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HONOUR KILLING AND GENDER JUSTICE: A STUDY OF PATRIARCHY, CASTE, AND CONTROL

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ABSTRACT: Honour killing, the murder of individuals – primarily women – by family or community members for allegedly transgressing social norms, represents one of the most extreme forms of gender-based violence. In India, this practice is deeply rooted in the patriarchal social structure and the caste system, which together operate as a powerful mechanism of social control over women's sexuality, mobility, and marital choices. This dissertation undertakes a comprehensive examination of honour killing in India through the intersecting lenses of patriarchy, caste, and the law, with particular attention to the failure of existing legal mechanisms to provide adequate redress and deterrence.

The study adopts a doctrinal research methodology, drawing upon primary legal sources including constitutional provisions, statutes, and judicial decisions, as well as secondary sources comprising academic literature, government reports, and data from the National Crime Records Bureau. The research reveals that honour killings in India are not isolated criminal acts but systemic manifestations of a patriarchal order that treats women as property and vessels of family honour. The caste system, with its rigid insistence on endogamy, provides the immediate trigger for many honour killings, particularly those perpetrated against couples who choose inter-caste or inter-religious marriages.

Keywords: Honour Killing, Gender Justice, Patriarchy, Caste, Khap Panchayats, Indian Penal Code, Shakti Vahini, Endogamy, Bodily Autonomy, Women's Rights.

1.1 Introduction

The concept of honour, as understood in many patriarchal societies, is paradoxically disembodied from the individual and vested in the collective identity of the family, clan, or caste group. When this collective honour is perceived to have been violated – typically by the actions of a woman exercising agency over her own body, sexuality, or marital choice – the response of the patriarchal order is often violent, sometimes lethal. Honour killing, therefore, is the logical culmination of a belief system that treats women not as autonomous human beings with inherent dignity and rights, but as commodities whose value is contingent upon their compliance with patriarchal norms.

In India, the phenomenon of honour killing presents a particularly complex and deeply disturbing picture. It intersects with the caste system, which has for millennia dictated that marriage must occur within one's caste (endogamy) and, in many communities, outside one's gotra (clan exogamy). When a young man or woman dares to defy these twin imperatives of caste by choosing a partner from a different caste or religion, or even from the same gotra, the perceived violation of honour can trigger extreme violence. This violence is not merely private; it is frequently sanctioned, encouraged, and even mandated by community institutions such as khap panchayats, which are informal caste councils with no constitutional or legal authority but with enormous social power in rural northern India.

The data on honour killings in India, to the extent that it exists and is reliable, paints a grim picture. The National Crime Records Bureau (NCRB) began formally recording honour killing as a distinct category only relatively recently, and even then, the figures are widely believed to be gross underestimates because many such killings are reported as suicides, accidents, or undetermined causes of death (NCRB, 2021). Non-governmental organisations and independent researchers have consistently estimated the actual incidence to be far higher than official figures suggest. Studies by organisations such as Honour Based Violence Awareness Network and Indian development reports have estimated that hundreds of honour killings occur in India annually, with the highest concentrations in Uttar Pradesh, Haryana, Rajasthan, Punjab, Bihar, and Jharkhand (Banerjee, 2014).

The victims of honour killing are overwhelmingly young women and, in many cases, the men whom they have chosen to love. The perpetrators include not only the women's own fathers, brothers, and male relatives, but also community leaders, caste elders, and members of khap panchayats. The nature of the violence is often extreme – murder by burning, stoning,

stabbing, or hanging – and is typically carried out in public or semi-public settings to maximise its deterrent effect upon other women who might contemplate similar transgressions (Welchman and Hossain, 2005).

The legal response to honour killing in India has been characterised by inconsistency, inadequacy, and institutional ambivalence. Courts have, in many instances, granted leniency to perpetrators on grounds of provocation or community custom, thereby signalling a tacit validation of the honour defence. At the same time, higher courts, particularly the Supreme Court of India, have in landmark judgments firmly rejected the honour defence, affirmed the fundamental rights of individuals to choose their life partners, and condemned the activities of khap panchayats. Yet, the absence of a specific law addressing honour killing and the socio-cultural conditions that breed it means that prosecution is often difficult, conviction rates remain low, and the deterrent effect of the law is minimal (Agnes, 2011).

