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AN EVALUATION OF HONOUR KILLING IN INDIA

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ABSTRACT

It is a cultural tradition or a cultural crime in non-Caucasian societies that consider women as carriers of family honour. Indian cultures run deep. Every year in India, 'Honour Killings' kill several young people. Because so-called honour killings are predicated on the assumption that women are things and commodities, not human beings with dignity and rights. Most honour killings occur in nations like India where women are viewed as a symbol of family honour. This paper attempts to address a very crucial subject of a cultural crime that grows like an untamed beast. It's hard to imagine that in the 21st century, even in the world's largest democracy, families murder their own for the sake of honour. But, is there any honour in killing? To do what one wants as long as one does not infringe on the rights of others has been essential to legal thought. The rules of ethics and law fluctuate as much as existential conditions do. In any community, social morality and legality are intertwined. Law and morality cannot and never have been completely separated. The legal order reflects historical and ideological orders. Unlike the traditional more or less custom-bound society, where the flow was largely in one direction, from social behaviour to legal custom and from custom to legislative prescription, today's highly articulated and organised society sees the law play an increasing role in social morality creation. However, the rule of law has been overridden by society at times to preserve morality or clan honour.

KEYWORDS: Honour Killing, Cultural, Cast, Crime.

INTRODUCTION:

Honour killing is defined as the assassination of a person, either a man or a woman, who chooses her marriage life according to her will. When considering the family's honour, the family's supreme authority considers the family's reputation and standing, but neglects to include the family's love and devotion for its members. The research article defines honour killing in India as well as the function of the law in honour killing. These incidents occur as a result of societal triggers. For example, if the spouse is from a lesser socioeconomic class, the family's standing is lowered, leading the male member of the family to murder the girl. They must remember that their daughter's life is more essential than caste, and that caste is less significant than love and affection for their child. As a result, no one can be let free if they violate the law.

HONOUR KILLING IN INDIA:

The act of humiliation inflicted on one member of the family by the other members is known as honour killing. Honour killing can also be referred to as shame killing. When a person refuses to accept an arranged marriage or marries a person from a different caste/religion or a person who is disliked by the family, he or she is killed. It has been a tradition in India since ancient times. Those who perform inter-caste marriages or marry someone of a different religion are subjected to this heinous act.

This type of behaviour is both harsh and illegal. The report demonstrates that honour killing has become a widespread crime in India, which boasts the world's largest constitution and greatest democracy, as well as fundamental rights including the right to life. In India, it is a common occurrence. The Supreme Court has issued a ruling on honour killing, stating that it is both illegal and criminal. It is prohibited to kill or physically injure a girl or a woman who marries a boy who is unapproved by the girl's family. In India, honour killings are more common in the states of Haryana, Punjab, Rajasthan, and Uttar Pradesh. According to the study, these kind of incidents are on the rise in northern India. Every year, India witnesses a considerable number of honour killings. This is a disgrace to modern, developing India.

Causes:

The main cause of the crime is because the majority of caste members do not accept inter-caste marriage in order to retain their caste's decorum or their family's social status. Honour killings are becoming more common as a result of complex socio-cultural issues. When the problem of the same Gotra came up, there was also an honour killing. The killing is carried out to reclaim the family's honour and respect, which had been lost due to a member of the family who had fallen in love with a person of a different caste. Several crimes, such as Sati practise, are outlawed in India, yet we have a high number of incidents of honour killings in the United States, despite the fact that both crimes are performed solely by triggering.

Role of Law:

Every citizen of our country has his or her own set of rights. Every citizen in India has rights, regardless of caste, religion, or gender, according to the Indian Constitution. The Indian Constitution also declares that India is a secular state in which we have the freedom to practise any religion and choose our life partner. Honor killings are similar to homicides in certain ways. Sections 299 and 301 of the Indian Penal Code, 1860, define culpable homicide as murder when the victim is killed with the goal of bringing the family's honour into question. 'Honor crimes are acts of violence, generally murder, perpetrated by male family members against female family members who are seen to have brought the family dishonour. For a variety of reasons, including refusing to enter into an arranged marriage, becoming the victim of sexual assault, seeking a divorce even from an abusive husband, or (supposedly) committing adultery, a woman can be targeted by (individuals within) her family. The slightest suspicion that a woman has acted in a way that "dishonours" her family is enough to prompt a life-threatening attack.'

