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**NO HONOUR IN HONOUR KILLINGS: COMPARATIVE APPRAISAL
OF INDIAN LAWS OF CRIME AGAINST WOMEN**- Samriddhi Rai¹**ABSTRACT**

"The freedom of belief does not mean freedom to kill." Everyone has the right to live with dignity, grace, and equality.² As per the statistics and reports of the United Nations, one in five cases of honour killing internationally every year comes from India. Honour killing is a culturally deep-rooted crime, which has an atrocious effect on Indian society, especially women. This article's primary purpose is to bring forth this issue that there is no honour in honour killings of women, the purpose of this article is to enact the separate law, amendments in existing laws, eradication of corrupt social systems like khap panchayat, and create an egalitarian society, the aim of this article to give clarity that what is honour killing?

Moreover, to bring this issue on the front terrain to fight against such heinous crime. This article is divided into seven heads and subheads to understand the meaning of honour killing, different forms, and gender roles in an honour killing. The second fold covers the origin, history, international approach toward honour killing. The third fold covers the role of khap panchayat; the fourth fold covers laws related to honour killing. The fifth fold covers the crime of homicide. The sixth fold covers the judicial precedence and honours crime bill, and the last fold covers the suggestions and recommendations.

KEYWORDS- Khap Panchayat, Patriarchy, Honour Killing, Women, Indian Laws, United Nations, Crime Bill, Homicide and Gender.

INTRODUCTION-

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² Kaushambi Kaushal, No Honour in Honour Killing: Comparative Analysis of Indian Traditional Social Structure Visa-a-vis Gender Violence, JWS, 52, 61-62, 2020.

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"Set honour in one eye, and death in other eyes, and I will look differently." The word honour is a misnomer; there is no honour in honour killings. However, the concept of honour killings is deeply rooted and entrenched in the Indian societies, at various levels- social, political, economic, cultural, norms, and it is not just urban and rural problem, but the whole world is entrapped in honour killing crime. If it is not wrong, then honour killing is the epitome of the brutal controller of female sexuality. In today's time, honour killing is also termed "customary killing."

Word honour which defines in today's world, is code of conduct, boundaries for females and girls, and connected with terminologies of izzat, pride, and respect. Honour killing is committed to protecting the purity of the family by killings as an act of murder to eliminate the disgrace and dishonour. Women and men killed, but most cases are where women killed who violated the wishes and honour of the family. Honour killing is an act of a group of people; it consists of relatives, family members and society. Umpteen reasons are there for honour killing, and some are- inter-caste marriage, inter-religious marriage, marriage in the same gotra, patriarchy, rigid customary rules etc. honour killing is not just a domestic crime but widely spread in other countries- Iraq, Iran, Turkey, Afghanistan, Saudi Arabia, Egypt, Palestine, Jordan, Bangladesh, Sweden, Italy, Germany, Yemen, India, Pakistan and many more. Honour killing cases, as per the United Nations report, as many as 5,000 women and girls are murdered for so-called honour in the whole world. Moreover, the caste system in India is also rigid, and those who commit such crime of honour killing, according to them they are creating a deterrence among women so that no one should repeat such sin. Moreover, it also reflects the position of women in society and discerns as flimsy, fragile reliant on males for her existence.

In the 21st century, new reasons are also added- up for honour killing- dress code, the job of women, refusal of arranged marriage, and same-sex marriage. Women are always treated as their husband's property, and the husband must protect them from being impure. Somewhere, honour killing is not just a crime, but it shows the masculinity and dominance of men, and honour killing is the vengeance of men from women. Honour killings result from women clamouring their voices for freedom, making their own choices, and choosing their way of life, for those women are paying the hefty cost by sacrificing their lives. The hotspots of honour killings in India are Uttar Pradesh, Haryana, Punjab, Rajasthan, and Bihar (Bhagalpur).

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1. MEANING OF HONOUR KILLING

The origin of this word "honour" derived from the Latin word, "honor" which means the quality of worthiness, an abstract concept and respect. However, in patriarchy, the word honour meaning is completely changed and is not gauged with the worthiness of male dominance, but rather this word honour depicts the picture of women, under the control of men for her honour. Honour killings are the result of the patriarchal system and rigid Indian casteism structure. Honour killing word is not interpreted clearly, and no assessment is there, but this word honour is part of the customary laws, and there is no proper codification, written precepts. Honour term is a positive word, but now it is associated with killing in the arena of honour of women, who disgrace and violates the customary laws. It is completely changing the meaning of honour killing in a precise sense. Here are some definitions-

Human Rights Watch defines "honour killings" as follows:

"Honour killings are acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonour upon the family. A woman can be targeted by her family for various reasons, including refusing to enter into a marriage, being the victim of a sexual assault, seeking a divorce even from an abusive husband or committing adultery. The mere perception that a woman has behaved in a way that "dishonours" her family is sufficient to trigger an attack on her life.³"

Michael Kurkiala:

"If a woman refused to comply with rules set down by her cultural community, her immoral behaviour "contaminated" the whole family. If other strategies to make the women comply failed, the only remedy was her male relatives killing to protect the family honour. Thus, the murders were culturally sanctioned and designed to uphold a specific moral order.⁴"

³ Item 12- Integration of the human rights of women and the gender perspective: Violence Against Women and "Honor" crimes, HUMAN RIGHTS WATCH (April. 5, 2001), <https://hrw.org/news/2001/04/05/item-12-integration-human-rights-women-and-gender-perspective-violence-against-women> (last visited Aug. 29, 2021).

