Chapter I

Introduction

1. 1 Origin and Background

The idea of human dignity is associated with the protection against the exploitation, and violation of inalienable fundamental rights. The term human dignity is commonly used for protecting the status and honour of the person, without which a person cannot live on the earth. Human dignity protects the civil, political, religious and social rights of individual. Human dignity is attached with the family, caste, community and society. Every society does have its own norms with pride of dignity. They maintain their dignity and status as per customary practices. Being a human we should treat all at equal footing irrespective of gender.

Every human life is precious and beautiful. One must pay respect to one’s human dignity. Therefore, notion of law is to protect the human life. Even before First World War, some writers expressed the view that there were certain fundamental rights known as ‘rights of mankind’ which international law guaranteed to individuals, both at home and abroad. Therefore it is universally recognised and the foundation of moral vision for the society. After Second World War International community concentrated on Human dignity as a core element for protection of human beings. It was pointed out that such rights comprised of the right of life, liberty, freedom of religion and conscience. The right to life with dignity
is a natural endowment. The notion of human dignity animates the concept of equality.

The emphasis on human dignity is laid in the UN Charter, Universal Declaration of Human Rights and several international covenants as also in the Constitution of India, which mentions ‘dignity of the individual’ as a core value in its Preamble.

The preamble of the Constitution of India contains the resolve declared by the people of India to guarantee enjoyment of basic human freedom and social justice to all with maintains dignity of the citizen. Thus to fulfill peoples resolve recorded in the preamble of the Constitution to maintain human dignity by guarantee offering fundamental rights in part III and social justice in Directive Principles in part IV. The people of India have agreed in all its organs and departments to respect human values and human dignities. Constitution of India has not given any specific provision about human dignity. Article 21 of Constitution of India states that the right to life has wider meaning which includes the right to life with human dignity. The right to life is not only correlated with human dignity but also it directs our attention to the very essential social issue of honour killing.

It is observed that, in many countries, women fall victim to traditional practices that violate their Human dignity. Honour Killing is one of the extreme violence mostly perpetrated on women by men. The practice of Honour killing is a gross violation of the right to life with human dignity and the worst possible form of discrimination based on sex, caste, and communities. Honour Killing is a traditional practice that

---

originated over 2000 years ago and it was carried out many countries. Origin of Honour Killing took place in Baluch and Pashtun tribe custom\(^3\). Now International Women’s Human Rights group reports that, Honour killing also occurs in Bangladesh, Brazil, Ecuador, India, Israel, Italy, Morocco, Sweden, Turkey, Uganda and United Kingdom\(^4\). It is mostly prevalent in Muslim countries. In India, it is mostly prevalent in states such as Punjab, Haryana, and Western area of Uttar Pradesh and in some parts of Bihar.\(^5\) Number of cases is unreported. Honour killing is an affront to Right to life with human dignity.

### 1.2 Right To Life With Human Dignity

Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all human individuals by virtue of their humanity alone.\(^6\) Every individual has a right to live and live with human dignity; same is enshrined in the Constitution by way of the fundamental rights. Constitution has not given any specific provision about human dignity. Article 21 of Constitution of India the guarantees right to life. It has wider meaning, which includes the right to life with human dignity. It is a fundamental right, without which we cannot live as human being and includes all those aspects of life which go to make a man’s life meaningful worth of life. Life is not simply a physical act of breathing, it does not mean merely animal existence it has a much wider meaning, which includes right to live with human dignity.

\(^3\) Law Z Vol.10 No.8, Issue 108, Aug.2010 P.10  
\(^4\) Law Z Vol.11, No.5, Issue 105 May 2010 .25  
\(^6\) Human Rights Questions and Answers leahlevin illustrated by plantu national book trust, India in collaboration with UNESCO publishing page 5
Article 21 as it deals with person’s life and liberty. “No person shall be deprived of his life or personal liberty except according to procedure established by law”.

The Supreme Court emphasized the fact that the right to life included in its ambit the right to live with human dignity, basing its opinion on a host of cases that had been decided in favour of this proposition. The right to dignity would include the right against being subjected to humiliating sexual acts.  