The issue of honour killing is, at its core, an issue of gender justice. It is intimately connected with the broader struggle for women's equality, dignity, and freedom in India. The patriarchal ideology that justifies honour killing is the same ideology that perpetuates the subordination of women in the family, the workplace, and public life. The caste system that provides the immediate context for many honour killings is itself a system of hierarchical oppression that intersects with gender to produce compounded forms of discrimination and violence against women of lower castes in particular. Understanding honour killing therefore requires an intersectional analysis that takes into account the multiple, overlapping dimensions of patriarchy, caste, class, and religion.

This dissertation undertakes precisely such an analysis. It examines the phenomenon of honour killing in India through the lenses of legal analysis, sociological theory, and human rights discourse, with the aim of contributing to a more comprehensive understanding of the problem and to the development of more effective legal and policy responses. The research is informed by a deep commitment to the constitutional values of equality, dignity, and justice, which are the ultimate normative framework within which the phenomenon of honour killing must be evaluated and addressed.

1.2 Statement of the Problem

The central problem addressed by this dissertation is the inadequacy of the existing legal framework in India to effectively prevent and punish honour killings, and the extent to

which the practice is sustained by systemic patriarchal and caste-based ideologies that operate beyond the reach of the law in its current form.

India has a robust constitutional framework that guarantees the right to equality (Article 14), the right to freedom (Article 19), the right to life and personal liberty (Article 21), and the prohibition of discrimination on grounds of sex (Articles 15 and 16). The Supreme Court has progressively expanded the content of Article 21 to encompass the right to privacy, the right to dignity, and the right to choose one's life partner (*K.S. Puttaswamy v. Union of India*, 2017; *Shakti Vahini v. Union of India*, 2018). Despite this elaborate constitutional architecture, honour killings continue to occur with regularity, and perpetrators frequently escape punishment or receive inadequate sentences.

The Indian Penal Code, 1860, does not contain any specific provision addressing honour killing. Perpetrators are typically prosecuted under general provisions for murder (Section 302), culpable homicide not amounting to murder (Section 304), abetment of suicide (Section 306), wrongful confinement (Section 340), criminal conspiracy (Section 120B), and causing hurt (Section 323). While these provisions are theoretically sufficient to punish individual perpetrators, they are inadequate to address the collective and institutional nature of honour killing, which typically involves multiple actors including family members, community leaders, and khap panchayat members acting in concert.

The problem is compounded by the fact that investigations and prosecutions of honour killing cases are often compromised by the social and political power of the perpetrators and their communities, by the reluctance of witnesses to testify, and by the complicity of local law enforcement and administration in perpetuating caste norms. The Law Commission of India, in its 242nd Report (2012), recommended the enactment of specific legislation to address honour crimes, including provisions for the prevention of interference in marriages and enhanced punishment for honour killing. However, this recommendation has not been implemented. The proposed Prevention of Crimes in the Name of Honour and Tradition Bill has been drafted but not enacted, leaving the legal framework incomplete (Law Commission of India, 2012).

Further, the role of khap panchayats in ordering or sanctioning honour killings represents a distinct dimension of the problem that the existing law is poorly equipped to address. These bodies have no legal status, yet they exercise enormous coercive power over communities in rural India. Their activities constitute a direct challenge to the constitutional

order and to the rule of law, yet they have continued to function with relative impunity because of the social and political patronage they enjoy.

The problem, in sum, is that honour killing in India is not merely a crime but a social practice embedded in a patriarchal and casteist worldview that is reproduced through a complex network of social institutions, cultural norms, and power relations. Addressing it effectively requires not only stronger criminal law provisions but also a comprehensive strategy that addresses the social, economic, and cultural roots of the practice.