⁴ Navratan Singh Fateh, HONOUR KILLING, 1, 4.

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KamlaBhasin:

"Most men and women we spoke to agreed that honour, for losing and preserving is located in the body of women.⁵"

Margaret Visser:

"A person is what he or she is in the eyes of other people.⁶"

Honour killing prevails in India from the medieval period, the only change is in the canvas of honour killings, and nowadays, it is associated with other restrictions. Moreover, honour killing is a common practice in India. Even after the supreme court ruling on honour killing, "killing or physical assault being made over young men/women who marries against the family's wish is illegal for their them". However, still, things are akin. Honour killing is heinous, and it evolved and changed with the time like- in olden times sati prathawas there, where the wife had to die with her husband, however in India sati paratha was abolished, but honour killing is still prevailing in India in the new form of homicide killing. In both homicide and honour killings, it is an act of killing the victim. In the 21st century, the era of cutting-edge technology, rapid growth in nations but the growth of mentality of the human mind is steady, and women still carry off "honour" until her last breath. Moreover, it is ubiquitous from south to north, and east to west.

1.1. REASONS FOR HONOUR KILLING

There are umpteen of reasons, but these are some basics reasons which are not going to be eradicated from the society efficiently, they are-

1. **Stratification** – Strata is a critical issue; the caste system has its deep root in India, which is continued till today also, caste strata are very profound that upper-class people do not want to break that chain because if it is broken, then their whole rigid caste-based system will collapse.⁷

⁵ Kamla Bhasin and Ritu Menon, *Borders & Boundaries: Women in India's Partition*, 58, (Rutgers University Press, New Brunswick, New Jersey, 1998).

⁶ Fateh, *supra* note 2.

⁷ Neelam Kejriwal, HONOUR KILLING IN NORTH INDIA, 1, 11-13 (PROBONO INDIA, 2018).

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2. **Lack of governance**-Another reason is government governance at the ground level, and only urban development, privatisation, and industrialisation are not going to serve equality to everyone; because of lack of governance, such rigid social evils norms are pretty prevalent.⁸
3. **Khap panchayat**- Khap panchayat is not a law body which we are abiding by this institution from an extended period, khap Panchayat not just restricting the women rights, but it also creates the hurdles in women's life too regarding their choices what they want to make for herself, and without a doubt, such institution is the prime reason behind the developing country like India.⁹
4. **Mentality**- Human mindset can only be changed by education, and India's literacy rate is still not higher to facilitate such facility at all levels in India and this is the most important thing you can change everything in humans, but if your mind is not giving volition everything is worthless.¹⁰
5. **Illiteracy**- Without education, illiteracy is a common factor for that it is vital that we shall create awareness regarding their rights, rules and laws that prevail in India, and it could have been possible only when we as a nation can provide education at all levels.¹¹
6. **Sex ratio**- Sex ratio is essential to get the full representation of women, girls at all levels of areas, where males are in the majority, and it is important to discern this fact that honour killing also happens when they kill girls in mother's womb only to protect their honour in the form of not to be called as daughters' father but sons' father."¹²
7. **Politicians**-If it is not wrong to say this fact that, somewhere the kind of support these people and institutions get only just because of these politicians, they are elected to represent the citizen's interest not to use them for their political career.¹³
8. **Inter-caste marriage**- Even after so many years, in India, people are still not able to accept inter-caste marriage after the enactment of the special marriage Act, 1954, but still, it is a kind of blot if you are married to someone outside your caste.¹⁴

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*Id.* at 13.

¹⁴*Id.*

9. **A decision by the male community-** The existence of patriarchy is the main reason for the lack of women representation because of sex ratio of women is very low in India, and it is simple if girls are not born, then it will create problems regarding the women representations and their development.¹⁵
10. **Refusal of arrange marriage-** In India, families are still not comfortable with this kind of love marriage, and if you are going to refuse the arrange marriage, it will squarely put a question on your honour.¹⁶
11. **Seeking divorce-** It is a stigma for divorced women, who are victims of honour killings crime only just because she has no existence. Rather, she will die by death or killed them for protecting their prestige for their family.¹⁷
12. **Homo-sexuality-** This is another new form of category included in honour killing. Being lesbian or gay, you cannot live together even after the supreme court landmark judgement.¹⁸

