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One Caste one Religion one God – where? : A study on the concealed evil ‘honour killing’

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This statement still has a deep influence in this 21st century. Honour killing is an act of killing due to the belief that the victim has brought some shame or dishonour to the family or community. This paper is an attempt to analyse the current scenario of Kerala in the case of honour killing which is a gender based crime caused by casteism. It also reflects the history of honour killing, how it started, and also criticized the casteism prevalent in Indian society and normalizing the character of society. It questioned the government in implementing measures to prevent caste-based violence. This paper also proposes some suggestions regarding honour killing. In addition, analysing the National Bureau Crime Record from 2017 to 2020 and three recent cases of honour killing which happened in Kerala.

Keywords: *honour killing, caste system, khap panchayat, ncrb.*

INTRODUCTION

“An inferior man courting a superior maiden deserves death; he who courts a maiden of equal status shall pay the nuptial fee, if her father so wishes”

- Manusmriti, verse 8:366

Hate crimes refers to those criminal acts which is affecting not only one's rights but the social structure as a whole. It can be an attack on one's right to life and freedom because of certain differences like race, religion, culture, and ethnicity. Although the term 'hate crime' or 'honour crime' is not defined under any statute, its different forms are identified and frequently seen in our day to-day life. Referring to the dehumanizing caste system in Kerala Swami Vivekananda once said, Kerala is a lunatic asylum, a madhouse of casteism, More than 125 years have passed since swami's visit, and after 75years of Indian Constitution enactment still, the people believe that caste is superior to the life of an individual.

The term 'honour' refers to the pride or esteem which a human or family possesses. A crime in the name of 'honour' is a range of violent or abusive acts. Honour killings are an extreme form of gender based violence that are due to beliefs that a girl's reputation is tied to the honour of the whole family.¹ Human Rights Watch² defined honour killings as where a woman can be attacked by (individuals within) her family members for a variety of reasons which may include: being the victim of a sexual assault, refusing to enter into an arranged marriage, seeking a divorce even from an abusive or (allegedly) adulterous husband. The mere opinion that a woman's behaviour in a way "dishonours" her family is enough to trigger an attack on her life. Human Rights Watch is an International NGO that conducts research and advocacy on human rights.

Honour killing is done by any of the family members to get rid of the dishonour and shame brought by the victim to the family. It is a pre-planned cold-blooded murder and the main reasons behind this are caste and religious beliefs. The caste system has categorized people and acts as fuel to the fire of honour killing. The religious community strongly associates its honour with the purity of its women so women are forced to safeguard their families and communities' honour. So they cannot take a decision regarding their life or a life partner. Recent cases in Kerala show that marrying a person from a lower caste is the main reason behind honour killing. Most culprits of these acts are relatives, neighbours, society, etc. Caste

¹ Siluli Sarkar, *Gender Disparity in India: Unheard Whimpers* (PHI Learning Pvt. Ltd. 2016) 213

² 'Item 12 - Integration of the human rights of women and the gender perspective: Violence Against Women and "Honor" Crimes' (*Human Rights Watch*, 5 April 2001) <<https://www.hrw.org/news/2001/04/05/item-12-integration-human-rights-women-and-gender-perspective-violence-against-women>> accessed 24 June 2022

and status are the main reason behind this heinous act in this current scenario. It is unfortunate that in the 21st century patriarchy and marriage laws play an important role in maintaining the caste system in society due to this women are restricted to marry any person she loves from another caste or religion. The prime factor of the crime is that the majority of caste members are not willing to accept inter/intra caste marriage on the pretext of maintaining the decorum of their caste and the status of the family.

RESEARCH PROBLEM AND SIGNIFICANCE

Honour killing is not a unique or new concept to anyone; it is something that has been going on for a decade. The 21st century known for the guarantee of rights of each and every citizen has been facing a major crisis in the name of honour killing. Still, people believe that caste is superior to the life of an individual. So this research is an attempt to analyse the role of caste in honour killing and how the existing law is effective in preventing and punishing caste based honour killing.

HONOUR KILLING: THE CONCEALED EVIL

Honour based violence has become a common practice, such violence occurs worldwide irrespective of developed and underdeveloped countries. More than 5000 females are murdered worldwide every year in the name of 'honour'. Patriarchy and caste are the two hidden processes behind honour crime. The term 'honour' refers to pride or esteem which a human or family possesses in the community. A crime in the name of 'honour' is a range of violent or abusive acts including murder. Honour killing is the murder within the family by a family member on the belief that the victim has brought some shame or dishonour to the family generally by marrying a person from the lower caste, being a rape or sexual assault victim, or being bisexual or transgender, etc.