1.3 Significance of the Study

This study is significant for several interconnected reasons. First, it contributes to the growing body of academic literature on honour killing in India, which, despite the gravity of the problem, remains underdeveloped in comparison with scholarship on other forms of gender-based violence such as dowry death and sexual assault. By providing a comprehensive legal and socio-legal analysis of the phenomenon, the study fills an important gap in the literature.

Second, the study is significant for its analytical approach, which situates honour killing within the intersecting frameworks of patriarchy, caste, and human rights. This intersectional analysis is particularly important in the Indian context, where gender-based violence cannot be fully understood without reference to the caste system and its role in structuring social relations and hierarchies.

Third, the study makes a practical contribution by providing a comprehensive assessment of the existing legal framework and by developing concrete recommendations for legislative, judicial, and policy reform. These recommendations are grounded in comparative analysis of legislative approaches adopted in other countries that have enacted specific honour crime legislation.

Fourth, the study is significant for its engagement with the rapidly evolving jurisprudence of the Supreme Court of India on issues of personal liberty, privacy, and the right to choose one's life partner. By critically analysing the landmark decisions of the Supreme Court in this area, the study contributes to a better understanding of the constitutional dimensions of honour killing and of the obligations of the state to prevent and punish it.

1.4 Research Questions

The following research questions guide this dissertation:

- (i) What is the conceptual relationship between patriarchy, caste, and the phenomenon of honour killing in India, and how do these structures of oppression intersect to produce violence against women?
- (ii) How adequate is the existing legal framework in India, comprising constitutional provisions, the Indian Penal Code, and other relevant legislation, to effectively prevent and punish honour killings?
- (iii) How has the Indian judiciary, particularly the Supreme Court, responded to honour killing, and has this response been effective in deterring the practice and protecting victims?
- (iv) What legal, institutional, and social reforms are necessary to provide comprehensive protection against honour killing and to advance gender justice in India?

1.5 Research Objectives

The objectives of this dissertation are:

- (i) To examine the conceptual and theoretical foundations of honour killing in the context of patriarchy and caste in India, drawing upon sociological theory, feminist legal studies, and human rights discourse.
- (ii) To critically analyse the existing legal framework in India with respect to honour killing, identifying its strengths, weaknesses, and gaps.
- (iii) To study the judicial response to honour killing in India, with particular attention to landmark Supreme Court decisions, and to assess the effectiveness of the judiciary in addressing the problem.
- (iv) To undertake a comparative analysis of legislative and policy approaches to honour killing in other countries, with a view to drawing lessons for India.
- (v) To develop comprehensive recommendations for legislative, judicial, and policy reform to prevent and punish honour killing and to advance gender justice in India.

1.6 Hypothesis

The primary hypothesis of this dissertation is that honour killing in India is not a random or isolated criminal act but a systemic practice rooted in patriarchal ideology and caste-based social control, which operates through a complex network of family and community institutions, and that the existing legal framework, while providing a partial basis for prosecution, is fundamentally inadequate in the absence of specific legislation addressing honour killing and related offences, including the activities of khap panchayats.

The secondary hypothesis is that the constitutional right to life, dignity, and personal liberty under Article 21, as progressively interpreted by the Supreme Court, provides a strong normative foundation for comprehensive legal protection against honour killing, but that this foundation remains underutilised in the absence of effective implementing legislation and institutional reform.

1.7 Chapter Scheme

The dissertation is organised into nine chapters. Chapter 1 provides the introduction, statement of the problem, research questions, objectives, and hypothesis. Chapter 2 presents a comprehensive review of the relevant literature, including books, journal articles, and official reports. Chapter 3 describes the research methodology employed in the study. Chapter 4 examines the conceptual and historical framework of honour killing, including its global dimensions and its specific manifestation in India. Chapter 5 analyses the relationship between patriarchy, caste, and honour killing, with particular attention to the role of khap panchayats. Chapter 6 provides a comprehensive analysis of the existing legal framework in India. Chapter 7 examines the judicial response to honour killing, with detailed analysis of landmark cases. Chapter 8 examines the broader gender justice dimensions of the issue and provides a comparative analysis of legislative approaches in other countries. Chapter 9 presents the key findings, tests the hypothesis, draws conclusions, and makes recommendations.