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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

INDIA'S LEGAL AND JUDICIAL RESPONSE TO HONOUR- BASED VIOLENCE

AUTHORED BY - KARAN TYAGI

ABSTRACT

As long as it persists, honor-based violence (HBV), and honor killings in particular, continue to constitute a terrible and highly distressing violation of fundamental human rights and personal dignity. In the guise of preserving the "honor" of the family or the society, incidents of this nature are frequently justified. These incidents have their origins in deeply ingrained patriarchal systems, strict social hierarchies, and regressive cultural values. These explanations, on the other hand, obscure the harsh reality of violence that targets individuals, most frequently women, for exercising their autonomy in areas pertaining to love, marriage, and personal choice.

In this research, a critical analysis is conducted to investigate the ways in which the legal and judicial institutions in India have responded to the problem of violence based on honor. In addition to analyzing significant court pronouncements that have attempted to understand and confront this sort of violence, it dives into the statutory frameworks that are currently in place, such as the Indian Penal Code and other associated legislations. In addition to this, the article investigates a variety of interventions at the policy level, as well as the role that different administrative and law enforcement procedures play in the fight against HBV.

One of the primary goals of this research is to evaluate the efficiency of the legal mechanisms that are now in place, both in terms of preventing and prosecuting crimes that are based on honor. By means of this examination, the report highlights considerable gaps in implementation, social resistance to legal enforcement, and the problems provided by local customs and extra-legal authorities such as khap panchayats. Moreover, the paper also provides opportunities for improvement. Finally, it provides a set of recommendations with the intention of enhancing the legal response by means of legislative reform, judicial activism, sensitization of law enforcement agencies, and engagement at the community level. This is done with the intention of ensuring that the constitutional promise of dignity, equality, and freedom is not denied to any citizen under the guise of "honor."

KEYWORDS

Honour-Based Violence (HBV), Honour Killings, Patriarchy, Indian Legal System, Human Rights, Gender-Based Violence, Judicial Interpretation, Legal Reforms, Khap Panchayats, Statutory Framework, Social Norms, Constitutional Rights, Law Enforcement, Women's Autonomy, Cultural Practices

INTRODUCTION

A spectrum of violent acts that are carried out under the premise of maintaining or restoring the so-called "honor" of a family, community, or caste group is referred to as "honor-based violence," or HBV for short. These acts, which can range from mental abuse and social ostracism to physical violence and even murder, are frequently performed upon persons, particularly women, whose decisions are seen to bring shame or dishonor to the individual. As a result of inter-caste or inter-faith relationships, the rejection of arranged marriages, manifestations of personal autonomy, or any divergence from socially sanctioned norms of behavior, intimate partner violence (HBV) is a common occurrence in India.¹

In most cases, the perpetrators of domestic violence are not strangers; rather, they are members of the victim's own family or elders in the community, who are meant to provide safety and support. This is one particularly unsettling aspect of domestic abuse. Instead of being penalized for any legal infraction, victims are frequently punished for simply claiming their fundamental rights. These rights include the freedom to love, the ability to select a life partner, the right to freely dress or speak, and the right to live independently.²

Even though India has a modern constitutional framework that is built upon the principles of liberty, equality, and dignity, honor-based violence is nevertheless prevalent in many sections of the country. It is possible to trace its endurance to profoundly ingrained patriarchal institutions, hierarchies that are founded on caste, and the great grip that tradition and collective reputation have. The practical implementation of legal rights continues to be inconsistent, particularly in rural and semi-urban areas where extra-legal entities like as khap panchayats

¹ Mitchell Ortiz, *"Domestic Violence, Prevalence, Risk Factors And Perspectives"*, 2017.

