Chapter III

Theoretical Perspectives of Honour Killing:
A Case Study

3. 1 Introduction

In the previous chapter the researcher discussed that, the Constitutional aspect to the right to life with human dignity, how the Constitution protects 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 has focused on that, the development of concept of human dignity in Indian society. Constitution has not given any specific provision about human dignity, but in Article 21 of Constitution of India the right to life it has wider meaning which includes the right to life with human dignity. It is 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 life 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.

The human dignity is not only recognised by our Constitution but also acknowledged international documents. 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 as explained in the Directive Principles of State Policy, as well as provides remedies in case of violation of right to life with human dignity. The researcher also discusses about 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 context to honour killing practice.

Indian society is a multicultural and pluralistic where lot of beliefs and faith regulate the human life of the individuals. As we have multi-religious society and many religious gurus, social reformers guides the society their and create influence is observed over Indian culture. The Indian spiritual holy books i.e., The Bhagvat Gita, The Mahabharata, The Ramayana, The Quran, The Bible, etc. have been model of thinking pattern on Indian society. The caste system as well as tradition patterns have conclusive religious influence over the individual.

It is observed that, honour is the most precious thing in Indian society. It varies from culture to culture, religion to religion and place to place. Women in all societies are the transmitters of history, custom and traditions of their community. Significance of family honour is considered as ideal and cultural family unit in the society. All Indian societies’ family members are bound with the various principles of religious rites, customs and traditions.

Over the years, honour killing has grown as a deep-rooted social evil. It has become bane for our society. It is the cause of atrocity on human beings unfortunately many death of young couples, young boys and young girls. It is a heinous, brutal and barbaric. Manu, the famous law giver said1 “where women are honoured there the God dwells”. In patriarchal societies, mostly women fall victim of honour crimes by the members of family. Sometimes men can also be the victim2 of honour

---


---

killing from the family members. It is one form of manifestation of male dominance. The gender specific violence is omnipresent. It cuts across all boundaries of caste, creed, class, religion, wealth or nationality. But in India, customary practices, religious beliefs, social conditions, patriarchal notions and above all her subjugate nature is making women more vulnerable. In India so, the family violence against women is on the rise in the country\(^3\). The basic reason for violence is their inferior status in male dominated society. Honour killing we normally understand that killing or murder is for the sake of honour\(^4\).

Justice K. Ramaswamy said “Indian women has suffered and suffering discrimination in silence self-sacrifice and self-denial are their nobility and even then they have been subjected to all inequalities and discrimination”\(^5\)

It is observed that, Honour killing existed 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 caste, refusal of marriage proposal, being victim of sexual assault, seeking or getting a divorce from an abusive husband, or allegedly committing adultery or suspicion behaviours. 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 “dishonourable” behaviour. Dishonourable acts that ultimately culminate to in honour killing also include divorce, adultery,

\(^3\) *Cri. Law Journal* April 2009, p.84
premarital sexual relations, and prenatal pregnancy or being the victim of a sexual assault or rape\textsuperscript{6}.

As per the estimation of United Nations Population Fund (UNFPA), that there are 5,000 victims\textsuperscript{7} 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 grasp actual numbers. Under the heading of the Honour Killing (Customary killing) no. of women and men are beings murder across the country and it is increases continuously. In India every year more than 1000 young people loses their lives for protection of honour and in the name of customary killing\textsuperscript{8}.

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. These so called Honour code are product of deeply rooted in patriarchal social and cultural prejudices, where by women are perceived and forced to bear all responsibility to maintain communal honour.

It is also defined as death that is awarded to a woman of the family for marrying against the parents’ wishes, having extra-marital and premarital relationship, marrying within the same gotra or outside ones caste or marrying a cousin from a different caste\textsuperscript{9}. Such crimes are acts of violence committed against women or girls who are considered to bring to shame on the family members and caste community. When such customs and traditions are seen to been violate the family code and honour has been violated and it must be restored on their own level. In this situations


\textsuperscript{7} Law Z, vol.11, N0. 02, Issue 114, Feb. 2011, P.15.

\textsuperscript{8} Magazine for Legal Professionals and students Lawyers updates Volume XVI, Part 08 ,August, 2010, P, 27

\textsuperscript{9} Law Z, Vol.10, No.8 Issue 108 Aug, 2010 p.10
family honour is restored by death of person accountable for violating it. Honour killing took place different ways including burning, poisoning, hitting axes, stoning, and shooting etc. often result in death. Women or girls are exceptionally given the option to present her version of the allegation.

It is observed that, the crime of honour killing often victims is the own family members or some time social group member. In customary killing of victim and offenders may be mother, father, wife and husband, sister and brother, daughter and mother, son and mother or the alike farther/ mother in law and daughter in law.

It seems that, recently an honour crime case has been increase and in current scenario the state has remain mute therefore a lot of fear created among the young generation and couples who are married and some of them intending to get married. This is a direct violation of the rights\textsuperscript{10} to all peoples. As per guarantees to the citizens of Indian certain fundamental freedoms\textsuperscript{11} which are exercisable by them throughout the territory of India, one of these includes the freedom to like which was held in the case of \textit{Jagmohan Singh v. State of Uttar Pradesh}.\textsuperscript{12} Article 21 of Indian Constitution confers to the fundamental right to life and personal liberty every citizen No one has right to directly interfere with a person’s life or liberty unless there is a procedure established by law, thus the families taking the law in to their own hands, there is a clear departure from the provisions enriched in the Constitution. Several times victims are not provided safe guards in order to protect their life, by the established laws and state becomes failure to perform its duty\textsuperscript{13}. In India there is no any specific law to deal such crimes and whatever are laws

\textsuperscript{10}. Article 21 of Constitution of India
\textsuperscript{11}. Article 19 of Indian Constitution
\textsuperscript{12}. (1973) 1 SCC 20
\textsuperscript{13}. Maneka Gandhi v. Union of India 1978 1 SCC 597
prevails in our country are not sufficient enough to create deter in the
mind of criminals, due to strong hold of Jat Pancahyat in villages the
authoritatively gives punishments. In many cases customary Jaat-
Pancahayat caste-pancahayats has given punishment to the women and
men.

3. 2 Origin of Honour Killing

Historically there are no concrete clarifications about the origin of
Honour killings. Several writers stated that honour killing exists all over
the world, some stated that honour killing belonging to some societies of
South Asia and Middle East and which is deeply rooted in to customs and
tradition since ancient periods. Some scholars claim the practice of
honour killing took place in Baluch and Pashtun trible custom\textsuperscript{14} of
Baluchistan, and spread in different countries as they migrated to various
parts of the countries. In Baluchistan during the British colonial period the
custom of honour killing is clearly mentioned.

Honour killing (customary killing) is a traditional practice that
originated over 2000 years ago and is still carried out in many countries\textsuperscript{15}.
In Rome from ancient period being adultery and rape was seen
unprincipled acts in the society for preserving honour of family and
society they withdrawn the life of women. Honour crimes are evidence
from end to end of history in the culture and tradition of many countries\textsuperscript{16}.