'Honor killings are not uncommon in rural India, particularly in Haryana, Uttar Pradesh, and Rajasthan. However, such incidents are not limited to rural areas. They are also known in our capital and southern states such as Kerela and Tamil Nadu. The killings of Kuldeep and Monica[2], as well as the Aarushi Talwar case, are suspected to be similar killings. Our country has been quite selective in terms of the development it has received. On a global scale, with the nuclear deal, an 8% growth rate, and the ability to express oneself, it appears that 'India is shining.' However, delve further into this rising nation's dark secrets and you'll discover that young couples are still being murdered by their own family members in order to save their honour as a result of the couple's incest. Their crime was marrying and living in the same village. Marriage between people from the same village is considered incest by the 'conservative' khap panchayat because they are siblings, and thus these weddings are invalid. As a result, the panchayat orders the couple's murder and hangs their bodies in the village crossing to serve as a warning to other wayward couples. Women in India's patriarchal society are treated as property and the vessel of the family's honour. And any conduct that can tarnish the family's reputation gives the male members the full right to murder the girl, rectify her wrongs, and reclaim the honour. Such crimes and criminals have thrived thanks to the political blessings of political parties primarily interested in the vote banks of these villages and the khap panchayat's support.

BONE OF CONTENTION:

In this sense, the fundamental distinction between Gotras and Sapindas must be revisited, as the difference between these notions is at the heart of the debate.

Sapindas means 'With regard to any person, it extends as far as the third (inclusive) generation in the line of descent through the mother, and the fifth (inclusive) generation in the line of descent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation'.

On the other hand Gotra means:

A hindu's Gotra is the lineage or clan to which he or she is born. The Sanskrit term gotra refers to a far ancient structure of tribal clans. The Vedic people first used the Sanskrit term "Gotra" to identify lineages. In general, these lineages refer to patrilineal inheritance from Brahmin sages or rishis, Kshatriya warriors and administrators, and Vaishya ancestral businessmen.

Marriage between sapinda and sapinda is regarded illegitimate since marriage between such close relatives is considered inappropriate in society and falls

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under the category of forbidden relationships. Marriage between closely related people is also not recommended since it causes inbreeding depression. However, in the case of gotras, a person's ancestry may be traced down to a single rishi, hence another person from the same gotra is considered a sibling. From a scientific standpoint, this doesn't appear to make sense because it's quite impossible to prove that we have an unbroken ancestral lineage to one of the eight rishis in today's world.

PSYCHOLOGY:

It is vital to analyse such killings from the ground up in order to find a solution. The fact that incest is regarded forbidden in our culture is at the basis of such an attitude toward marriage among members of the same 'gotra.' The Hindu Marriage Act of 1954 prohibits sapindas-people from marrying within the third generation of descent through mother and the fifth generation of descent through father. In addition, marriage between certain 'degrees of banned ties,' such as sisters and brothers, is prohibited. As a result, the law establishes the requirements for a lawful marriage and prohibits marriages between close relatives. As can be observed, people in our society are raised to be aware of their relationships with their siblings from an early age. Even the mere suggestion of a marriage relationship with a close cousin is an impure notion, one that is so heinous that it is inexcusable. And this emotion is deeply rooted in the mind. As a result of this high level of consciousness, when a marriage between people of the same gotra is mentioned, it causes wrath and anger among family members and society as a whole. The society goes even further and boycotts the family, exacerbating the issue to the point that the family's guys don't seem to mind killing the couple in order to regain their social standing.

PROVISIONS IN THE INDIAN LAW:

After the issue was brought to light, Indian legislation appears to have finally awoken to the situation, and individuals are speaking out against such brutality. Finally, following the killings, the UPA-led central government proposed amending the Indian Penal Code to make honour killing a "distinct offence," according to home minister P Chidambaram; however, how this will affect the current situation remains to be seen, as honour killing amounts to murder, which is punishable under law.

Furthermore, the nature of the act makes locating the victim nearly hard. This is because, in most cases, a large mob is sent after the couple to stone them and murder them. As a result, no specific defendant can be identified. The khap panchayat's authority in the hamlet, as well as its pressure on the police, prevents them from functioning properly and carrying out the investigation. The majority of instances are not reported to the police and are kept quiet by the family and the panchayat. The government has also proposed revoking the Special Marriage Act's 30-day notice period for inter-community marriages, claiming that it is being used by relatives to track down, kill, and forcefully separate couples.