² Martin R. Huecker; Kevin C. King, *"Domestic Violence"*, 2023.

have major power. Although courts have periodically delivered harsh verdicts condemning HBV, the practical enforcement of legal protections remains variable.³

The purpose of this introduction is to establish the framework for considering honor-based violence not only as a social or cultural problem, but rather as a significant violation of human rights that undermines the fundamental core of individual freedom and gender equality. This paper seeks to explore the complex interplay between law, society, and individual rights by situating hybrid violence (HBV) within the larger framework of Indian constitutionalism and legal response. Additionally, the paper seeks to emphasize the urgent need for a more robust and sensitive approach to combating this deeply rooted form of violence.⁴

UNDERSTANDING HONOUR-BASED VIOLENCE IN THE INDIAN CONTEXT

Definition and Scope

Under India, the phrase "honor-based violence" (HBV) does not have a clear and explicit definition under statute law. This presents substantial issues for the classification of crimes, the prosecution of criminals, and the design of policies within the legal system. Because it is frequently concealed under the cover of societal traditions, familial responsibilities, or cultural expectations, HBV is not always easy to isolate, in contrast to other sorts of criminal activity that are more precisely legislated. A wide variety of damaging acts that are undertaken with the intention to "protect" or "restore" the perceived honor of a family or community are included in the definition of domestic violence (HBV). These acts are typically committed in reaction to behavior that deviates from rigid social norms.⁵

The most extreme manifestation of honor killing is the most extreme manifestation of HBV; nonetheless, it is essential to recognize that the phenomenon is much more widespread. Exclusion from society, house arrest, forced or early marriages, physical beatings, emotional abuse, and restrictions on travel or communication are all examples of the different forms of violence and compulsion that are included in this sort of abuse. There are many instances in

³ Nandini Ghosh and Supurna Banerjee, "Caste-Gender Intersections in Contemporary India", 2018.

⁴ General Assembly resolution 48/104, "Declaration on the Elimination of Violence against Women", 1993.

⁵ Mohammad Mazher Idriss, "Abused by the Patriarchy: Male Victims, Masculinity, "Honor"-Based Abuse and Forced Marriages", Volume 37, Issue 13-14, 2021.

which young women and girls are denied the opportunity to continue their education or find employment, or they are punished for exerting their independence in things pertaining to their personal lives, such as selecting a spouse or openly expressing themselves.⁶

In addition to making it more difficult for victims to seek justice, the absence of specific recognition in Indian law also makes it possible for offenders, who are frequently members of the victim's family or influential members of the community, to act without fear of repercussions under the guise of protecting cultural or familial standing.

Sociological Factors

To have a complete understanding of the continued existence of HBV in India, it is necessary to look beyond the legal framework and investigate the sociocultural aspects that are deeply established and contribute to its maintenance. One of the most important aspects of this matter is the function of traditional power institutions, such as the khap panchayats in northern India and other community or caste councils at the local level. These unofficial organizations, which are frequently dominated by men, assert that they are responsible for maintaining social order by enforcing customary standards, particularly those that pertain to the purity of castes, marriage norms, and gender roles. Their impact continues to be significant, particularly in rural and semi-urban areas, where governmental institutions may be ineffective or reluctant to intervene.

HBV thrives in a society that places a strong emphasis on the control of women's bodies and choices, which is closely related to the concept of honor. Women are at the center of this violent dynamic because it is expected of them that they will protect the reputation of their families by their virginity, obedience, and conformity to arranged marriages. In the event that a woman chooses her own partner, refuses to enter into a marriage that is imposed upon her, or crosses the bounds of caste or religion, she runs the risk of being labeled as defiant or immoral. This, in turn, can result in violent reactions, which are frequently justified as being necessary in order to "protect" the honor of the family.⁷

This violence is not limited to any particular faith, area, or economic class, which is another point of contention. Even while its manifestations may differ from one community to another,

⁶ Aisha K Gill and Avtar Brah, "Interrogating cultural narratives about 'honour'-based violence", Volume 21, Issue 1, 2013.

⁷ Jennifer L. Solotaroff and Rohini Prabha Pande, "Violence against Women and Girls: Lessons from South Asia", 2014.

the fundamental logic of control and punishment for nonconformity continues to be eerily constant throughout a wide range of groups. HBV becomes a mirror of the larger issues that India has in reconciling its constitutional principles of equality and individual freedom with the lingering weight of social conservatism and patriarchal traditions. This is demonstrated by the fact that HBV is a reflection of these larger challenges.