The bottom line of each reason is somewhere connected to the problem of discrimination against women. In society, India is a democratic country; everyone governs by the constitution. However, the reality is untrue, women still don't have any freedom to decide by their own choice, the elders still control everything, especially by the rule of roost, and nobody can challenge their decisions; another cause founding these reasons are marriage disputes, and they think, women are so sensitive and sentimental, that is why she cannot make a decision, but if she decides then she is transgressing her boundaries, if she chooses any male for her own, or decide to marry outside of their caste, a religion which brings dishonour to her family and it results to her death. The main factor is rigidity in our traditions, cultures and hierarchy, and the kind of custom or norm is there where, father and husband is the god for her daughter, it's like they owe property in the form of daughter and wife too. And father and husband are entitled to punish her for this brutal crime, which she has committed in the name of honour

¹⁵*Id.*

¹⁶*Id.*

¹⁷*Id.*

¹⁸*Id.*

1.2. HONOUR KILLINGS AND THEIR FORMS

Honour killing is not gauged into the narrower sense and associate with only some events where honour killing is committed. For example-inter-caste marriage, inter-religious marriage, marriage in same gotra, pre-marital marriage, extra-marital affairs. The author tried to connect the dots of offences against women in India and honour killings same and put them together on the same page to show the commonality of their "honour" in other offences, which is somewhere they all are forms of honour killings, they are-

Sati pratha and honour killing- Sati pratha practice was abolished after the enactment of the legislation, then we will find one common factor here "honour", after the death of her husband, she burnt alive, why is it so? If we mull, then the answer is a woman's identity and her existence in her husband's existence, till his husband is alive. However, after death, she is nothing, no (ASTITAV) of her. Sati pratha is also connected with honour killing because her honour is at stake after the death of her husband's and for protecting her purity and honour, she burns alive by killing herself for her honour to preserve the so-called honour by death only.

Sexual assault/ harassment and honour killing- Sexual assault is physical and mental abuse on women and girls to fulfil their lust, pleasure, and desire. In this act, if any woman is harassed sexually by the male, she is no purer, and her (IZZAT) or honour is destroyed, and women are solely responsible for this act, no men. Honour killing is not just physical death, but somewhere, it is mental death also when a woman is harassed sexually by men, and after that, she is killed by the father, brother, family members and society. Therefore, we need to understand that honour is the primary factor in each crime against women.

Rape and honour killing- The act of rape is heinous, brutal, and rape is graver than any other offence. Where women and girls are ravished by voracious men and become the victim of this heinous crime, however, there is a distinction between two terminologies, a victim of rape, deceased women who physically and mentally get raped and rape survivor who is alive with her scars of the dishonour act, here honour is killed in both crimes of honour killing and rape. However, honour is not killed only in grave offences, but if someone frisks you or ogle at you, it also amounts that you are dishonoured.

Domestic violence and honour killing- we need to understand here, this offence of honour killing is confined and narrower. However, if we think, out of the box, so, we will foresee

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beyond that why honour killing is associated with an estranged man only; what about our family men and male members, when the wife is beaten, tortured, threatened by her family members, especially husband, then honour is not killed? Beating your wife is part of the Indian family system, where the same act committed by family members, there is nothing dishonour, but the same act committed by estranged man, is dishonour, only just because she is wife and property of her husband and they are free to do anything.

Dowry death and honour killing- Even after, 21st century, we are still entrapped in the customs and norms of the dowry system. An act of dowry, if we understand, it is pretty simple that killing and burning your wife is not an honour killing in India. Dowry death is such a grave offence where the unfulfillment of the demand of dowry results in her death and puts her life at stake of death. This act comes under the gamut of honour killing too. Moreover, her husband and in-laws, because they are taking someone's life only for monetary and materialistic benefits, which depict those women, is just a little creature to use her only for fulfilling their lust.

1.3. GENDER AND HONOUR KILLING

It is crucial not to forget about men too; honour killing is not entirely a female act, but rather male is also a victim of this honour crime. This offence is not just about women and males and is not confined to one gender. However, this is vivid from the indices and events women are more targeted in this crime of honour killing. However, we cannot forget to include the male; one incident happened and reported by Pakistan's human rights, that 158 women and 97 men were killed in Karo-Kari of the district of Sindh in Pakistan for honour killing.¹⁹ However, this is also black & white clear that most women ratio is much higher than men in this time, and not to forget that it is an irony of this crime of honour killing act where one woman is killed on the other hand women who are mother of her child, she is also part of the process of killing her daughter or daughters-in-law and it is a quest to demystify and explain in words.

¹⁹Fateh, *supra* note 2, at 10-11.

Furthermore, it is essential to understand that the mindset of society what they are thinking? Sometimes, we being an educated people do not know what is right or wrong. In Egypt around 1999 were crimes of honour killing were reported in the year 2000.²⁰ It is bizarre to understand the preparator's interpretation of men and people of this society. For example, in Egypt, if girls have swollen bellies with menstrual blood, the hymen is blocked, period stops due to some medical reason of anaemia. In these conditions, either they killed their daughters or thought that maybe their daughter is no more virgin or pure and sometimes in this condition, they get confirmation from the hospital by the autopsy report.²¹ Male is still getting the freedom at nascent age of his life or whole life. However, it is not the case with women. Swami Vivekananda said, "In India, there are two evils. Trampling on the women and grinding the poor through caste restriction."²² Look at our history and tales of god and goddess, there is a maxim of "Matri Devo Bhava", mother's area goddess and there is an old saying, but in today's time, it has no relevance. The gender issue is deep-rooted if we see a paradox of this saying, in India goddess (Laxmi, Parvati, Saraswati) who are worshipped.