The Supreme Court observed in case of Francis Coralie Mullin v. Administrator, and Union Territory of Delhi\(^8\) that, the right to life enshrined in Art.21 cannot be restricted to mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity. In the case of Chamili Singh v. State of U.P\(^9\) in any organized society, right to live as human being is not insured by meeting only the animal need of man it is secured when he assured of all facilities to develop himself and is freed from restrictions which enables his growth. Air India Statutory Corporation v. United Labour Union.\(^10\)

The Preamble and Article 38 of the Constitution envisions social justice as the arch to ensure life to be meaningful and livable with human dignity. Right to life is a phrase that describes the belief that a human being has an essential right to live, particularly that a human being has the right not to be killed, by another human being. The emphasis on human dignity is also laid in the UN Charter, Universal Declaration of Human Rights and several international covenants.

\(^7\) Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan, 
\(^8\) AIR 1981 SC 746 
\(^9\) AIR 1996 SC 1050 
\(^10\) AIR 1997 SC 645
The right to life is not only correlated with human dignity but also it directs our attention to the very essential subject to honour killing practices family members for the sake of social status or so called their family honour is of status in the society they kills who brought dishonor of family, community.

1.3 Meaning of Honour Killing

The customary practice of Honour killing observed in all societies and in all periods. Honour crime is baneful by product of an evolving patriarchal social construct, where women are killing for a variety of reasons which for supposed illicit sexual relationship with other than husband, for marring men outside the decision-making of their families, i.e., marrying inter-caste or inter-religious, entail refusal to marriage proposal, being victim of sexual assault, seeking or getting a divorce from an abusive husband, or allegedly committing adultery or suspicion behaviors. The common perception of the society is that a woman must be castigated or even assaulted and murdered for bringing disrespect to her family; from her so called “deviant” or “dishonorable” behavior.

Honour Killing is a murder committed against women for actual or perceived immoral behaviour that is deemed to have breached the honour code of a household or community.

Human Rights watch stated that, “Honour crimes are acts of violence, usually murder, committed by male family members against female members, who are held to have brought dishonour upon the family. Mostly woman can be targeted by (individuals within) her family for a various reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce even from an abusive husband or (allegedly) committing adultery. The mere
perception that a woman has behaved in a way that “dishonour” her family is sufficient to trigger an attack on her life”\textsuperscript{11}.

According to RaoArif Ali Kahan ‘An honour killing (also called a customary killing) is the murder of a member of a family for social group by other members, due to the belief of the perpetrators (and potentially the wider community) that the victim has brought dishonour upon the family or community’\textsuperscript{12}. Mostly women and girls are the victims of honour killings as compared to men.

\textbf{1.4 Conception of Honour Killing}

Since ancient period honour is deeply rooted into tradition and customs of family, community and society. Conception of honour is regulated by male and female persons particularly women, and their sexual activities, exhibits the honour of the family male people are considered the safeguard of family honour. Women’s behaviours, activities reflected to entire family members. She will be considered as symbol of the family entire family honour depends upon the women’s chastity. Men should monitor over the women’s activity and liable for controlling her sexuality as violent conduct towards the women shows the power of men.

The conception of honour used to rationalised killings is founded on the notion that a person’s honour depends on the behaviour of others and that behaviour, therefore must be controlled. Indian society is an honour based society, family member trying to preserve that self-worth and social-worth the honour, Families, e.g. mother, sister, daughter, and wife. Women’s chastity will be as essential thing of honour. Men are considered as protectors of family honour and Concepts of honour killing


are connected with gender, especially with women sexual behavioural activities exhibits the family honour. Honour binds closely connected with women’s behaviours in his social norms of society, for that those violate it. They will be facing the music of death.

It is observed that, number of communities considered as once women’s honour is lost through her actual or perceived behaviour there is no way to restore again. Other members suffer those activities, i.e. shameful activities dishonour. In several incidents of honour killing took that place in a formal collective decisions of family members and sometimes community members involved into murdering the victim.