LEGISLATIVE FRAMEWORK

In spite of the fact that India's legal system is robust in many areas, it does not have a statute that is specifically designed to handle the peculiar and deeply established problem of honor-based violence (HBV). The prosecution of instances involving HBV, including honor killings, is instead carried out in accordance with regular criminal legislation. It is because of this lack of a distinct legal framework that the cultural and sociological aspects of such crimes are frequently ignored. As a result, these crimes are reduced to isolated occurrences of violence rather than being acknowledged as systemic, socially sanctioned acts of control and repression.⁸

The Bhartiya Nyaya Sanhita, 2023 (BNS)

According to the Bhartiya Nyaya Sanhita, 2023 (BNS)⁹, which has taken the place of the Indian Penal Code, 1860¹⁰, which was enacted during the colonial era, the BNS continues to be the foundation of substantive criminal law in India. It is important to note that the new legislation, much like its predecessor, does not expressly acknowledge "honor killings" or honor-based violence (HBV) as separate criminal offenses. It is still the case that such crimes are tried under general statutes linked to murder and conspiracy, despite the growing concern of society.

The offence of murder is addressed by Section 101¹¹ of the BNS, which corresponds to Section 302¹² of the old Indian Penal Code. This section is frequently utilized in situations where a person is slain under the premise of defending the "honor" of their family or community.

⁸ Ajuni Bedi, Honour Killings in India: Cultural Practices vs. Legal Provisions, available at: <https://lawchakra.in/blog/honour-killings-india-cultural-legal/> (last visited on April 16, 2025).

⁹ The Bhartiya Nyaya Sanhita, 2023 (No. 45 of 2023).

¹⁰ The Indian Penal Code, 1860 (No. 45 of 1860).

¹¹ The Bhartiya Nyaya Sanhita, 2023, S.101.

¹² The Indian Penal Code, 1860, S.302.

Section 103¹³, which addresses attempted murder, and Section 62¹⁴, which addresses criminal conspiracy, are also commonly utilized. This is especially the case in situations where numerous individuals, typically members of the same family or seniors in the community, are involved in the preparation or execution of the act. Furthermore, Section 3¹⁵ of the BNS, which applies to activities done by multiple individuals in pursuit of a common aim, continues to be significant in the prosecution of coordinated efforts in crimes of this nature.

Although these rules offer the essential legal framework to punish the physical acts of violence, they do not sufficiently address the special socio-cultural motivations that define honor-based violence. This is because these provisions are not intended to include such motivations. Given that there is no specific legal category for HBV, it is possible that the court system may fail to take into account the social and coercive dynamics that are responsible for the exceptional harm that these crimes cause. This lack of legal recognition is a reflection of a wasted opportunity to challenge the deeply ingrained patriarchal and casteist structures that frequently serve as the foundation for behavior of this nature.

The Special Marriage Act, 1954

The Special Marriage Act (SMA)¹⁶ was enacted as a progressive legal mechanism to allow individuals from various religions or castes to marry without having to change or renounce their beliefs. This was accomplished through the SMA. On paper, it respects the constitutional rights to freedom of choice and equality in the workplace. However, in actuality, the Act creates a number of problems, both in terms of procedure and social issues. During the statutory 30-day notice period, during which personal data are publicly displayed at the office of the marriage registrar, couples are put in a position where they are particularly vulnerable to being harassed, threatened, and even physically assaulted by members of their own families or community organizations.¹⁷

Furthermore, the SMA does not provide appropriate protective mechanisms to safeguard disadvantaged couples that break social standards. These mechanisms include shelter, police

¹³ The Bhartiya Nyaya Sanhita, 2023, S.103.

¹⁴ The Bhartiya Nyaya Sanhita, 2023, S.62.

¹⁵ The Bhartiya Nyaya Sanhita, 2023, S.3.