On the other hand, girls are killed in their mother's womb, raped, sexually harassed, burn alive, discriminated and suppressed. It is a reality of our Indian society that India is a motherland (Janani) being feminine earth. We killed them on this earth. Violence against women is a novel concept. It is not new, and maybe for patriarchy is unfortunate that they cannot impose these gender biases issue on the British. Discrimination is an old phenomenon and honour killing is also. Gender neutral based honour killing prevails like exceptions in the law. In the same country and same land but different people lived there. In the Rig Vedic period, where women enjoyed equal status in areas of- education, participating in rituals, Vedichymns, married after attaining the age of maturity, participating in religious rituals, ceremonies, freedom of choice to do marriage and there are some examples of great women- Vivara, Ghosala, apala were epitome for telling the trueness of women status and earlier period. In fact, in Buddhism, Jainism was given complete freedom to women within India and in the southern part of Tamil Nadu, women enjoy a higher status only because of the matriarchal system. One day hopefully, history repeats itself. Moreover, we must not forget in this situation that, India being a traditional, rigid pious country, it is hard to achieve;

²⁰*Id.*

²¹*Id.*

²²Kaushambi Kaushal, No Honour in Honour Killing: Comparative Analysis of Indian Traditional Social Structure Visa-a-vis Gender Violence, *JWS*, 52, 61-62, 2020.

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however, we should remember these lines of Manu - "Where women are respected, there the god delight women; where they are not, there all work and effort are on nought."²³

2. ORIGIN OF HONOUR KILLING

Honour killing offence, historically there is no trace marks and concrete historical accounts and evidence to establish this fact that answers these questions of when, where, and who devised this offence. However, according to the scholars in the south Asian continent, it is a claim that honour killing practice was started in the Baloch tribes of Baluchistan and through migration, this concept of honour killing is also spread like wildfire across in other countries, however in the whole world.²⁴ However, there are some evidence found straight from the horses mouth colonial dockets and records are available which is the fact of the matter and it explicitly states that in the Baloch tribe, there was a custom referred as honour killing. Moreover, it is plausible to reckon that this custom of honour killing transferred to Pakistan and India later on. Moreover, one incident was also reported in Pakistan where one local politician Ullah Zehri in 2008 defended the honour killing in parliament concerning the incident where five women were killed in the umrani tribe.²⁵ The 2002-2003 reports of the United Nations special rapporteur revealed that the "honour killing" is not confined to one realm of Muslim communities. However, it is spread across the countries.²⁶ In Egypt, some reports specifically in Coptic fanik (European Christian), that indulge in this crime of honour killing, and in other countries, this crime is reported in Palestinians, especially in (Palestinian Christian community).²⁷ Moreover, rapidly, this crime becomes a general category of crime. If we retrace the Indian history, we will find in the British penal code, 1860 earlier, they mentioned the words like- modesty, chastity, abduction and enticement, as part of the legal framework of honour killing.²⁸ However, we failed to see the importance of these words being an ignorant society. We could not contemplate and extrapolate the interpretation of these words. In 2001, in Pakistan, the supreme court acknowledged the victim's fundamental rights

²³ *Id.* at 62.

²⁴ Fateh, *supra* note 2, at 12.

²⁵ *Id.*

²⁶ Fateh, *supra* note 2, at 13.

²⁷ Fateh, *supra* note 2, at 14.

²⁸ *Id.*

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of honour killing cases.²⁹The origin of honour killing in India is not traced explicitly. However, the discrimination with women can be traced after the Post-Vedic period, the establishment of the Varnasystem, casteism, when priestswere only competent to study Vedas, Purana, holy texts and booksand women were deprive oftheir rights. Later on, Mughal's ruler introduced the new concept of pardah which the other community's members frequently followedand this parda practice was adopted mainly by the higher caste women families,and they continued this norm till now.³⁰Might be, we can deny that Honour killing is Englishterminology and the word honour is never used in the historical record so, it never existed in India.However, the fact of the matter is, if we look profoundly then, it is clear that sati pratha, devadasi, Johariand many more such practices have prevailed in a primaeval period in the form of honour killing.