1.5 Statement of Research Problem

Indian woman gives challenge to the violation of right to dignified life. Harmful cultural traditional practices may directly violate the right to life of women, which are rooted in our society. She is still tied up by the rusted chains of religious customs and traditions. Violence against women is a very important issue of concern in the world. A woman has always been an object of gross and severe violence at the hands of man. She is often a victim of physical and mental harassment not only outside her house but also within the family. Hence, women are deprived form basic freedom and thereby are easily exposed to exploitation. Even after 69 years of Independence of India, she is not getting any freedom, liberty and dignity of life as ensured by Constitution. They are always dominated by male patriarchal society. Violence include, dowry death, Sati, Sexual abuses, Child-marriages, Infanticide, Feticide, Rape, Sexual- harassment, Murder, Honour Killing etc. Honour killing is one of the extreme violence perpetrated on women by men. It is an evil practice and a gross violation of the right to life with human dignity. It appears the worst
possible form of discrimination based on sex, caste, creed and communities.

In recent times the incidents of honour killing have become more prevalent some part of India. Every year thousands of people especially women are killed in the name of honour and most of these killings go unreported. These murders are considered private family affairs\textsuperscript{13}.

The United Nations Population Fund has estimated that there are 5,000 victims of honour killings in the world annually. However, many cases are not reported, and many deaths are reported as suicides. So it is difficult to know actual number. Under the heading of the Honour Killing (Customary killing) number of women and men are murdered across the country and it is increasing continuously.

It is observed that, in the state of Punjab found a large number of honour killings. According to data compiled by the Punjab police, thirty four honour killings were reported in the state between 2008 and 2010, ten in 2008, twenty in 2009 and four in 2010\textsuperscript{14}.

As per Indian Democratic Women’s Association (IDWA) shows the number of honour killings as approximately nine hundred in Punjab, Haryana and Uttar Pradesh, whereas rest of the country adds to the number by another three hundred. In 2007, approximately six hundred fifty five honour killing cases were registered. The Human Rights Commission of Pakistan (HRCP) six hundred forty seven women were killed in the name of honour in 2009 up by thirteen per cent from 2008 when five hundred seventy four such killing was reported. In the Northern State as high as ninety two per cent of the people disapprove of honour killing and related crimes, shows another study commissioned by

\textsuperscript{13} Indian Human Rights Law Review, Vol. No. 02December 2011, P. 235,236.
National Commission of Women which interviewed people from both urban and rural areas\textsuperscript{15}.

It seems that, Honour killing is not only a problem of our country; it is worldwide problem. It is mostly related to youth. Youth are the future of every country. Whenever we punish youth for daring to choose their own life-partner and marry with him or her, obviously we destroy future of our country as well as reduce energy and power of our own nation. It is observed that, mostly the victims were mainly young twelve to twenty-four years old; it creates fear among the youth, who may be intended to get married, due to this pressure that, couples tend to commit suicide. It is a severe violation of right to life with human dignity.

*KhapPanchayat* are opposing to right to choose a marriage partner. It is nothing but a murdering of humanity Number of Honour Killing cases is not reported. So far there is no any specific law to deal such crimes and whatever laws and policies exists in our country are not sufficient enough to create the fear in the mind of supposed criminals. In many cases customary caste *Panchayats* have given punishment to the women and men.

This problem is not limited for home, family, community, religion, and state but this is a problem of whole country. All government policies seemed to be failed to stop this problem.

### 1.6 Objectives of the Research Problem

The main objective of the study is to analyse the right to life with human dignity and how the violation of basic Human Rights took place through Honour Killing crimes in Indian society more particularly against women. Objectives of the research are -

1) To study the concept of right to life with human dignity of woman in Indian.

2) To study the existing legislative framework and role of Judiciary to protect the human life, liberty and dignity of women.

3) To trace out the nature and concept of honour killing in India.

4) To study the reasons and root causes behind Honour Killing in India.

5) To examine the various parameters to prevent the honour killing in India.

6) To study the International parameters to prevent the honour killing, especially against women.

7) To suggest remedies on the basis of research to prevent such menace from the society.

1.7 Justification behind Selecting the Present Problem

The research feels that, Right to life with human dignity and Honour killing is widespread problem across the India. Many reasons are responsible to increase such problem. Number of cases are not reported so far as there is no any specific law to deal such crimes and whatever the laws and policies exists in our country are not sufficient enough to create deter in the mind of criminals and antisocial elements. The Government has implemented some policies in terms of education awareness, against exploitation of any kind to control such problem but failed to control it. The Government should strictly punish offenders, who are involved in such crime of Honour killing.
The problem of right to life with human dignity and Honour killing is deeply rooted in society. Most important thing is that it is generally related to religion or caste. So it’s difficult to prevent such problem. People never like to change their traditional and customary practices to violate the human dignity.