In Greece society the woman is inferior to man and also suffered at
the hands of man\textsuperscript{17}. It has been noted that in ancient time Egyptian,
American tribes a number of women’s were convicted to extreme

\textsuperscript{15} Ibid
\textsuperscript{16} Umm Rashid “Honour Crimes and Muslims”
\textsuperscript{17} Ibid.
punishment under the name of honour crimes and loses their life due to adultery or suspicion to adultery.¹⁸

Honour Killing is one of the extreme violence perpetrated on women by men. Now International Women’s Human Rights group reports that Honour killing also occur in Bangladesh, Brazil, Ecuador, India, Israel, Italy, Morocco, Sweden, Turkey, Uganda and United Kingdom¹⁹. It is mostly prevalent in Muslim countries. In India, it is mostly prevalent in states such as Punjab, Rajasthan, Haryana, Uttarakhand and Western area of Utter- Pradesh and in some parts of Bihar.²⁰ Issues of honour crimes are rarer in south India, and also in the western province of Maharashtra and Gujarat states.

3. 3 Historical Aspects of Honour Killing

Honour killings and punishments have been documented over centuries among a wide variety of ethnic and religious groups throughout the world. For example, the Code of Hammurabi of Babylon which was issued in 1790 BC penalised adulterous couples by drowning. The 1075 BC Assyrian law of the civilization of Mesopotamia stated the father of a defiled virgin shall punish his daughter however he saw fit. In the Bible, the Book of Genesis, Judah demanded for the burning of his daughter-in-law Tamar, whom he was told to be pregnant via harlotry: this view is then supported in Book of Leviticus. Matthew Goldstein also noted that honour killings were encouraged in ancient Rome, where male family members who did not take actions against the female adulterers in their family were actively persecuted²¹.

In Rome being raped was seen as dishonourable to the point of destroying a woman’s life and reputation, and honour killing was

¹⁸. Ibid.
supposed to be merciful act. The term Honour killing is first used by the Dutch turkey expert of the University of Leiden Ane Nautain 1978.

The honour killing emerged in the pre-Islamic era but got strengthened in Islamic era. According to Sharief Kanaana\textsuperscript{22} “It is complicated issue that cuts deep to in the history of Arab Society”

According to Shaida Saroj\textsuperscript{23} that, the honour killing stemmed from the patriarchal and patrilineal society’s interest in maintain strict controlling over designated familiar power structures. What the man of the family clan to be sex control of in a patrilineal society was that women for tribe were consider a factory for making men. “The honour of family is very much depend on a woman’s virginity”

When we discuss about honour killing, it is essential for one to know about the history of honour killing. As how the changes took place in our society regarding during honour killing. Here researcher tries to trace the history of honour killing especially in ancient India, medieval India and at present.

3.4 Honour Killing Worldwide Problem

There are number of evil customary practices observed almost societies. 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 to-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 and Fundamental

\textsuperscript{22}. Professor of Anthropology at Birzeit University, Indian Bar Review, Vol., XL (1)2013, P 49

\textsuperscript{23}. Empowerment project at the Gaza community Mental Health project,
Rights. Honour violence occurs throughout world, from South America to Asia. There are large number of cases are reported mostly in parts of the Middle East and south Asia. The exact figures of how many men and women have been killed in the name of honour are unknown. Not all countries keep official statistic and it’s a crime that can be difficult to detect. But it’s believed that the numbers of deaths are in the thousands.

It is observed that in 2000, Asama Jahangir, a United Nations special rapporteur, reported that, the practice of honour killings are growing. The United Nations Population Fund (UNFPA) estimates that, the annual worldwide total of honour killings victims may be as high as 5000\(^{24}\). It shows that rate of customary evil practices is everywhere in the world. According to United Nations report of the special rapporteur concerning cultural practices in the family that are violent towards women, it indicates that violence against women all over the world.

It is observed that, by the Human Right Commission report that honour killing practice is not seen in India only; it carries its dark shades even in the other countries, like in the Bangladesh, Brazil, Israel, Sweden, Turkey, Uganda, Pakistan, Morocco and United Kingdom\(^{25}\).

### 3.5 Honour Killing; an Indian Perspective

Honour killing is deeply rooted in the history. The practice of honour killing in India may date back to thousands of years. The social structures, rules and blinding have been very strong for centuries and there exists an approval of the killings within the religion, community and social boundaries may have prevented the behaviours that would lead to such punishments. It is emerged in the pre-Islamic era and got


strengthened in Islamic period\textsuperscript{26}. The practice of honour killing has been prevalent in a number of societies and is not only confined to present day Pakistan or as is sometimes misunderstood, Islamic societies\textsuperscript{27}. This evil practice in modern history seems to have gained momentum since the partition of India in 1947. The tradition was first viewed most brutal and horrible during 1947 and 1950, when women were forcefully killed to protect the family’s honour. A lot of forced marriages and rapes were causing women from India to marry men from Pakistan and vice versa. This would trigger the hunt for the people marrying in other country, other religion or caste and when they return home, they would be killed so that the family honour is preserved and the family is not declared outcaste. The social environmental during this period caused women to be made victims for humiliation among conflicting communities leading to the humiliated families killing women of their own families. It is also observed that, not new for the Indian province, especially in the part of Haryana, Punjab, Uttar-Pradesh and Rajasthan etc. Most important thing is that it is generally related to religion, caste, communities and traditional view preventing in the society. This extreme form of crime is existed in all societies and in all the periods. The correct record of honour killing cases not found in the number of countries. It is because the number of honour killing cases are seems to be registered as suicides or accidental death in the offices.

\textbf{3.5.1 Ancient Period}

Honour killing originate from ancient customs that have been incorporated to in many countries\textsuperscript{28}. A man’s ability to protect his honour is judged by his family and neighbours. Therefore he publicly

\textsuperscript{26} Indian Bar Review Vol. No.XL(1)2013,P.49.
\textsuperscript{28} Indian Bar Review, vol., XL (1)2013, P.25
demonstrates his power to safeguard his honour by killing against those who have damaged it. Another motive for honour killing is covering up shameful incidents. The concept of honour killing was unknown in Vedic time. The honoured position which the wife enjoyed in the family and society during the Vedic era gradually started declining. In matrimonial home she was less satisfactory.\textsuperscript{29} Manu suggested the ways and means to keep wife under subjugation and taking a clue from Manu, men may have adopted those ways and cruelly exploited women through ages\textsuperscript{30} there is no law on this earth has ever been to curb such social evils or heinous crimes.\textsuperscript{31} In India people prefer to marry within their caste or community.

As per ideal story, of Ramayana, King Rawana’s sister by name Shurpanakha had performed Gandharva (through mutual consent without intervention from either the parents or kinsmen of bride or bridegroom in arranging the marriage) marriage with the army chief, Viduth Julvey in a place called Kalikey Rawana feels as dishonour or shame to his family, for preserving his family honour, Rawana killed her husband. Hence one can say honour killing is existed from epic period.\textsuperscript{32}

\textbf{3.5.2 Medieval Periods}

During the medieval period women were placed behind the customary evil practices, like child marriage, sati, female infanticide, honour killing etc. developed rapidly covering a large area of country\textsuperscript{33}.