2.1 HISTORY OF HONOUR KILLING

The history of honour killing is not just the part of Muslim countries or part of Hinduism.However, honour crime can be traced in other westernand European countries too. According to European countries, the words "chivalry" and "nobility" are considered an honour; however, the word honour is not used here in the negative form.However, it is mentioned in the positive form, and no one can think that the word honour can be associated with violenceanddeath³¹ word honour in European countries is confer a duty on man to behave correctly and being gallant toward women. If we notice the European countries, they use the term of honour,especially in monarch state, as a "fountain of honour"³² in the United Kingdom, which defines the tradition of bestowingand show their token of reverence to bestow the higher authority. Till yet, the word honour is used in a positive sense. Now, thereare some instances wherehonour killing is used in a negative sense too. In Canada, honour killing is also referred to as femicide, which the people suggested after the Shafia trial and the word honour in today's sense is an oxymoron and esoteric.³³ Honour can be a new word for us because it has never been used before in historical context and record.However, the crime is much before started in the olden time in many other countries, the only

²⁹ Fateh, *supra* note 2, at 15.

³⁰ Kaushal, *supra* note 20, at 63.

³¹ Fateh, *supra* note 2, at 7.

³² *Id.*

³³ Fateh, *supra* note 2, at 9.

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difference is word honour is not manifestly found in that period, if we trace the ancient history, we can find this crime of honour killing in ancient Rome, where the head member of the family, male member (paterfamilias) had right to kill his daughter if she was found in sexual or an adulterous act and same goes to the wife also.³⁴ In Jewish rule also, there was a rule of killing his wife if she was found adulterous, and she was killed by an act of stoning. In the Indian historical age, the honour word is not traced but the act of killing in the name of protecting the honour of house is found in the medieval age. We can say that homicide which men committed is another version of honour killing and honour killing in India is not confined to one domain, but there are other forms of crime like- gender-based crime, patriarchal dominance and control over women. Purana Sen, an author who wrote the article where she mentioned the Neo-Nazi group called "blood and honour combat", and is referred to as "code of honour", and the meaning of the notion is where honour referred to as to live life with honour and being prepared to die instead of being dishonoured.³⁵ From this phrase, it is pretty straightforward, for the first time, the honour word is defined negatively not explicitly, but implicitly and is relative to the meaning of honour killing. Now move slightly toward the Palestinian community which is established in Israel in 1994 "The Alternative" (al-Babel) was established within the Palestinian community and they called itself the "coalition to combat the crime of family honour", here, honour killing is referred to as a "family honour" as a crime, and the family honour notion is used in a negative sense, which stated that women are the honour of family which is located in her body.³⁶ It is essential to understand the mindset of people that one term like honour killing is used in different versions. However, the crime is the same and severe. If we delve out the different terminologies in the vicinity of the term honour, then it is essential to understand the seriousness of the act. Abundant cases were found of honour killing of daughter, wives, daughter-in-law, for various reasons like- pre-marital affairs, adultery, love-marriage are some significant incidents. We do not need to go far if we see the China history of the Ch'ing dynasty, where husbands and fathers had the right to kill their wives, daughters if men dishonour them.³⁷

³⁴ Kaushal, *supra* note 20, at 53.

³⁵ Fateh, *supra* note 2, at 8.

³⁶ Fateh, *supra* note 31.

³⁷ Kaushal, *supra* note 20, at 53.

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2.2 INTERNATIONAL APPROACH TOWARD THE HONOUR KILLINGS

"Honour killing" is not a domestic state issue, but honour killing problem is worldwide, and this crime exists, and honour killing crime is discerned by international human rights law because honour killing crime violates women's rights, right to life and liberty. Moreover, it also imposes the duty on states concerning women protection against gender-based violence, which consists of husbands, society and family members who killed women for bringing dishonour and disgrace.³⁸ In 1948 the international human rights convention stated that honour killings are heinous and infringe the enshrined fundamental human rights. Fact, it is also stated at the international platform that even the existing laws that treat honour killing crime lightly also disrespects the international convention of political and civil rights (1966).³⁹ Later, on 185 countries, including India also they signed the UN charter, and over 90% who is the member of the United Nations, honour killing crime was committed in those countries.⁴⁰ Therefore, the general assembly of the U.N. passed the resolution to establish the human rights convention in 2006. They stated that- "that the council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedom for all, without distinction of any kind and in a fair and equal manner." And it is crystal clear that honour killing cannot be brushed under the carpet in the name of "traditional and cultural rights" amnesty international also observed that honour killing is not an individual crime. However, it is collection participation, pre-planned crime which is socially approved with a society of both gender, men and women. A past study was conducted in Jordan in which 16 countries homicide cases were referred to as an honour killing.

