

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper and a black leather watch with a silver face are also visible. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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HONOR KILLING: A DOCTRINAL ANALYSIS OF HONOR KILLING UNDER THE CRIMINAL LAWS OF INDIA

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Abstract:

One of the most horrific types of violence stemming from gender stereotypes and outdated views of family honour is honour killing. It is defined as the murder of a person (usually female) committed by family members or community groups who believe the victim has caused shame and dishonour to their family/community through acts such as marrying outside their caste, engaging in inter-religious relationships, or using independent choice when deciding to marry. While the perpetrator may claim an obligation to uphold their community's social standing, their justification is, in reality, a flagrant violation of human rights and a crime against the law.

Honour killings are not listed as a separate offence under the Indian Penal Code; however, they can be charged as murder or criminal conspiracy under existing legislative provisions. Despite this, honour killings occur in many areas of India due to the social restrictions, lack of enforcement of existing laws, and influence from rural community groups (khap panchayats) with no legal authority. The judiciary has consistently decried the practice of honour killing, noting that the Constitution of India guarantees autonomy to all individuals regarding marriage.

This study involves a legal analysis of honour killing under the framework of Indian criminal law, dealing with the relevant legal provisions and significant court cases relating to honour killings as well as examining difficulties in dealing with and preventing honour killings. The study also discusses the necessity for more robust legal and policy frameworks to properly protect individual liberty and individual dignity. In conclusion, this research paper states that eliminating honour killing requires strong enforcement of legal prohibitions against honour killing as well as more comprehensive social reforms that eliminate patriarchal and caste-based centre-based views.

Historical and Social Background of Honor-Based Violence

For centuries, many different cultures have placed great importance on maintaining their families' honour through the regulation of individuals' behaviours. This has included

crimes of honour, honour-based violence, and other forms of violence committed in the name of honour. This aspect of culture is not confined to a specific country or region and has manifested differently at various times throughout history throughout different communities. Historically, family honour was often viewed as a collective value that was closely tied to a family's reputation and lineage, as well as to their moral conduct.

Members of a family were often believed to represent the honour and prestige of the entire family or clan, particularly females, and how a family conducted themselves would reflect poorly on the entire family or clan when they violated any of the existing social norms. For example, if a member of the family engaged in an act considered to violate an existing social norm, that act would be viewed by the family as a threat to their honour and therefore require corrective actions, including violent punishment in some cases.

From a historical perspective, societies that have practiced a strict kinship system have generally placed a significant amount of emphasis on the maintenance of purity within the bloodline; the perpetuation of inheritance rights; and the preservation of social hierarchy, whereby marriage was not simply seen as an interpersonal relationship between two people, but rather a social institution that served to maintain family based alliances, maintain boundaries associated with social castes and protect economic interests – therefore to marry outside an individual's given social group, has historically been seen as challenging established power structures. In patriarchal societies, men have been thought of as the protector of the honour of their families, whilst women were expected to uphold the honour of the family through obedience to the wishes of their husband and with conformity to social norms. This historical context has been the basis for the type of behaviour associated with honour or shame based violence, whereby it has been assumed that family members have the right to punish family members who do not conform to social norms.

In the Indian context, the historical roots of Honor Based Violence are intertwined with the caste system and patriarchal family systems. The caste system has governed how people relate to one another, specifically in regards to marriage and family, through strict rules of endogamy (marriage within the same caste). These rules were meant to maintain the system of social stratification and uphold the purity of caste identity. Weimer (2013) said marriages that cross caste boundaries are often seen as a direct threat to the existing social order; therefore, families and communities sometimes react with hostility and violence against relationships of this nature, believing that if these types of unions are allowed, they will ultimately undermine the traditional social structure.

A further key factor to consider is due to the practice of gotra (clans) and clan-based

restrictions on who can marry whom. In many communities, those from the same gotra are considered to have a common ancestry so they cannot marry each other. Violating these traditional customs can lead to a serious breach of community custom. In some parts of India, such as Northern India, community councils (khop panchayats) have historically enforced these rules, even though they do not have any legal authority. Their power to influence rural populations has often had a major impact on the social views of marriage and family honour.

Historically, the patriarchal influence over women's autonomy has been a key characteristic of honour-based violence. Many traditional communities placed excessive scrutiny on the actions of women, who were viewed as direct representatives of their families' honour. Limits were placed on women's capacity to move about freely and access education, form relationships, or make decisions about marriage so that they could conform to social standards to the maximum degree possible. Women who sought to emulate independence or challenge patriarchal authority often suffered from social ostracism as a result of their conduct. The most extreme form of control exercised by the patriarchal authority is through honour killings, where violence is employed to enforce compliance with family authority and preserve male dominance within the family.

The continuing incidence of honour-based violence can be attributed in part to social pressure and collective enforcement of cultural norms. In close-knit communities where reputational status and acceptance are important, families may fear being ostracised from the community for allowing a family member to defy the traditional expectations of their community. Members of the community may put pressure on family members to take action against someone in their family who has behaved inappropriately. In these circumstances, members of the community may view acts of violence as acceptable means of re-establishing family honour and restoring acceptance into the community. The collective aspect of honour-based violence illustrates the degree to which social structures perpetuate the use of harmful behaviours.

The way a family functions has generally involved how family members exercise their power to make decisions together, but that has changed over time, just like how much of the world has changed over the past century with modernity and globalisation. Throughout history, in traditional family structures, older members of the extended family (typically male) have exerted a high degree of influence over other members of the family in making major life choices, including marriage, at the expense of an individual's interests or rights (see Chapter 3). Thus, when an individual asserts his or her right to marry or to have a relationship not traditionally allowed or sanctioned by the family, that assertion is perceived as a direct

challenge to the authority of the family. Therefore, traditional honour-based violence — as a means of enforcing domination through intimidation and destruction of property — is a way to enforce family authority and to maintain a hierarchical structure between family members.

As social values in India have evolved over time (e.g., through modernisation, education, constitutionally based reforms), the traditional beliefs that have long guided family members in their interactions with each other have changed greatly. As a result, adults in the family now have increased rights under the Constitution of India to equal opportunity, personal liberty, and freedom to marry the individual of their choice. Furthermore, social changes brought about by urbanisation and social mobility have contributed greatly to the gradual, yet significant, changes to views on caste and marriage. Unfortunately, however, long-standing cultural beliefs continue to play a major role in the interactions between family members, particularly in rural and conservative areas of India. Consequently, honour-related violence continues to be a serious issue in India despite laws against it and judicial condemnation of it.

Consequently, the historical and sociocultural context associated with honour killings shows that honour killing is not just a distinctly individual acts of criminality but rather representative of wider sociocultural frameworks which give primacy of collective honour over individual rights. In order for society as a whole to address honour based violence, the laws must be strictly enforced, however a large degree of change in terms of social constructs must occur in the process of dismantling patriarchal concepts and discrimination based on caste. There are various educational interventions, community engagement, and public awareness strategies required to challenge the cultural beliefs that uphold the continuation of these acts.

To summarise, there is evidence to suggest that honour killings are a result of deeply engrained and entrenched traditional social norms and familial and community patriarchal norms that perpetuate patterns of violence in the family and community context. Understanding the multitude of root causes that contribute to these acts is vital to developing effective prevention strategies for honour based crime. Simply introducing legal interventions will not prevent these types of behaviours unless combined with a commitment by local and national communities to achieve gender equality, advance the respect of individual rights, and acknowledge the diversity of people from all walks of life.