In the Tamil movie, 'ooriravu' from 'paavakadaigal' a pregnant lady is killed by her father on the reason that she married a person from a lower caste and it brought shame on her family, in the end, it shows that he is set free by the court on the account of insufficient evidence. It clearly shows that honour based crimes are rarely prosecuted and misreported. So honour killing is a concealed evil in society, Most cases of honour killing cases often unreported by the

fear of family members or by shame. Perpetrators believe that they will restore honour to the family by killing or attacking the victim, but there is no honour in honour killing. In India, National Crime Record Bureau started to record honour killing as an offence from 2014 onwards, by the next year the data boosted up by 251 cases of honour killing. Honour killing is categorized as a motive of murder under the record.

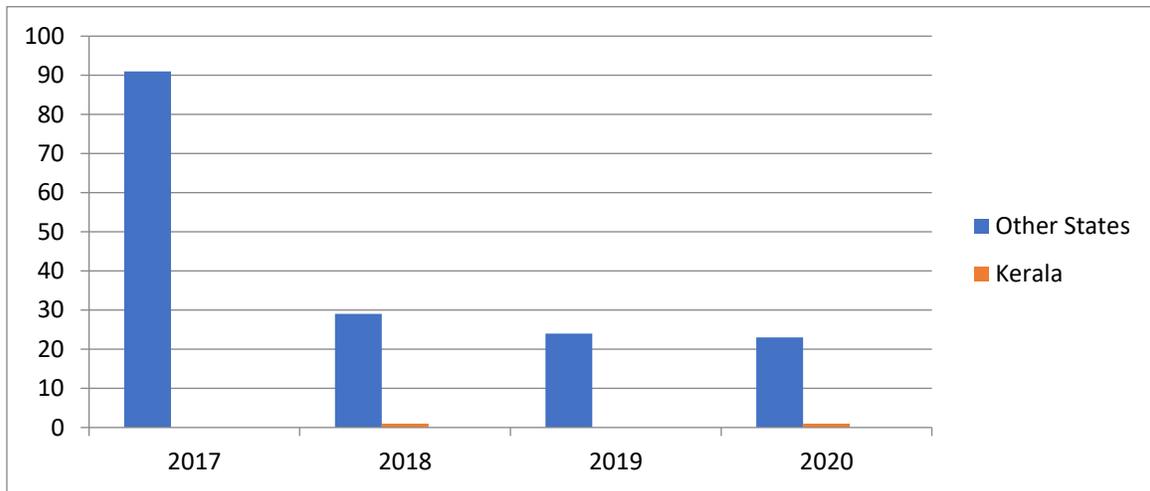


Fig 1.0 shows honour killing cases reported in India

The government did not record honour killings until 2014. Due to a lack of specific honour violence laws, the killings were often reported as murder, homicides, and even suicide. We can't state that this is the most accurate data, it is underestimated due to misreporting of this case under general murder. They were 91 cases reported in 2017, 29 cases in the year 2018, 24 cases reported in the year 2019 and 23 cases in the year 2020. The graph showcases of honour killing are decreasing from 2018 onwards as the slope is descending down. Even after the Supreme Court's verdict, the issue doesn't seem to be resolved but cases are decreasing gradually.

HONOUR KILLING: INDIAN PERSPECTIVE AND BACKGROUND

Honour killings are not a unique or new concept to any society, this heinous evil is deeply rooted and has been going on for a decade. Honour killings have a long history and are directly tied to patriarchal social structure. The history of culture and customs of many countries shows that the origin of honour killing is used as a method to control women. In India, the practice of sati, where a widow immolates herself voluntarily or forcefully on the

funeral pyre of her husband was abolished in 1829 still honour killing, dowry death, domestic violence, etc. remains as its successors. Historical and anthropological studies reveal that attacking women in the name of honour to preserve the male honour in order to maintain the patriarchal structures has been happening for centuries, even in this 21st century offences on the pretext of honour are happening. Honour killings are mainly happening due to women who refuse to marry the men chosen for them by their families, so men consider women are not able to take a decision of their own, and they are unwilling to accept the choice women make when it comes to their life and life partner. It clearly shows that honour killing is a gender based crime, even though men and women are killed on the pretext of honour but men tend to be killed less in honour killing.