Despite the numerous national and international provisions and Governmental efforts to eradicate the long established customary practice of Honour killing in India, it has persisted till this date, especially in rural towns/villages of the north states of Punjab, Haryana and Uttar Pradesh. Although reports of Killing due to inter-religious, inter-caste marriage, they still occur. Hence this being a very serious social issue researcher has selected this topic.

1.8 Scope of Research

This research problem has very wide scope. It is spread speedily at every corner of world. All corners are cover by such brutal and barbarous act of violence against women and honour killing. Woman has always been an object of gross and severe violence with the hands of men. Mostly women have often a victim of honour killing. In this crime, the offender is constrained to commit crime due to social and moral pressure to save ‘so called status or honour’ in the society. Though he or she does not want to murder of close relatives but only in the name of Honour of family, community and caste, murder is committed against offenders will. In this crime victim and offenders are daughter and father, wife and husband, sister and brother, daughter and mother, son and mother etc. This research may help to legislative reformers and in result helpful to social workers and further researchers etc.
1.9 Hypothesis / Researchable Question

01. The present legislative framework is not sufficient enough to prevent the honour killing.

02. The traditions/usages/customs prevailing in the society causes the problem of honour killing in India.

03. Whether the honour killing amounts to be honour related harassment and getting less deserved attention from the legislature?

1.10 Limitation

The honour killing is a very serious issue and evil in the society. The honour killing is a crime committed against own family member or member of society by their own near and dears. This offence generally occurs against women along with men. Since the crime of honour killing is a very crucial and comprehensive one, hence the researcher has focused honour killing as an offence women to complete the research work within the manageable time and meaningful way.

1.11 Review of Literature

The researcher has made an extensive survey of available statute, legislative and regulatory framework on “Right to life with human dignity versus honour killing in India a case study”. The researcher is also relied on textual material, statutes, judicial pronouncement, reports of law commission, national and international conventions and their reports, articles, journals, encyclopaedia, etc. which is the base of this research. The brief survey of literature visited and surveyed by researcher is as follows.
Justice Verma Committee Report Recommendations

Justice Verma Committee Report recommends that, to amends the criminal law (23rd January 2013). This report is also called as Verma Committee report. Various committee members, recommended the suggestions on amendments to criminal law and tried to have effective implementation of judicial system to be made and maintain peaceful society, led by the citizens against the failure of Government to provide a safe and dignified life for Indian citizens who are continuously facing various types of violence like killing in the name of caste, creed, religion, custom and tradition. Also to focus on the present role of judicial system expert bodies’ recommended need for stringent laws against the criminals. Researcher also agrees with this report because an Indian woman is always tied with the customary rites and customs. Some customary practices are barbaric and inhuman due to such evil customary practices number of young girls and boys are to be exploited any things and killed by the family members or their relatives.

Dr. N. K. Chakrabarti and Dr. Sachin Chakraborti ‘Gender Justice”, R. Cambray and Co. Private Ltd. Kolkata, First Edition, 2006,

The author has discussed that, emerging necessities of gender balance in law process in women related issues, violence against women and the law and causes and consequences of domestic violence and dignity of women. Authors also highlighted on human right and violence against women and empowerment in national and international perspectives.

The writer has introduced a new jurisprudence to help alleviate the suffering of mankind and enable every man and women to lead dignified life. The writer also covers details pertaining to fundamental rights, which sum up the scope and ambit of the right to life and personal liberty enriched in Article 21 of the Constitution.


The author has given details about Constitutional jurisprudence, Right to life and personal liberty and the most valuable among fundamental rights. Denuded of this, there cannot be a full-fledged human personality at all. In this sense it looks that the shortest Article 21 of constitution has conferred the largest freedom and human dignity.


The author gives emphasis on fundamental human values which are necessary for developing mutual respect people of various categories persons in the country and also explains various dimensions of human rights.