It is observed that, invasion of the country by the Muslims and British people brought about further position of women in the family and

\textsuperscript{29} Dr. R. Revathi “Law Relating to Domestic Violence”, Published by S. P. Gogia (H.U.F.) Hyderabad, Edition, 2004, P.1
\textsuperscript{30} Ibid
\textsuperscript{31} Ibid
\textsuperscript{32} Indian Express, newspaper dated, 11-01-2013, P.09.
\textsuperscript{33} Pretest Sharma, “Treatment for honour killing” http://www.legalserviceindia.com, accessed on 24\textsuperscript{th} Nov,2014
society had reached the maximum degree of deterioration. There were number of evil socio-religious customary practices, sinner customs, irrational must have crept to in the society. Perhaps the worst aspect of social degradation was the terrible sufferings and sufferings and social status falling women. In India generally peoples prefer to marry within their caste, community and religion. The idea of honour crimes can be seen from the Mughal period. During that period they introduced the concept of women as commodities, which forced the Hindus to kill their daughters to protect the dignity of family and their caste and community.

Perpetrated under the grab of preserving honour of the family, community, caste incidents often occur in the name of violence. The acts include put to public death without trial of couples, killing of man or woman it was treated as suicide. They use to act publicly beating, blackening of the face, social boycotts and impose fine etc.

### 3.5.3 Present Scenario

The evil practice of honour killings was carried out even after the independence of India. In the period of partition between India and Pakistan there where social evil practices was carried out. Several Indian Hindu girls forced married with the Muslims persons of Pakistan and also vice versa. The family members then traced those girls who were forced to in such marriages they were considered as dishonour of family, community and religion in order to preserve and to protect the honour and purity of family of caste, several women and girls. From that period it can be seen to be beginning of the customs of honour killing existing in

---

34. Ibid
Indian society. This practice was somewhat similar to that of Mughal period, but the ratio in which was practiced was much higher rate.

It is observed that, after seeking Independence, it was believed that India will usher to in a Modern National State wherein there will be no place for any kind of exploitation and suppression either in the name of caste, religion, and sex. Where in feudal practices and values of the past will be substituted by values of advocating equal rights for all citizens on values of equality, liberty and fraternity assuring human dignity.

In the globalisation era Indian culture considered as ideal culture throughout the world but Indian society is fully depended upon the multi-religious principles, multi-traditional cultures and multi-customary evil practices. Honour killing is rampant in the country in the name of customary practices. Because of this oppressive, evil nature customary practices several young couples have lost their lives, there is a threat created among the young people. The position of women in India is not satisfactory since time immemorial. Women have been treated as goods and cattle.

It seems that, most of the incidents of honour killing identified in the northern region of country, particularly Punjab, Rajasthan, Bihar, Haryana and Uttar Pradesh area and rarer identified in rest of the county. Now we can observe every year increase honour crimes in society, However, Supreme Court has directed and issued notice to take necessary actions in order to curb this evil customary practice. India is found diversities in multi-religious, multi-cultural, multi-traditional and multi-customary practice for study purpose researcher geographically divided in to two following regions.

3. 5.3 A) North India

North India includes the states of Rajasthan, Punjab, Himachal Pradesh, Haryana, Uttarakhand, Uttar Pradesh, Madhya Pradesh, Bihar, and Jharkhand. Indian society considered as an ideal society in the world, because of all states prevailing common ethics and performing different culture and different traditions by different religious people along with customary practices.

India is a secular country. Hence no state has no religion of its own or recognised any religion of state. Treats all religions are equally, India to secure to all citizens, “liberty of ..... belief, faith and worship”\(^ {38}\). Indian constitution gives concrete shape to the concept of secularism. It guarantees to every person the freedom of conscience and right to profess, practise and propagate religion\(^ {39}\). However the people are very particular to follow their religious beliefs including the customary and usages of practices. Particularly in the northern region society follow religious codes and norms.

According to Crime wing of Punjab police 2008 to 2010 near about thirty four cases of honour killing recorded. Taran District has a most backward and illiteracy areas in Punjab, from their sixteen cases recorded which is highest in India. Monthly there is one honour killing incidents took place in Punjab\(^ {40}\).

It is observed that, in Punjab, Haryana, and Uttar-Pradesh, since long period three states are seriously affected with number of evil customary practices. People of these states always strictly protect the religious codes and norms of society, for preserving honour of family and society victims liable for brutally death sentences. Out of country numbers of Honour killing incidents are identified in Punjab, Haryana,

\(^{38}\) Preamble of Indian Constitution  
\(^{39}\) Article 25 to 28 of Indian Constitution  
\(^{40}\) www.saharasamay.com/nation/676466616.html/ accessed on 14/07/2014 at 9 pm
and Uttar-Pradesh states\textsuperscript{41}. Several incidents also took place in Uttarakhand, Rajasthan and Bihar. When any person gets married against the wishes of family members, and sometimes marrying out caste or religion for that other family members and their relatives considered as dishonour of family so that honour killings occurs in this region. Even after existing number of legislatives laws, only few cases are reported in the concern office, several cases not yet reported in office. Rate of honour incidents are increasing every year in these area it is a complete failure to implementation of law and order in such states. Cases are not reported or suppressed by the society.

\subsection*{3. 5.4 B) South India}

South India includes Maharashtra, Orissa, Chhattisgarh, Andhra Pradesh, Telagana, Karnataka Tamil Nadu and Kerala states. These states are having their own culture and traditions along with their customary practices. The incidents of honour killing are also found in these areas but in hidden form, by way of suicide, under the name accident or by burning. The honours crimes are not confined to these areas alone almost every part of the country has been witness to such incidents\textsuperscript{42}. Several reformists such as Vivekananda Ramakrishna, Vidyasagar and Great reformists Raja Ram Mohan Rai brought awareness in the society about good and evil nature of customary practices. The incidents of honour killing are rarer in south region of India are very less incidents of honour killing but now days several incidents identified in Maharashtra state also.

\textsuperscript{41} All India Democratic Women’s Association (AIDWA) organized a one day Convention “In defense of Democratic and Human Rights against Barbaric Honour Killing”, In New Delhi in the Month of January 2011.

\textsuperscript{42} The Presentation of Crimes in the Name of Honour and Tradition Bill, 210
For example recently in Parbhani district in order to protecting family honour parents father Laximan and mother Anjanabai killed their daughter for unmarried girl found pregnant⁴³.

### 3.6 Nature of Honour Killing

When we discuss about the concept of ‘Honour,’ we must remember the word honour may vary from culture to culture, society to society. According to Cambridge Advanced Learners Dictionary the English word “Honour” stands for a Quality that combines respects pride and honesty. Honour is about a right to respect, in the sense of claim for respect. The community has a duty to respect is followed. If the code of honour becomes a reality only when it is made public, while moving to discussion on Honour killings be dealt with as a human right violation or should also crimes of passion be included.

Honour crimes treated by some justice system as crime strong emotionless, on the other hand they were treated as premeditated, collective and culturally sanctioned. In some countries uses as a defence of honour is a confine forcible; imprison power of law e.g. Pakistan, turkey, South America. An honour killing involves male as well as female members of a family, relative believed to have injury to the family honour. Her deaths bring back original honour of the family, community. All incidents of murder are committed under temper of passion. In Passion of preserves the honour of family, the male members do not feel hesitate to commit murder of their female members for bringing previous dignity and honour of the family and community.

Honour killing means death that is awarded to a woman of the family for marrying against the parents’ wishes, having extra-marital and premarital relationship, marrying within the same Gotra or outside ones caste or marrying a cousin from a different caste\textsuperscript{44}.