¹⁶ The Special Marriage Act, 1954 (No. 43 of 1954).

¹⁷ What is Special Marriage Act and who should consider it, *available at*:

http://timesofindia.indiatimes.com/articleshow/111105036.cms?utm_source=contentofinterest&utm_medium=te xt&utm_campaign=cppst (last visited on April 17, 2025).

security, and legal aid. Some examples of these mechanisms are. Consequently, the application of the law frequently leaves couples vulnerable and without support, despite the fact that it represents the spirit of secular and individual choice.

Protection of Women from Domestic Violence Act, 2005

Under this historic legislation, the definition of abuse was expanded to cover not only physical harm but also emotional, verbal, sexual, and economic abuse. The purpose of this legislation was to protect women from violence that occurred within the household where they lived. Within the framework of domestic abuse, it provides a certain level of protection to women who are subjected to pressure, confinement, threats, or violence from members of their family as a result of decisions regarding love, marriage, or behavior that is seen to be "dishonorable."¹⁸

The implementation of this method in HBV cases, however, is still restricted. The law focuses primarily on domestic spaces and violence between intimate partners, but it does not completely accommodate the collective and frequently community-sanctioned nature of crimes committed in the name of honor. To add insult to injury, the success of the Act is greatly dependent on the willingness of local authorities and protection officers to act quickly, which is something that is regularly hampered by societal bias and administrative lethargy.¹⁹

LAW ENFORCEMENT AND IMPLEMENTATION CHALLENGES

In spite of the fact that India's constitutional and legal structure has the intention of promoting justice, equality, and individual liberty, the reality on the ground presents a far more complicated and frightening picture, particularly with regard to the issue of honor-based violence (HBV). Even when there are legislative measures in place, the application of such requirements is plagued with many hurdles, including social prejudices, institutional apathy, and systemic barriers.²⁰

¹⁸ Pami Vyas, "Reconceptualizing Domestic Violence in India: Economic Abuse and the Need for Broad Statutory Interpretation to Promote Women's Fundamental Rights," Volume 13 Issue 1, 2006

¹⁹ Mohammed Subhan Hussain, "Crimes Of Honour: Formal And Informal Adjudicatory Systems In India And Pakistan To Enforce And Contest Honour Crimes", 2021.

²⁰ Mohammed Subhan Hussain, "Crimes of honour: formal and informal adjudicatory systems in India and Pakistan to enforce and contest honour crimes," 2022.

Lack of a Specific Law

In India, the absence of a specific legal provision is one of the most fundamental problems that must be overcome in order to adequately battle HBV. In the absence of a specific statute that recognizes honor-based violence as a unique category of crime, crimes of this nature are sometimes included under more general and generalized offenses, such as homicide, assault, kidnapping, or criminal intimidation. Not only does this result in legal remedies being fragmented and inconsistent, but official data also fails to accurately reflect the true scope and nature of HBV, which is prevalent throughout the country. The state is ill-prepared to respond to what is really a social and cultural catastrophe that is cloaked as criminal behavior because of this underreporting, which hinders both public awareness and the formulation of legislation.²¹

Police Inaction and Social Bias

Especially at the municipal level, law enforcement agencies frequently reflect the patriarchal and conservative beliefs that are common in the communities that they are tasked with protecting and keeping safe. It is possible for law enforcement agents to disregard allegations on the grounds that they are "family matters," to refuse to register First Information Reports (FIRs), or, in certain instances, to openly cooperate with village elders, khap panchayats, or even the criminals themselves. When victims attempt to report abuse, they usually come against attitudes that blame the victim. These attitudes are characterized by the perception that the victim's personal choices, such as marrying outside of their caste or religion, become provocations rather than rights.²²

Additionally, there have been occasions in which law enforcement authorities have returned runaway couples to their families without taking any precautions to ensure their safety, while being aware of the potential dangers involved. Such actions, whether they are motivated by prejudice, fear of local backlash, or simply apathy, severely weaken trust in the legal system and embolden those who commit HBV under the premise that they would face little to no consequences for their conduct.