Manoj KumarSinha “Implementation of Basic Human Rights” LexisNexis Publication, Haryana, First (2013).India

The author has discussed details about concept of human rights, as well as interpreted and understood with changes brought in by developments in the social, economic, cultural, civil and political spheres. Furthermore he puts forth the guarantee of those inherent rights which
give strength to an individual to grow holistically with the faith and assurance. He has given international and regional mechanisms for the implementation of fundamental rights. This book also traces the development of non-derogable rights at the international level.


This book contains details about how law becomes an instrument as a social change; it says that, Law is a product of tradition and culture, offences against women and also provisions relating to the gender in justice existing in Indian society. It is also helpful to cleared notions about tradition


In this book given details about the fundamental rights and duties of citizen’s .and other constitutional provisions to the Indian citizens


The author has given literature on various issues explaining definition, concept of Rights and liberty, human dignity, honour and welfare of modern philosophy and various charters and treaties etc. that came into existence for effective enforcements of human rights to the Indian citizens.

Author has explains briefly concept, development and importance of human rights and the dignity of individual. Moreover he explains Right to life with human dignity along with other freedom available to the citizen. Author has highlighted on the crime against women as well as gender equality.

Arun Pal “ Honour Killing Culture, Dilemma and Ritual”, Edition (2012), publishing Arise Publisher and distributors New Delhi

The author has given emphasis on Concept of honour, honour rights or wrong, crimes of honour as violence against women, how dominating powers or the higher class in the society determines meaning as suits their interests as well as role of community, honour related violence and worldwide trends in honour killing.

Lynn Welchman and Sara Hossain, “Honour Crimes, Paradigms. And Violence against Women”

The author has given details about concept and meaning of honour killing, Role of community discourse in combating Crime against honour preliminary assessment and prospects, United Nation Approaches to crimes of honour and Value and meaning of honour crimes.


This book gives details about Indian women suffering untold misery and has been subjected to countless trials and also given conditions that oppresses married and unmarried women’. She has highlighted new dimensions to the concept of Domestic Violence across the world. Author evaluated the theoretical perspectives on domestic
violence and also discussed legislative responses to the problems of domestic violence against women.

**Manlj Kumar Sinha “implementation of Basic Human Rights” Lexis Nexis publication, Edition, 2013.**

The author has given details about concept of human rights and its meaning has to be interpreted and understood with the changes brought in by developments in the social, economic, cultural, civil and political spheres. It explores the various international and regional mechanisms for the implantation of fundamental rights and the jurisprudence which evolved from them.

**Amir H. Jafri, “Honour Killing Dilemma, Ritual, Understanding” oxford University Press**

The writer has tried to define the evil practice of honour killing as well as gives the detail explanations about the concept of such crime. He also discussed the number of cases about honour killing issues.

**1.12 Research Methodology**

The present study is descriptive, exploratory and analytical alone, hence the doctoral research method is employed for this research. The researcher has gone through various books written by various luminaries, international and national law journals and available resources. Various literature concerns with research problem is perused by researcher. These includes, available books, Law journals, periodicals, different provisions of laws of developing and developed countries, magazines, articles, encyclopaedia, research papers, news, newspapers, available reports of various survey conducted, articles published in workshops and seminars, various websites of internet sources and various other primary and
secondary sources etc. will be perused for examination, analysis, evaluation and critical study of the research problem.

However doctrinal research methodology used in order to critically analyse the Indian legislative framework including the laws, policies and the role of Indian judiciary with reference to right to life with human dignity and honour killing crimes.

1. 12. Plan of the Study

Chapter-I Introduction

This chapter gives brief idea about origin and background of the topic, theme of the research, its existing importance, objectives, significance, hypothesis, research gap and methodology employed in the study.

Chapter-II Right to Life with Human Dignity: Constitutional Jurisprudence.