Honour killing also referred to as ‘customary killing’ or ‘Domestic public violence’ According to The Black’s Law Dictionary honour killing defines\textsuperscript{45} “A crime motivated by a desire to punish a person who the perpetrator believes has injured a person’s or group’s sense of honour”

There is neither any statutory definition for honour killing nor stands any precise definition otherwise for honour killing which can be said to be universally recognised. However an explanation prevalent is “the murder and forced suicide in the name of imposing certain moral values, the transgressions of which are professed as intolerable are honours killing”\textsuperscript{46}

According to Segen’s Medical Dictionary\textsuperscript{47} honour killing means “The killing of a woman by one or more members of her family after she has dishonoured (thought to have dishonoured) them in some fashion e.g. by committing adultery or other sexual indiscretion or by marrying against the family’s wishes”

As per Academy of judicial studies Honour killing can be defined as “The death sentence to the family or society members to a man or woman for marrying against parent’s wishes, having extra-marital or pre-martial affairs, marrying outside one’s caste or within the same gotra etc., in order to protect the social status and honour of the family”\textsuperscript{48}.

\textsuperscript{44} Law Z, Vol.10, No.8 Issue 108 Aug, 2010 p.10
\textsuperscript{45} Bryan A. Garner (ed), Black’s Law Dictionary, Ninth edition 2009 P. 428
\textsuperscript{47} Segen’s Medical Dictionary. Edition 2012 Farlex, inc.
\textsuperscript{48} Journal of Academy of Juridical Studies Feb, 2013, Vol, No .01, half yearly, P.149
According to Rao Ali Khan “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 community⁴⁹. Mostly women and girls are the victims of honour killings as compared to men.

The issue of honour crime has become prominent in the contemporary discourse of law and society. A substantial portion of literature has documented cases where women are brutally murdered for transgressing the familial code of honour.⁵⁰

As per the Human Rights Watch defines “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. A woman can be targeted by (individuals within) her family for a variety of 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.”⁵¹

According to Sharif Kanaana definition “it is complicated issue that cuts deep into the history of Arab society”. He stated that the honour killing stemmed from the patriarchal and patrilineal society’s interest in maintaining strict control over designed familiar power structures.⁵²

According to Sadia Saroj, “The honour of family is very much depending

---

⁵². Professor of Anthropology at Bzeit University,
on a woman’s virginity”. A woman’s virginity is the property of the men around her, first father, later a gift for her husband. The family is directly responsible of defending its honour.

According to Hinajilani, “A murder carried out by a family to punish a female family member who has supposedly brought dishonour on the family”. She said those acts which are the cause of dishonour can be-

- dressing in a manner unacceptable to the family or community
- committing adultery
- being the victim of sexual assault or rape
- pre-marital pregnancy
- asking for divorce
- desiring to marry by won choice,
- refusing an arranged marriage
- engaging in hetero-sexual sexual acts outside marriage
- in homosexual acts women and girls are killed at a much higher rate than men
- pre-marital sex
- having unapproved relationship
- marriage performed within same gotra
- inter caste or outside religion marriage
- extramarital relationship

Mostly women or girls are the victims of honour killing and men may be killed in the name of honour.

---

53. Empowerment project at the Gaza Community Mental Health Project, Indian Bar Review Vol No, XL (1)2013, P.49
54. Lawyer and Human Rights Activist
3. 7 Concept of Honour Killing

The notion of honour has fundamental importance in collective societies since the dishonourable conduct of an individual reflects upon the rest of the family members or community\(^{57}\). Honour is linked with each family members and community. In collective societies family is the core unit that the individual identifies with and is naturally a powerful institution.

According to Champ bell’s Honour is not important but it is whole worth of the family and it is symbolised in blood, purity bloodline bestows honour and this explains the onus on the chastity of women. Once the family honour onus tarnished it becomes imperative on the members to restore the honour; blood must be shed\(^{58}\).

The concept 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 honour, Families, e.g. sister, daughter, and wife, mother. Women’s chastity will be as essential things of honour. Men are considered as protectors of family honour.

Concepts of honour killing are connected with gender, especially with women sexual behavioural activities that exhibit the family honour. Honour binds closely connected with women’s behaviours in their social norms of society, for that those who violate it will be faces music of punishment.

\(^{56}\) E. G. In Pakistan If a man’s or family’s honour has been defiled by a woman alleged or real sexual behavior is only partly restored by killing her the so called Kari black woman, in order for the honour to be completely restored also the man involved in the relationship (Karo, Blackman) has to be killed. See Amnesty 1999, Indian Bar Review, Vol.XL (01) 2013, P.25.


\(^{58}\) Ibid
Since ancient period Honour is deep rooted to in 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 honours of the family males are considered the safeguard of family honour. A woman’s behavioural, activities reflect 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, violent conduct towards the women shows the power of men.

It is observed that, women in all societies are the transmitters of traditions of honour and reputation in a family, community and religion. In patriarchy social system male members are head of the family and have influence over the female member of family and considered more superior than women. Female family members are considered as inferior and weaker and have a need for men’s control and protections. Traditionally women are considered as objects and commodities not as equal to men, but treated as properties of male members and family honour is deepened on her activities. Her chastity and behaviour are considered as repositories of family honour, it will be valuable and precious thing in society and community. Women are responsible for maintaining honour and dignity of entire family members. When women or girl is committing actual or perceived behaviour for violating honour code of family or suspected of misconduct behaviours, or committing immoral activities against moral norms of custom and traditions this act will be considered as dishonour of family, community in order to restore the family and community honour as well as for preserving the customary practices family members they use to murdering their own daughter, wife, as well as son.
In several societies considered as once women’s honour is lost through her actual or perceived behaviour there is no way to restore again, other members suffers that activities. In several incidents of honour killing took place in a formal collective decisions of family members and sometimes community members involved in to murdering the victim persons.

It is observed that, customary killing evil practices of are emerged by the number of behavioural activities of women being involved in immoral activities such as refused to arranged marriages, frequently meeting creating illicit relations with strange persons, pre-marital sexual activity or extra marital relations apart from husband, raped victims are actual or perceived as brought shame to the family or mere suspicion is enough to bring disgrace of family

### 3.8 Misconception about Honour Killing

There are several misconceptions about customary practice of honour killing in Indian society.

The first conception regarding honour killing practice is only Islamic countries, but not like that there are other countries also honour killing practice also took place i.e. America, Bangladesh, Sweden , Europe, India , United kingdom and Australia.

The second misconception about honour killing practice is only limited rural areas i.e. Especially in the region of Uttar Pradesh, Rajasthan and Haryana rural areas, but not like that it is also spread all over areas in recently we find also in southern states and metropolitan cities like Hyderabad, Delhi, Tamil Nadu and Mumbai. The killing of Kuldeep and

---

59. See State of Missouri v/s Maria Isa,(1993) 850 S.W.2d 876. Supreme Court of Missouri, USA and Barca v/s R.(1975) 133 C L R. 82, High Court, Sydney and Melbourne, Australia and R v/s Dincer, (1983)1 V R 460 Supreme Court Victoria, Australia
Monica Case⁶⁰, Arushi Talwar case are suspected to be honour killing, Though one has to admit majority of incidents of honour killing took place in rural areas.

The third misconception about honour killing practice is that only limited religion i.e. Muslim religion, but not like that several incident of honour killing took place in other religion i.e. Hindu, Sikh and Christian communities.