3. ROLE OF KHAP PANCHAYAT

After 75 years of independence, being a democratic country, India still stuck in a deep-rooted traditional practice of khap panchayat. The establishment of khap panchayat was that when India got independence, the constitution-makers thought that India is a diverse country with

³⁸Anand Mishra, HONOUR KILLING: THE LAW IT IS AND THE LAW IT OUGHT TO BE, manupatra, <http://www.manupatra.com> (last visited on Aug. 9, 2021)

³⁹*Id.*

⁴⁰*Id.*

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immense geographic areas. India's condition is not good socially economically. For rural areas development, they came up with the idea of "panchayat raj", the literal meaning is an assembly of five, in Urdu, it is termed as (Ayat), and panchayat raj constitutes the inclusion of wise and respected members who were selected and approved by the local people. However, today's panchayats raj picture is quite different from the maker's imagination, and they never predicted this situation in India that it could be happening in the 21st century and it started with sati paratha, untouchability and honour killing. Khap panchayat emanates from Haryana and is widely spreading to other regions also. With the time, khap panchayat started defining their laws in contrast to Indian laws, and they took the law in their hands and declare the marriage invalid and exceed their power by sentencing death punishment which succinctly shows the orthodoxy mindset. As per the law, in the Hindu Marriage Act, 1955, there is no restriction regarding inter-caste marriage, inter-religious marriage, marriage is permitted in the same gotra. The irony is that in a democratic country, two systems are ruling. Firstly, khap panchayat and constitutional laws, but politicians and governments never took this issue seriously because they get benefits especially in north India. Culturally principle of village exogamy where same gotra, clan, local clan are bound with each other as brother-sister. The word baradari is traditionally used by khap panchayat who are supreme and exercise their power illegally, and khap panchayat is empowered to deal with marriage, property, and inheritance cases. Without any legal aid, they pronounced their judgement, which they call justice. The Hindu marriage disability removal act, 1946 explicitly declared that same gotra and parvana marriage are not prohibited under Hindu law. However, khap panchayat is not only forbidding the same gotra marriages.

Along with that, they pronounced brutal punishment like- ritual exploitation, rubbing the nose, blackening of face, shave the head, dipping the nose in the urine of their person, thrashing and banishment and many more. So this khap panchayat body is a self-regulated body on their whim. However, there is another khap panchayat like- satrol khap panchayat in Haryana district Narnid who are obviating the old tradition and orthodoxy rules, and they are coming forward by accepting the new traditions and accepting the new changes, and they allowed the inter-caste marriages.

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4.LAWS RELATED TO HONOUR KILLING IN INDIA

No wonder there is no separate law act on this crime. Still, we are jostling for a separate law, on this gruesome crime in India. Moreover, surprisingly, institutions, religious organisations, governments, politicians condemn this crime but for their political agendas, the demand for separate law is brushed under the carpet. More interestingly, honour killing is not a one religious, caste, cultural issue, but it is a global issue and many events took place in past regarding the issue of honour killing crime but it is just a mere discourse and press conference. No result is there. But somewhere, honour killing in India find its place in IPC, family laws, constitutional evidence law, where honour killing is implicitly dealing with the provisions of the law they are-

Section 299-304 IPC⁴¹: This section is about the incarceration of a person who is guilty of murder and culpable homicide, not amounting to murder. Moreover, such a person gets a death sentence or life imprisonment.

Section 307 IPC⁴²: Murder attempt. For this offence, a person can get imprisonment for up to 10 years or a fine. Moreover, if the crime is grave, then it can be extended to life imprisonment.

Section 308 IPC⁴³: This section talks about culpable homicide not amounting to murder, where a person gets penalised for up to 3 years or a fine.

120A & B IPC⁴⁴: This section talks about the criminal conspiracy by any party.

⁴¹**299. Culpable homicide.** —Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

304. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

⁴²**307. Attempt to murder.** —Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to 1[imprisonment for life], or to such punishment as is hereinbefore mentioned. Attempts by life convicts. —2[When any person offending under this section is under sentence of 1[imprisonment for life], he may, if hurt is caused, be punished with death.

⁴³**308. Attempt to commit culpable homicide.**—Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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Section 34 & 35 IPC⁴⁵:This section talks about the crime committed by several people in furtherance of common intention.

Section 107-116 IPC⁴⁶:For abetment where any person abates for murder and culpable homicide.

5. HOMICIDE AND HONOUR KILLING

According to the law commission of India, there is no need of inserting the term honour killing under section 300 IPC according to the honour killing crime come under the gamut of section 300 IPC and honour killing is also an act of killing where mens rea, knowledge is

⁴⁴**120A. Definition of criminal conspiracy.** —When two or more persons agree to do, or cause to be done, —

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof. Explanation. —It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

120B. Punishment of criminal conspiracy. —

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

⁴⁵**34. Acts done by several persons in furtherance of common intention.** —When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

35. When such an act is criminal by reason of its being done with a criminal knowledge or intention. —Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

⁴⁶**107. Abetment of a thing.** —A person abets the doing of a thing, who—

(First) — Instigates any person to do that thing; or

(Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

116. Abetment of offence punishable with imprisonment—if offence be not committed.—Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both; If abettor or person abetted be a public servant whose duty it is to prevent offence.—and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

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present while killing the women, if we just see these two terms might be it is easy to say that both are related to the crime of killing someone where mens rea and knowledge is the crucial ingredient, but it is not the case, there are some differences in between these two offences which cannot be put on the same canvas they are-