In India, the practice of honour killing against females was started during the time of the India-Pakistan partition i.e. between 1947 and 1950, a large number of women were murdered in order to preserve family and caste honour. It is estimated that 1,00,000 women were raped and kidnapped so the religious communities strongly associate its honour with the purity of women so death was the choice over the sexual assaults. So the rape victims were killed in order to maintain the decorum of their caste and community and also forced marriage was prevalent at that time, and still, this social evil continues.

The prime factor for offences related to honour are religious norms or caste members are not willing to accept inter and intra caste marriages for maintaining the decorum of their caste and status of the family. In India interference of knap panchayat in marriage is also a major reason for honour killing happening in the northern and rural regions. The Supreme Court has already decided in many judgments that adults have the right to marry of their own will and hurting or injuring couples or bringing them before a clan or a khap panchayat is unconstitutional. In 2012, Law Commission prepared a draft bill to prohibit interference of khap panchayats in marriage alliances. However in many places of India even in Kerala, honour killings are still practised.

HONOUR KILLING & LEGAL PROVISIONS

In India there is no separate legislation that exclusively deals with honour killing, it is treated under homicide and murder under the Indian Penal Code. Even though these many cases are reported in the name of honour still the legislatures have not enacted any law or amended the penal provisions. The Prevention of Crimes in the Name of Honour and Traditional Bill, 2010 and The Prohibition of Unlawful Assembly Interference with the Freedom of Matrimonial Alliance Bill, 2011 are the two proposed legislation regarding honour killing but the bills are not passed yet, thus honour killing has mass support of people i.e. Religious beliefs, traditions. National Women Commission proposed the bill to prohibit honour killing and khap panchayat 10 years back so this clearly shows the normalizing character of the society. People blindly believe in the old myths and are sticking to the old tradition which makes them believe that honour lies in the purity of women. People are not aware of the constitutional rights and they don't know that restricting women or any person from lawful marriage is a violation of Article 21³ of the Indian Constitution, i.e. Right to marry is a Right of choice for choosing a partner incorporated under the Article 21 of the Indian Constitution.

Honour Killing is human rights abuse where women are tortured and abused for violating the patriarchal ideologies of family and society. Caste honour killing is happening due to women who refuse to marry the men chosen for them by their families, marrying a person from a lower caste or from another religion which is legal but still considered as will bring dishonour or disgrace to family and community. There are differences in constitutional ideals and social reality.

There is a wide gap between the provision given in the Indian Constitution and the reality of society. The judiciary has taken enough steps to curb this social evil, but legislation has not come up with any measures to prevent this heinous act all the proposed legislation and recommendations are still stuck in the government files. This practice is deeply rooted in our society and needed to be stopped, this can be done only when a proper law is enforced and followed. Supreme Court has categorized honour killing as the rarest of rare crimes. All we

³ Constitution of India, 1950, art.21

have now are the guidelines issued by the Supreme Court in the case *Shakti Vahini v Union of India*⁴ and these will be in place till the legislation comes with a new law.

HONOUR KILLING: JUDICIAL RESPONSE

The case of *Shakti Vahini v Union of India*⁵ is a landmark case when it comes to the matter of Honour killing. The Court laid down certain guidelines, a three-dimensional approach that is to be implemented by the government in order to curb the practice of Honour killing in India. In this case, the Petitioner organization, Shakti Vahini was authorized to conduct a research survey on Honour killing in Haryana, Punjab, and Northern U.P. by the National Commission for Women. They filed a Writ Petition under Article 32⁶ of the Indian Constitution seeking directions to the State and Central governments so as to take preventive measures to eradicate the practice of honour killing and to submit a National and State Plan of action to curb such crimes. They further requested the Court to direct the State governments to constitute special cells in each district that are easily approached by the couples for their safety and wellbeing. The Petitioner organization sought protection for the couples to marry outside their communities. Further, the Petitioners prayed for an issue of the writ of mandamus to the State governments to launch prosecutions in each case of honour killing and do the needful. The only issue which was brought up, in this case, was whether an individual has the right to choose his or her life partner and whether the elders of the family or the Panchayats possess the right to kill the young couples for marrying out of their own will.