The fourth misconception about honour killing practice is that only limited to the women or young girls, but not like that men or young boys are also suffer from customary killing

3.9 Salient Features of Honour Killing

Researcher identified some salient features of honour killing they are as

1) Honour killing is a collective form of crime, or violence where number of family members and sometimes other society, community members plan and do the act of killing collectively.

2) Honour killings are mostly committed against young women or girls for their actual or allegedly sexual activities.

3) The act takes place for control of women’s behaviour and marriage against the wishes of the family members.

4) There is no shaming of another’s feeling even when the girls or women are subjected to cruelty, or rape.

5) There is enormous pressure created on male members i.e. father and brothers to not to resolve the matter and to kill them.

⁶⁰ “Twist In Delhi Honour killing Cases”, Times of India News 22nd June 2010
6) Honour crimes decision is taken by number of persons including (father, brothers, uncle, cousin, mother and sister) conspire together in the settlement of question.
7) Victims are exceptionally given the opportunity to represent her version of the allegation.
8) Family members are more curious to punish when the victims are pregnant.
9) Defying of family for marriage, which violet the family’ honour.
10) In the act of committing murder the offender manipulates the justice system to get defence in the offence of murder.\(^{61}\).
11) Cultures of caste or communities lead to honour killing in society.
12) Honour killing crimes are based on perceptions of honour in order to control women’s sexuality in the society.
13) Honour killing is a pre planned crime which is done by the family members, sometimes including women who take a collective decision.
14) Mere perception, suspicion or rumour sufficient to consider it is as family dishonour to encourage killing of a girl or woman.
15) They will not give any opportunity to victim to prove his/ her dishonours actions.

3.10 Honour Killings are cultural defences

Honour is deep rooted to in tradition and customs of family, community and society. Conception of honour is regulated by male and female person particularly women, and their sexual activities, exhibits the honours of the family males are considered the safeguard of family honour. A woman’s behavioural, activities reflect to entire family members. She will be considered as symbol of the family. Entire family

\(^{61}\) Sec.302 of Indian Penal Code, 1860
honour depends upon the women’s chastity. It seems that, in order to restore the honour, to protect the family honour or community honour under the heading of customary practices family members commits murder, which brought the dishonour of family, community.

It is observed that, women or girls and men are killed in case of honour killing by community or family members assuming that they can again purity the community or family status or restore family honour, community honour. In Patriarchal form of society people who are keeping strong belief over customary practices. Number of times family members used to take cultural defence of murders case. Honour killing is strongly supported in Punjab, Rajasthan, Haryana, Bihar, U.P and many other parts of India.

3. 11. Reasons of Honour Killing

The major reason is mind-set and attitude of the patriarchal society to control the women by using authority in the name of social norms and community. There are various reasons found in the society for honour killing. A woman can cause that dishonour of the family due to several reasons; including refusing to enter into arranged marriage or choosing to marry, engaging in certain sexual acts.

Woman in the family too occasionally do support the honour killing of one of their own, when they agree that family is the property and asset of only male members. Even the mother of the victim (woman) may encourage an honour killing. In order to save the family honour or reputation of the family of other female members since many men in these societies will refuse to marry the sister of the shamed female whom the family has not chosen to punish, as a result of that purifying the family members by killing the suspected woman or girl.
Following are some of the basic reasons identified in various studies.

3. 11.1. Custom and Usages

Since ancient times Customs and usages are prevailing in Indian societies, families and communities. All societies, possessing beliefs over moral and ethical norms, all communities, families and religion consists their own norms ethics and moral rules and regulations, (values). Customs and usages are binding with every society, religion and family. These are very significantly playing roles in the life of every religion, communities and family male or female members, there must be obliged by people otherwise it will be treated as dishonour of family, communities and religion.

Custom means a uniform behaviour with a belief that it is compulsory to follow such mode of conduct. In another way to say, conducts which people feel obligatory to practice. A custom which is a mode of conduct arises by the practices initiated by the people in the society.\(^{62}\)

It is unfortunate that even after sixty five years of Independence; the situation of customary practices not changed even though number of laws passed by parliament. Indian peoples are still tied up by with the rusted chain of religions customs and usages. Several customary evil practices are prevailing in the society, community and family, which are still, followed today also, e.g. child marriages, suicide, dowry death and honour killing etc.

As per Hindu marriage Act, 1955, “The expression Custom and usages signify any rule which, having been continuously and uniformly

observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family;

Provided that the rule is certain and not unreasonable or opposed to the public policy;

Further that in the case of a rule applicable only to a family it has been discontinued by the family, Siromani v. I. Hem Kumar in this case court held that Custom is a rule which in a particular family of in a particular district has from long usage obtained the force of law.

According to sociologists Customs may be defined as “A habitual course of conducts generally observed in community”. In Sanskrit, equivalent of custom is ‘sadachar’ which means “the approved usage or usages of the virtuous man” Custom is thus rule, which as the result of very long usage has obtained the force of law in a particular community or in a particular district. Custom must be valid, certain reasonable and continuous used by the society, community and family members.

Basically customs and usages are connected with religions. But it is true that some tradition, customs and usages are good for the society, and some are the harasser of other peoples. Some rights are withdrawn by the customary practices, which generally used by the elder members of the society, community and family members. These people are always ready to preserve the honour of the society, community and family. Sometimes eminent people of the society exploit the situations by announcing death sentences to victims, e.g. honour killing

Researcher found that sever incident of honour killing took place due to non-following customs and usages of the societies, community and family members and it is considered as dishonour of the family and

63. Under Section 3 (a) of the Hindu Marriage Act, 1955
64. AIR 1968, S C , 1299
community, in order to retain their honour, they used to kill their own family members.

Normally as per customary practices the youths are not allowed to choose their life partners for marriages. Habitually the head or elder members of family i.e. Father, mother, grandfather, grandmother, uncle aunt or elder brother choose the bride and bridegroom, for marriage. Since olden days we observed this practice continued in the number of religion. No one dared to disturb this practice because it will be treated as against the morality. All societies, community follows customary way of marriages, i.e. arrange marriages. They are strictly prohibited for inter-caste marriages, inter-religious marriages in the community.

It is observed that, if anyone tries to do marriage by the inter-caste, inter-religion, choosing their own life partner against the wishes of parents, or having extra-marital relations, before marriage, and fall in love they will considered as against the norms of society, religion and dishonour of the community and family, so that in order to preserve the family honour they commit murder.

Normally traditional attitude towards arrange marriage never changed by the people. Even today under patriarchal society women always considered as property of man that concept will be continuous. Researcher is not against the traditional belief system that existed since long times in India.

3.11.2. Male Dominated Societies

However, Patriarchy system, customary and traditional patterns of life has inferior position of women to insignificance; women suffer this discrimination mutely. Women are subject to exploitation both in the house and outside the house (society). Gender based discrimination haunts a woman at all the of her life stages. The birth of daughter is
considered as bad luck. Growing a girl child is considered as a burden for the family. At the tender age of she is under influence of father, after the marriage she is under the influence of her husband, and at the old age she will be under influence her son. In spite of the enactment of number of laws, the position of woman has not changed. The home has become the least safe place for women, whereas it has become the safest place to men to commit violence against women. It is unfortunate that even after sixty five years of Independence, the status of women has not changed. Even though the Constitution of India affords, the Constitution guarantees fundamental right to equality status of women. Women are still tied up by the rusted chains of religious customs and traditions.