1. Homicide is well known and understood concept and this notion is evident in western and eastern countries but honour killing is somewhere new because still the government is facing problems in the framework of law concerning honour killing. After all, some areas need to clarify which are undefined and unclear.
2. Homicide and honour killing is related to crime and mens rea, but there is a thin line, homicide mens rea is related to monetary benefit and discord (personal/ professional), but honour killing mens rea is not related to money. However, it is related to the self-motivated desire of killing women who bring shame and dishonour to his home.
3. Honour killing is related to the orthodoxy thinking inspired and motivated by the societal customs, hierarchy, castism, norms which are likely to be inborn and on the other hand, the offences of homicide where treating one criminal for homicide act is slightly easy in the comparison of treating one stereotype people/ orthodoxy society, it takes years to change their mindset.
4. Honour killing in the comparison of other crimes of women or regular offence is grave, disastrous and putting someone down for her dignity is more significant harm in any other offence. There are two possible situations for the accused he known the victim or may not be but in honour killing it is well established this crime of honour killing is committed within their family member not by estrange person.
5. Homicide act is grave but the act of offence does not affect society at large but honour killing before or after in both situations affects society. When women dishonour, it affects their family members, and after killing women for dishonour, it affects the whole of humanity.
6. Homicide killing is part of rape and adultery as a common factor but not wholly because, in both these offences, not just the victim but the accused also dishonoured, it is a collective honour, but in case of honour killing, only women blame mostly in an honour killing crimes.

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7. Homicide can be a self-motivated act or maybe instigated by a person, but honour killing is purely collective participation as a wholesome of- society, neighbour, family member who instigate them for committing that offence of honour killing.

6. JUDICIAL PRECEDENCE

1. (Landmark Case) Smt. Chandra Pati v. State of Haryana & Ors

Manoj and Babli were the victims of the case. They had loved each other and they eloped and got married to each other. The family members got furious and found the victims and then, The family had taken the case to the khap panchayat, who initially stated that any person who has contact with the victim would have to pay 25,000 and hence no person should contact them. After finding their whereabouts, the family had brought them before the khap panchayat, which was also against the marriage. They gave the decision against the victim because the victims belonged to a different caste. The decision was religious- caste-based for the interest of the society. The khap panchayat was also accused who involved in the killing of the victim due honouring of the family. Relatives of babli were involved in the murder of Babli and her grandfather was the khap leader.

Nevertheless, the victims were abducted and killed by them. However, when this matter went before the court of Karnal district, they had sentenced five preparators who were involved in the murder and punished with life sentence. This is the first honour killing case where the members who was involved in the abduction was sentenced to imprisonment of seven years. Honour killing is also considered the most severe offence.⁴⁷ The case was both the first court judgment convicting khap panchayats and the first capital punishment verdict in an honour killing case in India. The Indian media and legal experts hailed it as a "landmark judgement."

1. Arumugam Servai v. State of Tamil Nadu

In this case, the supreme court strongly deprecated the practice of Khap panchayat, taking the law into their own hands and indulging in offensive activities which

⁴⁷Smt.Chandrapati v. State of Haryana, AIR 2006 SC 2522.

endanger the personal lives of persons marrying according to their choice. Justice Markandey Katju, while delivering the judgement observed that in recent years, khap panchayat, which often decrees or encourages honour killings or other atrocities in an institutionalised way on boys and girls of different castes and religions who wish to get married or have been married, or interfere with the personal lives of people.⁴⁸

2. **Lata Singh v. State of Uttar Pradesh and Ors**

In this case, the court said that honour killings are nothing but barbaric cold-blooded murder and no honour is involved in such killings" the supreme court while dropping all criminal proceedings against Singh's husband and her in-laws, had gone to the extent of observing that "inter-caste and inter-religious marriages should be encouraged to strengthen the social fabric of society."⁴⁹

3. **State of U.P v. Krishna Master & Ors**

In this case, the supreme court awarded a life sentence to three persons who caused the death of six persons of a family in a case of "honour" killing at a village in Uttar Pradesh in 1991. The bench said: "there is no manner of doubt that killing six persons and wiping out almost the whole family on the flimsy ground of saving the honour of a family would fall within the rarest of rare cases and therefore the trial court was perfectly justified in imposing the capital punishment on the respondents."⁵⁰

4. **Shakti Vahini v. Union of India**

The court said in this case, any attempt by khap panchayats or any other assembly to scuttle or preventing consenting adults from marrying is illegal and laid down preventive, remedial and punitive measures in this regard. In this case, petitioner Shakti Vahini NGO filed the petition in 2010 and the petitioner had sought directions to states and the centre to put a plan to curb honour killings.⁵¹

⁴⁸ Arugama Servai v. State of Tamil Nadu, AIR, 2011 6 SCC 405.

⁴⁹ Lata Singh v. State of U.P, (2006) 5 SCC 475.