JUDGMENTS REGARDING THE ISSUE:

The debate over same gotra marriages was put to rest sixty-five years ago when the Bombay High Court issued a landmark decision declaring same gotra marriages to be valid. It was held in the case of 'Madhavrao v. Raghavendrarao' that a marriage between a husband and woman from the same gotra was lawful. The court also cited noted historian PV Kane, author of 'The History of Dharmashatra,' who stated:

"The mass of material on 'gotra' and 'pravara' in the sutras, puranas, and digests is so huge and contradictory that reducing it to order and coherence is nearly impossible." In addition, the court reviewed the texts of Manu and Yajnavalkya, concluding that the gotra criteria were advisory rather than prescriptive. The court found that "it was impossible to accept the idea that their gotras and pravaras represent anything like an unbroken line of descent from the common ancestors indicated by the names of their individual gotras and pravaras" in reference to today's Brahmin households. The Kaithal Murder Instance of Manoj and Babli, whose decision was announced on March 29th 2010, is the most recent case that can be considered in relation to the problem of honour killing. Vani Gopal Sharma, the Additional District and Sessions Judge, delivered the historic decision. Five members of Babli's family, including her brother Suresh, uncles Rajender and Baru Ram, and cousins Satish and Gurdev, were sentenced to death by hanging on June 15, 2007. Mandeep Singh, the driver of the Scorpio used in the crime, was sentenced to seven years in prison for kidnapping and conspiracy by the judge. In addition, Ganga Raj, the leader of the Banawala khap, was sentenced to life in prison for plotting to murder a couple just because they had married against the wishes of their elders, who had referred to them as "brother and sister."

REFORMS SUGGESTED:

No legislation can assist improve things until people at the grassroots level are influenced to abhor such deaths and the killers, and to regard them as serious offences. Water seeps through the cracks when it doesn't have a way to flow. This holds true for humans as well. We can identify flaws in the law and a way around it as long as we don't believe in the topic from the bottom of our hearts.

Khap Panchayats must be abolished so that their lack of influence in the villages aids in the resolution of issues. The scientific rationale behind the concept of 'gotra,' as well as its lack of relevance to marriage in the twenty-first century, must be educated. The gotra system was important in the early times because it was intended to prevent inbreeding depression by preventing marriage between people of the same ancestry. However, in today's world, when lineages have become more diverse, the gotra system is far too useless to be regarded at the time of marriage.

Even a simple threat against the marriage by a family member should be regarded a potential threat to the couple's lives, and the couple should be offered police protection. The severity of the sentence for such horrible crimes should serve as a deterrent to anyone attempting similar'manly' crimes. We don't live in the Middle Ages anymore, so recommending a slow kind of corporal punishment would only raise the ire of human rights campaigners. However, the maximum penalty for such a heinous offence is life imprisonment.

CONCLUSION:

The removal of falsehoods in people's thoughts is a major part of the answer to this problem. They must be taught on the provisions of the Hindu Marriage Act, as well as the types of weddings that are considered invalid. Because the concepts of Gotras and Sapindas are distinct, it is necessary to explain them to them. Khap Pachayats should be stripped of all power so that it is no longer able to influence naive people and incite them to conduct such heinous deeds. It is past time for India to develop in the true sense. Building malls and raising the average person's level of living is not growth. Cases like these demonstrate that more than half of Indians still live under the shackles of the caste system, and that even today, youths lack the power to make decisions about their own life. People still blindly perpetrate such terrible crimes and consider it an act of sanctifying the impure, demonstrating that India has not progressed. Development must begin from the very beginning, at the very core. Otherwise, it's merely a termite-infested hollow timber construction that eventually comes crashing down.

REFERENCES:

I. AIR 1946 Bom 377
II. Definiton by Human Rights Watch
III. Hindu Marriage Act (25 of 1955) S. 3(f)(I)
IV. Section 302- Indian Penal Code
V. Section 5- Special Marriage Act 1954 (Act no 43 of 1954)
VI. Vibha Sharma(28 March 2010): 'Who gave the Khaps the right to kill: PC'(The Tribune)
VII. Twist in Delhi Honor Killing case': 22 June 2010 (The Times of India)
VIII. Five to hang for Khap death diktat': The Times of India (31 March 2010)