It is observed that, legal and cultural traditions all over the world have historically granted men the permission to beat their wives or even kill them in certain circumstances. Manu also directed that, a wife should be considered of no more importance than a chattel. Over this 21st century, society shamelessly accepts the violence by name in the name of custom and traditions. Madhu Kishwar v. State of Bihar in this case Justice K. Ramaswamy clearly stated that “an Indian woman has suffered and suffering discrimination in silence self-sacrifice and self-denial are their nobility and when then they have been subjected to all inequalities and discrimination.”

By nature itself human being discriminates as men and women depending upon sexuality features. They play equal role during performing their cultural and traditional in society. Though men and women are treated as two wheels of life but unfortunately our society

66. Article 14 of Indian Constitution
68. AIR 1996 SC 1864
gives more importance to men than women. Most of times women always considered as inferior to men because our traditional practices in our society is fully male dominated society. She is discriminated in her family, irrespective of their class, ethnic or caste, religious group male has powerful in nature. She considered as property of male as just like a property use and throw. However, patriarchy and traditional patterns of life have regarded women to a position of insignificance. They subjected to exploitation both in the house and out of house i.e. in the society.

Since birth to tomb she lived under the supervision of male people. A growing female child considered as burden of family, and at the tender age she will be under the father’s custody, after marriage she is slaves of her husband and during old age she will be under the custody of her own son. A woman has always been object of gross and severe violence at the hands of man and customary evil practices. According to Manu, where women are honoured, god dwells there. But for centuries women all over the world have not only been denied justice-social, economic, political but taking it as a weaker sex they have been abused and exploited in various ways.

Researcher is of the view that, some those male dominations in different activities against the women like, sexual harassment, female foeticide, violence, killing in the name of honour etc. Woman is not safe in her house; she is harassed at the hands of husband and their relatives in the name of customary and dowry customary practices, and outside the house, in society women sexually harassed at work places. Thus male domination is one of the major reasons of honour killing and several women lose their lives.

69. Ibid
70. Vishakha v. State of Rajasthan, AIR, 1997 SC 3014
In the case of Arushi Talwar\textsuperscript{71} the family members (mostly father) kill the youngsters (mostly female) on the suspicion of having illicit relations or on exercising right to choose their life partners, be finding men or committing immoral behaviour, as according to the offenders it would cause dishonour to the family, in order to protect the family honour they killed daughter.

\subsection*{3.11.3. Lack of Education}

It is said that, education is a third eye of human being. It is considered to be one of the tools to live better in the society\textsuperscript{72}. It is a unique asset for women due to literacy she will be aware of good and evil nature of customary practices. Education can bring new changes in the life of women; they can shares their opinion and views with other persons.

Illiteracy is another major reason for giving scope to increases honour killing in our society and many women are killed. Illiterate women face several problems in her life like rape, forced marriages dowry problem, they could not understand in an orthodox way behave keeping blind faith over the customary practices and many women are killed due to suspicion and rumour. Due to illiteracy they could not identify their own power so that they are suffering violence which is committed at the hands of male. Due to lack of education women are unable to accept the reformed culture and refuse to adopt the legislative personal laws\textsuperscript{73}. They don’t want to come out in religious customary chain that’s why they suffer violence fall prey to customary killing practices.

\textsuperscript{71} In Delhi Arushi Talwar, case the police suspect that Aurshi may have been killed by her parents for sleeping with the servant., Honour killing case,22/6/2010 the times of India news paper
\textsuperscript{73} The Special Marriage Act, 1954,The Hindu Marriage Act, 1955
It is observed that, illiterate person is always against the love marriage and inter caste marriages, if someone dare to perform such type of marriage, the young couple is brutally killed in the name of honour killing. Their mind set is that the marriages must be perform within the religion, caste, community through arrange marriages only otherwise they will take revenge by imposing death penalty (Khap Panchyat) which is against the law.

3.11.4. Committing Adultery

Adultery means “sexual relationship not allowed by marriage or what is recognised in the society as equivalent of a legal union. “violation of the marital bond; sexual relations of a married person with one who is not his or her lawful spouse whether unmarried or married to another person called as adultery.”

Adultery is defined as “A voluntary extramarital intercourse with a person of the opposite sex, whether unmarried or married”, Adultery activities fearing to the honour of the family, community and religious people.

After marriage women were treated as property of men therefore men kept a control over her behaviour and monitored her movements, friendship and conduct. If her conduct or behaviour found suspicious in nature, in order to protect the chastity of family and community norms male people used to killed women. Committing adultery considered as sinful act in the eye of tradition and culture of society, it is treated as illegal and immoral acts. Sometime her behaviour or conduct perceived to be immoral even then male people used to kills such women.

In Sapsford v. Sapsford an English judge, Karminski, J. observed that, “nobody has yet attempted to define adultery and we do not propose to rush in where wiser men have not,”\textsuperscript{76} Adultery has fairly established meaning in matrimonial laws. It means “consensual sexual intercourse between a married person and a person (whether married or unmarried) of the opposite sex not being the other’s spouse”. In short spouse who engages in extra-marital intercourse is guilty of adultery\textsuperscript{77}. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man\textsuperscript{78} such illicit intercourse are amounting as a adultery.

In Mangal Canda v. Emperor\textsuperscript{79} High Court of India (pre-partition) clearly show that it was a well-accepted norms that a husband could benefit from the exception of ‘grave and sudden provocation plea’ if he killed his wife of her allegedly lover on account of demonstrated adultery. In another case M.D. Zaman v. Emperor\textsuperscript{80}, Court held that, the act of adultery or illegal relations with another person and losses the temper of person under sudden provocation and murdered on account of adultery where the circumstances involved a woman to whom the defendant was not married, certain differences appeared in the rulings in a 1930 in Emperor v. Dinbandhu\textsuperscript{81}, case of the Calcutta High Court declined to extend the provocation defences where the accused was neither married to the woman involved nor could be regarded as

\textsuperscript{76} Sapsford v. Sapsford, (1954)P 394
\textsuperscript{77} Family Law By Dr. ParasDiwan, Published by, Allahabad Law Agency, Ninth Edition:2009, P.144.
\textsuperscript{79} A.I.R, 1925, Nagpur, 37, Dini v. Emperor A.I.R, 1926, Lahore 485, Lynn Welchman and Hossain “Honour Crimes, Paradigms and Violence against Women” P.82
\textsuperscript{80} A.I.R,1933, Lahore,165,
\textsuperscript{81} A I R, 1930 Calcutta 199
cohabiting with her. It is a defence of under section 299 of Indian Penal Code.

On the other hand, in *Potharaju v. Emperor*\(^{82}\) murder case, appeal 1932 the Madras High Court held that, One cannot supply considerations of social morality to a purely psychological problem. The question is not that her appellant ought to have exercised control but whether he lost control over himself, when a man sees a woman be his wife or his mistress in the arms of another man, he does not stop to consider whether he has or has not the right to insist on exclusive possession of her person as the case cited by the judge puts it. She is a woman of whose person he desires to be in exclusively possession and that is for the moment, enough for him, he thinks of nothing else. *Emperor v. Jate* in this case court held that, on ground of sudden provocation plea reduces sentences of accused persons\(^ {83}\).

