. Though there are provisions of CEDAW and various human rights provisions to eliminate violence against women, individuals continue to be the victims of murders in name of honour.

STATISTICS RELATING TO HONOUR KILLINGS IN INDIA

As per the United Nation “Report of the Special Rapporteur on violence against women its causes and consequences” 23th May 2012 , statistics observed that one in 5 cases of honour killing internationally every year comes from India. Out of the 5000 cases reported globally, 1000 are from India. Rather, the national and international NGOs’ claim the figures to be 4 times more, i.e. 20,000 globally every year. For India, which has still not drafted any legislation to declare the “honour killings” as a separate offence, it lacks statistical records at national and state levels. The NCRB doesn’t regard “honour killings” as a separate category of offence, but a trend can still be drawn from the information given in the figure (violent crimes against the body).

During the period of 2010-2014, The NCRB claims that the crime rate against the body has arisen from 9.6% to 13.9%. The crimes classified with respect to their motives depicts (see figure: motives for violent crimes against the body) that 13% and 12% of the crimes against body have been accounted for having relation to “love affairs/sexual causes” and “illicit relationships,” respectively.

State-wise trend

According to NCRB region-wise figures, Tamil Nadu and Bihar accounted for 41% (18 out of 44 cases) and 32.4% (22 out of 68 cases) of murders due to caste-related issues and class conflict, respectively. 25% (7 out of 28 cases) of murders due to honour killing were reported from Madhya Pradesh. 23.0% (300 out of 1,307 cases) of murders due to love affairs were reported from Uttar Pradesh. (NCRB, “Crimes in India” (Volume 4 Issue 3 | IJIMS)2010-2014[6])

In India, often, the “*honour (ijjat)*” of a family or society is positioned in the ‘purity’ of women. Hence, instead of being considered as individuals with lives and choices of their own, women lives are governed by an honour code. The family honour is considered ‘intact’ as long as a woman doesn’t malign it by marrying someone outside of her caste. As a result, ‘honour killing’ is related to the perception that an inter-caste couple has brought shame to the family by transgressing societal norms.

The existence of ‘honour killings’ all over the world puts universal human rights under severe duress. It puts the agency of “*individualism*” and “*choice*” against the notion of collective social agency and stringent norms. The right to marry comes within the ambit of “*right to life*” enshrined by Article 21 of the Constitution of India. However, In India, the notion of free will in exercising the right to marry is considered more filial or social in nature, rather than an individual choice.

Informal social systems play important roles in the execution of such crimes. The 73rd and 74th Amendment Acts of the Indian Constitution gave village panchayats constitutional status. However, in some parts of the country, they are still dominated and coerced by such informal systems like the Khap Panchayats which pass harsh judgements based on age-old traditions and beliefs [10]

WAY FORWARD :

A Separate law should be passed against honor killings bringing strict penal provisions relating to honour killing.

Awareness should be created regarding the crime of honour killings and remedies which can be sought by the victim against the oppressions of perpetrators. People must be educated of ways through which a victim of such crime can express their grievances and of legal provisions they can resort to.

The mindset of people should change and importance should be given to the choices of women or men regarding marriage.

The importance given to caste system should be relaxed.

Khap panchayats having no legal recognition should be completely abolished and declared unlawful.

Education is a key to prevent honour killings. With most uneducated people living in rural areas and invariably hailing from economically and socially backward communities, women themselves marginalized and more prone to victim of honour killing.

Thus honour killing, a barbaric customary practice though initially was not given much importance but now seen as a serious and heinous crime in India. Women choices are oppressed while deciding about marriage and caste system plays a vital role in deciding a person better half. The presence of honour killings even in 21st century shows how poor India has progressed all these years. In India where there are codified laws, these customary practices transgressing the fundamental rights should not be allowed to prevail. With special reference to honour crimes and killings, the CEDAW (The Convention on the Elimination of all Forms of Discrimination Against Women) states that measure should be taken to legislate against the honour crimes to remove the defence of honour in regard to assault or murder of a female member. No religion or no culture can be invoked to validate the evil practice of honour killing. Though many crimes are punished by our judiciary, few perpetrators escape due to certain loopholes present in the law. One such loophole in case of honour killing is that there is no separate law or provision relating to it in our Indian Law. But laws can only punish the criminal but the crime itself can become extinct only if the mindset or mentality of the people be changed.[11]

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