²¹ Ananya Singh, *"Legislative Silence: Confronting The Barriers To A Law On Honour Crimes In India"*, 2025.

²² National Commission for Women, *"Equal Justice To Women: Role Of Courts And Judges"*, available at: <http://ncw.nic.in/sites/default/files/Gender%20Sensitization%20of%20Judicial%20Personnal.pdf>

Intimidation, fear, and social isolation

When it comes to honor-based violence, the fact that it is not committed by outsiders but rather by members of one's own family or community networks is perhaps one of the most terrifying features of this specific type of violence. Because of this dynamic, an atmosphere of profound psychological trauma is created, in which victims are frequently coerced into refraining from speaking out by the very individuals on whom they ought to be able to rely for protection.²³

In particular, women are subjected to extreme scrutiny and emotional manipulation when it comes to the workplace. In the event that they do not adhere to the demands of their family, they may be ordered to remain in their homes, cut off from social support, or threatened with physical harm. In circumstances like these, it is nearly impossible to find someone who can provide legal assistance. Even when women make an effort to flee or seek shelter, the absence of readily available support services, such as safe homes, legal aid, and trauma counseling, further reduces the likelihood that they will be able to obtain justice or protection.

In many instances, victims are compelled to withdraw their complaints or desist from taking legal action completely because they are afraid of retaliation, the loss of familial ties, and the ostracism of the community members. The climate of fear and silence that exists now makes it possible for a cycle of violence to go unchecked, frequently spanning multiple generations.

CONCLUSION

The issue of violence based on honor is not only a matter of cultural significance; rather, it is a grave violation of human rights that goes to the core of India's constitutional promise of dignity, equality, and personal liberty. Although the origins of HBV can be traced back to highly ingrained sociocultural norms, such as patriarchy, caste hierarchy, and inflexible expectations on marriage and female behavior, the repercussions of HBV reach far beyond the confines of individual families or communities. In particular, it is a failure on the part of the system to defend some of the most fundamental rights that are guaranteed to every citizen, particularly those rights that pertain to women and young people.

The Indian courts have, over the course of many years, taken praiseworthy measures to defend human autonomy, particularly in issues concerning marriage and personal choice. The right of

²³ Yasmine Loza, *"Women's bodies and lives as symbols of patriarchal codes: Honor killings"*, 2022.

consenting individuals to choose their relationships, free from interference from their families or communities, has been increasingly recognized by judicial rulings in recent years. These legal wins, however, are not always reflected in the actual practice of the law. The efficient prevention and prosecution of honor-based violence continues to be hampered by a number of factors, including institutional inadequacies, a lack of legal clarity, delay on the part of the police, and resistance from society.

Victims of intimate partner violence (HBV) are routinely abandoned by the very systems that should be supporting them. This includes law enforcement agencies who are hesitant to take action, social structures that shame rather than protect, and a legal system that does not possess the tools necessary to handle this specific kind of abuse in a comprehensive manner. These crimes are sometimes reduced to normal criminal activities since there is no special statute that addresses HBV. They are also removed of the social and cultural context that makes them more deadly and more difficult to combat.

Immediately, what is required is a reaction that encompasses multiple dimensions, including legislative reform, judicial sensitivity, police accountability, and community-level engagement. Not only would a separate statute on honor-based violence increase the clarity of the law, but it would also convey a clear message that crimes of this nature have no place in a democratic society. Concurrently, it is vital to challenge the mindset that enables honor-based crimes to continue to exist. This can be accomplished through public awareness campaigns, educational programs, and the empowerment of women and young people.

Reclaiming personal freedom, reinforcing constitutional morality, and ensuring that no individual is forced to choose between their safety and their right to love, live, and decide for themselves are the ultimate goals of the fight against HBV. In the end, the struggle against HBV is not simply about criminal justice. Our institutions and society as a whole will need to demonstrate bravery, empathy, and an unshakeable dedication to justice in order to successfully navigate the path that lies ahead.

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