In Post-Independence courts continued to hand down taken sentences to perpetrators of alleged honour killing ignoring the clear terms of the law, and granting male family members a virtual licence to kill their women on the pretext of honour where the benefit of a provocation plea was extended not only to premeditated murders but also to cases where men, were effectively given, authority to monitor women’s movements, and to kill them if they defied the social order. *Mohammed Sharif v/s The State*\(^ {84}\) in case the court held that the appellants admonishing his wife on her paramour’s departure did not minimise the gravity of the situation or the provocation offered. In such a situation even if the wife begs pardon and acts for mercy, yet if he kills her, conduct would still be mitigated and he would not be guilty murder.

---

\(^{82}\) A I R 1932, Madras 25(1),
\(^{83}\) A I R 1940, Patna 540,
\(^{84}\) Mohammed Sharif v/s The State, PLD 1987, Lahore 312, para 7, P.315,
Mohammad Saleh v. The State\textsuperscript{85} in case the Supreme Court held that a man who was looking for his sister on suspicion that she was meeting a man who subsequently killed her was entitled to plead provocation because at the village level and in many other social arenas, men’s right to control the actions of their women, particularly their sexual relations is fully recognised and forcefully maintained.

Mathappa Gunda Case\textsuperscript{86} in this case accused was on terms of criminal intimacy with one ‘Y’, the accused tried to prevent her going to ‘Y’ house and he caught her brutally killed her with sharp weapon, court held that it might amount to provocation, however finding of a spouse in the actual act of adultery or having just completed adulterous copulation have been held to be sufficient provocation.

In another Amer Singh case\textsuperscript{87} in this case both man and woman committing adultery are held to give grave and sudden provocation so that causing the death of either of them will be culpable homicide.

3.11.5. Low Status of Women

The sociologists had described the women by propounding different perceptions. In India, the history speaks that the women are considered as a Divine force but the multi-cultured Indian society placed the women at different positions. Thus, there is no uniform status of women in the Indian society. However, civilisation showed the overall evaluates the position of women\textsuperscript{88}. In Indian society the status of women is lower it will not become high, because of only patriarchal system. Not

\textsuperscript{85} Mohammad Saleh v. The State, PLD 1965, S C 446
\textsuperscript{86} AIR, 1954, Madras 538, Prof. S. N. Misra “Indian Penal Code”, publication, Central Law Publications, Allahabad, 16\textsuperscript{th} edition 2008, P. 430
\textsuperscript{87} AIR, 1936, M.B. 107
\textsuperscript{88} Dr. S. C. Tripathi “Women and Criminal Law”, Publication Central law publications Allahabad First edition 2010, P. 01
only men but also majority of women are responsible to create their status low than others. This is one of the reasons behind the honour killing.

According to the former UN special Rapporteur on violence against women in Indian society honour of women generally seen as residing in the bodies of women. Once lost the honour it will considered as dishonour and there is not any way it can be regained other society member bring the pressure to take violent action which will restore their position in society and honour is restored through killing.

The incident of Honour killing that had taken which were meditated by economic factors rather than family name and its biggest example is Rizwanur Rahman case, in Kolkata, where the groom was killed because of unequal social and economic difference between the bride and the groom\textsuperscript{89}.

In this case Shravanthi was twenty four years old, belonging to forward caste ‘Arya Vysya in Hinduism and fall in love and Shravanth wanted to marry with man who belonged to Kapu Caste her parent denied her choice and refused to marry, they hanged themselves and found a suicide note that, they have taken this extreme step due fears of society. This step taken by victims because of low status of Kapu caste man\textsuperscript{90}.

In this case women were hiding her backward-class caste and marry with higher caste man. In the first meeting she introduced as Pooja Mishra, When it became known that she belonged to a backwards-class her husband felt dishonour of family very angry and in order to preserve his family status and honour killed pooja\textsuperscript{91}.

\textsuperscript{90} “Couple end lives over honour”, Deccan Chronicle, Newspaper on dated,29/07/2013
\textsuperscript{91} “ Man kills wife belonging to backward class”, Times of India ,Newspaper 23/04/2012
3.11.6. Caste Systems

Caste system has been common basic feature of Indian society. Several society people have witnessed victims of number of customary evil practices, one of is a Caste system. It is divided to in several different types such as, high caste and low caste groups, depending upon community. Hindu caste consisting number of sub-caste, theyare raged in nature to follows their own customary practices; in case of violation of it they face music of consequences i.e. customary killings.

It is observed that, in India caste system is a special type of social satisfaction found mostly both in ancient and modern period. The English word is derived from; the Spanish word ‘caste’ which means breed, race, complex of hereditary qualities. Caste is the most dominant single aspect of Indian society. Caste were groups with a well-developed life of their own, the membership whereof, unlike that of voluntarily associations and of classes, was determined not by selection but by birth. Indian history witnesses that the family members killed in the name of honour daughters, sister, and wife for protection of honour. In olden days society was a victims of several evils practices, the caste system is one of the reason to kills victims.

Researcher observed that the reason for increasing in honour killing in Indian country is the fear of losing their caste status through which they gain many benefits which makes them commit heinous types of customary killing.

According to Dr. V. A. Smith “Caste is a group of families internally united by peculiar rules for observance of ceremonial purity, especially in the matter of diet and marriage”

93. G S Ghurye “Caste and Race in India” publication Bombay popular prakashan, fifth edition-1969 P.02
As per statement of *E.A.H Blunt* "It is an endogamous or collection of endogamous groups, bearing a common on its name, membership of which is hereditary; imposing on its members certain restrictions in the matter of social intercourse; either following a common traditional occupation or calming a common origin and generally regarded as forming a single homogenous community”.

Even in globalisation era Indian society is seemed to be attached with the caste based evil customary practices. Several incidents of honour killing increasingly trend being reported in the Haryana, Punjab, Western Uttar Pradesh and rest of the country, due to this caste system number of young couple losing their lives.

It is observed that, in rural region any turn aside from the caste system is intolerable. When an upper caste girl elopes with lower caste boy crossing limit of upper Hindu caste dictates of purity and dishonour. In a society carried with prejudices against lower caste and struggle with communal conflicts, a young couple who dares to cross the community limit of caste system is going to be severely punished. At times, the price for choosing a life partner would be a gruesome murder or public humiliation of the couple. It is considered dishonour for the family of higher caste.

*G. Krishan s/o Govindan v. Union of India*94, in this case Chief Justice *Katuja*, observed that-

"In fact, even today the so-called upper castes and even O.B.Cs. Often look down and insult the members of the Scheduled Castes and Scheduled Tribes. This can no longer be tolerated in this modern age of democracy. In the modern age, equality is one of the basic features which characterises this era. Today no people and no community will tolerate

---

94. *G. Krishan s/o Govindan v. Union of India*, W.P. No. 1224 of 1994 (reported in 2005 Cri L J 3811)High Court of Madras,
being treated as inferior and will oppose such ill-treatment, and will be justified in doing so. The truth is that even today, in many parts of our country Scheduled Castes and Scheduled Tribes are opposed and humiliated and violence is committed on them. For instance in many parts in western district of Utter Pradesh (e.g. Meerut, Moradabad, Muzafarnagar etc.) if a Scheduled Caste boy falls in love and marries (or want to marry) a non-Scheduled Caste girl, if often happens that both are murdered by members of non-Scheduled Caste community or the family members of the girl and this is called honour killing. Infect there is nothing honourable in this and this is an abominable, disgraceful and shocking practice which must be suppressed by the state”