⁵⁰ State of U.P v. Krishna Master & Ors, AIR 2010 SC 3071

⁵¹ Shakti Vahini v. UOI, (2018) 7 SCC 1992

6.1 HONOUR CRIME BILL

There is hope that one day we feel content. Hence, we can at least have some different laws to fight against this heinous crime in court. In 2021 also we still do not have separate codified law on honour killing, but as we can see that this is a spate of honour killing cases; in 2010 government was planning for a bill in the session of the parliament where Chidambaram stated in his statement: "the vilest crimes are committed in the name of defending the honour of the family or women. My duty is to ensure that laws adopted by parliament are obeyed and enforced once the law is made, it must enforce" in this proposed bill, they intended to add honour killing crime as the 5th clause in section 300 IPC, this section deals with the murder, and drafter of this proposed bill wanted to amend the Indian evidence act.⁵²

In Indian Evidence Act amended is related to the section 105 which will bring the burden of proof on khap panchayat.

Section 300 (5) of recommended bill clause says "if it is done by any person or persons acting in concert with or at the behest of member of the family or a member of a body or group of the caste or clan or community or caste panchayat in the belief that the victim has brought dishonour or perceived to have brought dishonour upon the family or caste or clan or community or caste panchayats."⁵³

Special Marriage Act, 1954, drafters wanted to amend this act because there is a provision regarding the notice period is 30 days, and the requested process of a particular Marriage Act is lengthy. It will take 45 days to complete. In the middle, there is a dread to the couples of killing by their family relatives in the name of honour killing and the proposed bill; they also intended to bring the definition of honour killing to make it a significant crime.⁵⁴

A special court can take *Suo motu* cognisance. In this proposed bill, they also made a section to empower the district magistrate or the SDM to protect the married couple and take preventive measures. Moreover, honour killing offences shall be tried by the court of session in the district court headed by the session judge or additional sessions judge as notified by the court, and honour killing offence is cognizable, non-bailable and non-compoundable.⁵⁵

⁵² Mishra, *supra* note 36.

⁵³ Vipin Kumar Singhal, Honour Killing in India: An Assessment, SSRN, <https://ssrn.com/abstract=2406031>

⁵⁴ *Id.* at 6.

⁵⁵ *Id.* at 7.

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7. RECOMMENDATIONS & SUGGESTIONS.

As extensively discussed honour killing crime now, we come to the point where we can usher some hope in our heart, that, one day no honour killing phrase people can understand and bring some changes, here are some recommendations and suggestions-

- Casteism in India has its deep-root, but it is the need of the hour to eradicate the social evil of casteism crime and understand that the caste system is nothing but it is like cancer that destroys the whole society.
- Female representation is vital especially in those areas where honour killing crimes are prevalent and it is arduous to remove the khap panchayat system. It can be possible through law; however, we can do only one thing: appoint women in khap panchayat and bring forth them in khap panchayat to ensure justice for women.
- Orthodoxy mindset induced by the traditional norms, customs which has no logic to some extent especially when we will talk about freedom and dignity and all these issues stated above, education is crucial to change their mindset, break the chain of orthodoxy norms and see the world with open eyes.
- Law, judiciary, parliament and administration has to come forward and enact the proper law for honour killing, and the court should pass some guidelines for stringent laws and before anything, it is essential to define what honour killing is? Explicitly with no if(s) and but (s), that citizen will not get perplexed with laws and provisions.
- In this cutting-edge technology and social media, we have the power to use them as a weapon for disseminating awareness against the social evil act, we should start campaigns; political leaders can bring change through their lectures, campaigns.
- It is essential that in an honour killing, joint liability and burden of proof should be inserted in honour killing crime bills so that all the people who are part of this heinous crime get punished.
- Honour killing law must be clear, defined, and exhaustive so that there will be no grey areas and ambiguity left to raise questions.
- A police force, women cells, NGOs should come together, and we must join all mechanisms together like- POSH internal committee and the national women commission. We do not need any particular regulatory body, these existing bodies are sufficient, but they should be effective and efficient.

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- It is essential that the laws which are written it should be known to the citizen like- article 19(1)(a) freedom of speech and expression and article 21 of the constitution of India which give the rights to the citizens to marry by their own choice and live their life with dignity.

CONCLUSION

India is the largest democratic country, where different languages, dialects, traditions, cultures and festivals are celebrated together. India is a country of principles, rituals, rules, and predominantly, India referred to as "Matra Bhoomi"; however, on the other side, women are a reflection of goddess and who conceive the child in her womb to maintain the balance of nature system. However, they were killed by her father, husband, brother, relatives in the name of dishonour. In the 21st century, it is absurd as a citizen or human being because we are civilised, not uncivilised people. We are capable enough to understand things. As a citizen, human, the person, we should ponder what we are doing and where we will go with this orthodoxy mindset down the line. The government of India, judiciary, and parliament should come forward and enact a separate law on an honour killing for protecting the dignity of women. The government of India and the judiciary should forbid honour killings to stand tandemly against all these orthodoxy norms and self-regulated institutions and to bar them from doing this heinous crime, and now it's time not to count how many lives of the women were lost. However, how many lives we can save in the present and future is more crucial, and at last, we need to understand this phrase, "No Honour in Honour Killing."

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