The court in this case observed: Two consenting adults do not need the consent of their families and elders to get married. Further, any attempt of the Khap panchayat or any other body to suppress their wishes to marry each other is illegal. The court observes: 'class honour, howsoever perceived cannot smother the choice of an individual which he or she is entitled to enjoy under our compassionate constitution'. Referring to the 242nd report of the Law Commission, the SC highlighted the devastating impact is not the only type of crime ordered by Khap panchayat. It is a part of honour-based crimes. Any type of honour-based crime

⁴ *Shakti Vahini v Union of India* (2018) Writ Petition (Civil) No. 231/2010

⁵ *Ibid*

⁶ Constitution of India, 1950, art.32

which is meant to suppress an individual's choice to love marriage is illegal. The guidelines issued by the court will be in place till the government comes up with a law. Some of them are;

- State govt. are requested to identify areas where incidents of killings or assembly of Khap panchayats have been reported in the last 5 years.
- The superintendents of police in these areas are required to be more vigilant in case of inter-religion or inter-caste marriages taking place in the area.
- If a police officer comes to know of any gathering of Khap panchayat taking place in the area, should inform his superior officer as well as the Deputy/ Superintendent of Police.
- On receipt of such information, DSP/SP is required to be present and he shall inform the members that they are not to take any decision to harm the couple or their family. If such a decision is taken each member will be criminally liable.

In *Lata Singh v State of Uttar Pradesh*⁷ In the case, Supreme Court allowed the writ petition under Article 32 filed by the petitioner, Lata for enforcement of her right of marrying a person of her choice. Her brothers were threatening to kill her husband and also it was alleged that her husband and relatives have been charged with cases that are falsely framed by her brother. The court held that the petitioner is a major, and she is free to marry by her own choice.

HONOUR KILLING: CURRENT SCENARIO IN KERALA

'Whatever be the religion, it is enough if man becomes good' – Sree Narayana Guru

These are the words of Sree Narayana Guru, a social reformer from Kerala. It is a simple and heartfelt statement. Casteism is deeply rooted in Kerala, despite the fact that Kerala is seen as a developing state and hailed as a progressive state, but casteism creates a barrier. Dalits are still facing discrimination in many forms leading to the occurrence of honour crimes. Recently Kerala has witnessed 3 cases of honour killing due to inter caste and inter religious marriages. These crimes have happened in a society which claims a literate and progressive and reformed

⁷ *Lata Singh v State of Uttar Pradesh* (2006) Writ Petition (Criminal) No. 208/2004

community, it clearly shows that caste and family honour is superior to the life of an individual.

In 2018, Kevin P Joseph is abducted and murdered by his wife's family on the reason that he is from a Dalit community, and in the same year Athira Rajan from Malappuram district was murdered by her father on the day before her marriage because she was going to marry a person from Dalit community, unfortunately, her father is acquitted by the court on the account that prime witnesses become hostile, whether justice is served? We can't blame the judiciary, the judiciary has already taken a three dimensional approach to deal with cases regarding honour and ordered the Central and State government to take preventive measures, still, there is no progress from the side of legislatures.

By the end of 2020 Kerala has witnessed another case of honour killing where Aneesh from Palakkad was brutally killed by his father in law on the reason that he was a person from a lower community. Offences in the name of honour are still happening; casteism has tightened the grip between society and people. According to the source, the Kerala government has launched a call service and safe house for inter religious couples based on the decision laid by the Supreme court in Shakti Vahini's case.

FINDINGS AND SUGGESTION

The judiciary has taken enough steps to curb this social evil, but legislation has not come up with any measures to prevent this heinous act all the proposed legislation and recommendations are still stuck in the government files. Existing law is not capable of preventing honour crimes in society. Honour killing is gender based violence towards the female where the religious community associates its honour with the purity of woman, so women are restricted to choosing their life, they have imposed the restrictions laid by the caste and religious ideologies. People are restricting women in decision making due to the patriarchal character of society. So gender justice and social change cannot be brought together by merely passing a law. Patriarchal character and caste superiority must be eradicated first with a change in social attitudes. Amendments must be brought to the penal provision to prevent this crime, statutory punishment of murder is enough when it is strictly followed and

any other loopholes in the law must be strictly removed all the culprits of this offence must be punished in order to create awareness that life of an individual is more important than the tradition or religious beliefs.

CONCLUSION

The evil practice in the name of honour is being practiced needs to stop, it's high time to fight back against these traditions and to ensure that no one is humiliated in the name of honour. Honour killing still prevails in this society for reasons like refusing an arranged marriage, pre-marital pregnancy, infidelity, asking for a divorce, being a rape victim, etc. It is difficult to believe that people are being abused in the name of customary practices even in this 21st century. There is a gap between constitutional ideals and reality, in the presence of an established legal system and the right to marry any person for free will is guaranteed under the constitution individuals are being killed for choosing their life and threatened in the name of honour. Society is not willing to accept the choice young people make, there is a need of the hour to create awareness among people mainly in traditional communities through education on gender justice, human rights, women empowerment, and fundamental rights, in addition, the legislature must come with a proper law to deal the cases of honour crimes.