In this chapter emphasis will be given on Constitutional jurisprudential aspect of right to life with human dignity of women in India. How the Constitution protect the rights of the citizens, irrespective of their caste, creed, religion, sex. Every human life is precious and beautiful, Therefore it must be protected and preserve with dignity. Researcher tries to trace the development and concept of human dignity in Indian society. Constitution has not given any specific provision about human dignity. Article 21 of Constitution of India the right to life it has wider meaning which includes the right to life with human dignity. Researcher also highlighted on national and international document also recognised the human dignity. It is the primary duty of state to provide protection of every citizen, along with that to preserve the human dignity through various facilities and conditions which explain in the Directive
Principles of State Policy, as well as in case of violation of right to life with human dignity what remedy available to the victim person. The researcher also tries to emphasis of women dignity in Indian society and how national and international instruments directly or indirectly protect the women dignity. How the right to life violated by the honour killing crimes, that also discussed in right to life with in the context to honour killing practice and in this chapter the this chapter also covers effectiveness of Constitutional provisions to protect the rights and dignity of the citizens.

Chapter-III Theoretical Perspectives of Honour Killing; a Case Study

In this chapter the researcher gives details about the origin, and historical aspect of honour killing. The practice of honour killing has been prevalent in a number of societies and is not confined to particular communities. Honour is the most precious thing in Indian society, every member of the society tries to protect and preserve the honour, reputation of individual and their family. Honour killing is a social evil practice is emerged by number of behavioural activities of women involved in immoral activities. Researcher briefly discussed concept and misconception about honour killing which is prevailing in the Indian societies. Honour killing is a murder committed against men or women for actual or perceived immoral behaviour that is deemed to have breached the honour code of a house hold or community. Researcher tries to evaluate current scenario about increasing number of incidents of honour killing. Researcher briefly discussed, salient features, various causes and reasons of honour killing. Researcher has highlighted on the methods of punishments used by the family members and community in case of
dishonour of the family, caste, community. Researcher also highlighted on the religious and cultural perspectives of honour killing in Indian society.

Chapter-IV Aspects of Honour Killing and Human Rights

In this chapter the researcher analyses and discusses that, honour killing is an issue of human rights. Unfortunately several times women’s life deprived by men under the name of customary practice. Researcher tried to evaluate Honour killing crime includes any kind of abusive behaviour, torture, mutilation, rape, forced marriage, by confining within the house and even committing murder with intending to preserve and protect the family honour. Honour killing practice is a curse to Indian society. Researcher also discussed that, Honour killing crime is nothing but gender based violence. The role of Khap Panchayata in the honour killing crime, as well as how this non judicial system resolves the customary matters and how regulates the society. Researcher has discussed that, Honour killing is violation of women’s rights and violate number of International and National legislations. Basically honour killings are inhuman, cruel act which violates the natural right.

Chapter-V National and International Perspective to Prevent Honour Killing

In this chapter the researcher deals with National and International legislation in order to protect the persons. Mostly women or girls become victims of the honour killing crime. Researcher tries to trace out, every year thousands of women are killed in the name of honour killing for preserving and protecting the family honour. Researcher also find out, that in modern era there are number of National and international laws available. Even then under the name of customary practices frequently honour killing incidents took place in the society. Researcher find out,
what are the international mechanisms to curb the evil practice of honour killing National and International level. As well as pointed that there are national level commission for women to protection from the barbaric and brutal violence.

**Chapter-VI Judicial Response on the Issues of Honour Killing In India**

The researcher gives the detail account of judicial pronouncement of various courts including Supreme Court on the basic issues of honour killing. Researcher also made attempt to assess the impact of the decisions of the court on the problem of right to life with human dignity and evil practice of honour killing. Researcher elaborated and tried to find how the judiciary challenge to KhapPanchayat jurisdiction. Researcher finds how the caste system is cruse to nation. Researcher discussed criminal jurisprudence of honour killing, and how it comes under the category of the ‘rarest of the rare’. Researcher has also discussed that, there is no specific law to deal with honour killings, the murders under general categories of homicide or manslaughter, when mob of community or caste has carried out such attacks. The researcher has also discussed initiatives taken by the government to curb practice like honour killings.

**Chapter-VII Conclusion and Suggestions**

On the basis of extensive research work the researcher suggested some solid conclusion to overcome the issue of honour killing. These conclusion and suggestions are based upon an extensive study made by the researcher during the research period. Researcher strongly believes that, the solutions in the form of conclusion and suggestions will defiantly helpful for eradicating evil practice of honour killings.