In another popular case Arumugam Servial V. State of Tamil Nadu95, Justice Markande Katijua and Justice Gayan Sudha has passed as an order on the honour killing being reported across India. The Bench stated that,

“The Caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation united. Hence, in inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news is coming from several parts of the country that young men and women, who undergo inter-caste marriage, are threatened with violence. Or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If

---

95. AIR 2011 SC 18590
the parents of the boy or girl do not approve of such inter-caste or inter-religious marriages the maximum they can do is that they can cut off social relations with son or the daughter, but they cannot give threats or commit or instigate act of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We therefore, direct that the administration/ police authorities throughout the country will see to it that if any boy or girl who is a major under goes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are nor harassed by any one nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by the law..... Hence, we direct the administrative and police official to take strong measures to prevent such atrocities, the state government is directed to immediately suspend the district Magistrate/ Collector and of the district as well as other official concerned and charge sheet them and proceed against them departmentally if they do not, (1) Prevent the incident if it has not already occurred but they have knowledge of it in advance. (2) if it has occurred, they do not promptly apprehended the culprits and others involved and institute criminal proceedings against them, as in our opinion they will be deemed to be directly or indirectly accountable in this connection”.

Number of honour killing incidents took place due to mixed caste-couples. In Guntur East Godawari district (A.P.) P. Deepti twenty five years old belonging to highest cast “Kamma” who worked in IT HCL firm she married with her boyfriend who was belonging from lower caste “Kapu.” Her parents known every things about affairs they wanted
arrange marriage within the own same caste. Unfortunately it did not happen as that her father killed.  

In Mumbai, Bandra (Maharashtra state) Sushma belonging to Brahmin community married with her boyfriend Prabhu who was from lower caste man. Family members of Sushma killed Prabhu under impression to preserve the honour of family or community. Now Sushma lived with her in-laws house.

In another case as per statement of S.P. Manavjeet Singh Dhillon in Bihar district Nawawda in the village Mehrama Naveen Kumar was twenty five years old had married with a girl from another Dalit caste, two years back against her parents’ wishes in order to preserve honour of family and community he killed by in-laws family members by stabbing in stomach with sharp instruments and hanged with rope.

In Indore resident of Pardeshipura area girl Jyoti was in affairs with boy who resided near her house and wanted to marry him. For that her father was against it because boy was belonging to another caste.

The victim was made planned to run away, but her father got knowledge about that he tried to convince and tried to stop her, but refuse to change her mind and expressed her strong desire to marry him. In order to preserve family honour father killed his daughter and confessed before police.

A twenty year boy belonging to Dalit who fell in love and proposed in open school in full public view of upper caste fifteen years old girl, her brother felt it has a dishonour of his family. In order to protect the

---

98. “Dalit man Murdered allegedly by in-laws, a honour killing suspected” News form IBN Live, on dated,24/09/2013
honour of his family, community with the help of friends he killed the boy.100

3.11.7. Inter-Caste Marriages

Inter caste marriage means; marriages took place between person of different castes, community, and religion though once not uncommon, called as inter caste marriage. Manu prohibited inter-caste marriages; He classified it to in two categories of inter-caste marriages, Anuloma Marriages and Partiloma Marriages,

Anuloma Marriages means Inter-caste marriage performed between a boy of a higher caste and a girl of a lower caste, called as Anuloma marriage, and Partiloma Marriages means inter-caste marriage performed between a boy of lower caste and girl from higher caste, called as Partiloma Marriages. The Government of India enacted Hindu Marriages validity Act, 1949 and Hindu Marriage Act 1955, Inter-caste marriages and inter-religion marriages are valid101. Even though society people are not ready to adopt this law and they considered as performing inter-caste, inter-religion marriages are dishonour of family, community and society and they are not ready to leave the customary practices. They strictly prohibited such types of marriages in society.

It is observed that, People sometimes murdered in the state of Punjab, Haryana, Rajasthan and Bihar for marrying without their family acceptance, in some cases marrying outside their caste or religion.102 In North state, Haryana couple of incidents still occur every year. If inter-caste marriages took place it means violation there is a customary rules and norms of the society, community and innocent young couple’s faces

---

100. “Boy killed for loving upper- caste girl” Time of India, Edition-New Delhi, on dated, 04/04/2010
101. Under Section 5 of The Hindu Marriage Act, 1955
consequences and pay their life. Recently cases a girl Imrana from Bhojpur who was set on fire inside her house\textsuperscript{103}.

Researcher found that the different customs prevailing by the different society, caste and community, as per norms they perform marriages, within the caste and sub-caste male and female. They use to follow rules of endogamy system. They strictly prohibited marriages of inter-caste i.e. people not allowed to perform marriages other groups or other caste or sub-caste, tribes.

In the case of \textit{Geeta Sabhrawal v. State of Haryana}\textsuperscript{104} case the court observed that any boy or girl major who under goes that inter-Caste or inter religious marriages with man and woman community or society peoples objected and threaten or harasses or to commit violence against couple; court also directed to the state to take appropriate action against such menace. Similarly in \textit{Ashok Kumar v. State of Punjab and Haryana}\textsuperscript{105} court observed that performing love marriage was not permitted by the customary practices in Indian society.

In the case of \textit{Lata Singh v. State of Uttar Pradesh and others}\textsuperscript{106} the court observed that “there is no dispute that the petitioner is a major and was at all reverent times a major. Hence she is free to marry to anyone she likes or live with anyone she like. As per Indian Constitution every citizen have right to choose life partner those for marriage who are mature persons\textsuperscript{107}. There is no bar to an inter caste marriage under the Hindu personal law\textsuperscript{108}.

\textsuperscript{103} Lalit Kumar, 16 yrs., old burnt in GhaziabadHonour Killing, Times of India edition Luknow, 25th March 2009, P.04.
\textsuperscript{104} GeetaSabhrawal v, State of Haryana, Criminal miscellaneous No, M- 27548 of 2008 Date of decision, Oct, 22,2008In the High court of Punjab and Haryana, Chandigarh
\textsuperscript{105} Ashok Kumar v. State of Punjab and Haryana (2009 DMC 120)
\textsuperscript{106} AIR 2006 SC, 2522
\textsuperscript{107} Article 21 of Indian Constitution
\textsuperscript{108} Hindu Marriage Act, 1955
In this case a girl by name Manjit belonging to Gadaria caste (a backward class) fall in love affairs with Jaswander Singh who belongs from a Mazhaib (a scheduled caste) The family members of Manjit was against the inter caste relations, she wanted to perform marriage against the wishes of family members so that they run away to Ludhiana, this act was not digested by the family members of Manjit and her parents took her forcibly to their village and in order to save the family honour and forcefully poisoned her.  

In Pune district, Yerwada village, Nitin Kadam’s sister married with Alok Kamble before one and half month. Marriage took place against the wishes of Kadams family. They were not happy with this inter-caste marriage, due to dishonour of their family it lead to dispute between Kadam and Kamble family, Kadam attacked with sharp weapon resulting death of AlokKamble. 

This case is of victim Smruthi was twenty eight years old belonging to ‘Lingayat’ community serving an Assistant Professor in Kanada the Government College at Kuderu district Chamarajanagar. Sudeep Kumar twenty eight years old, a ‘Dalit’ and serving as an Assistant Director in Physical education Department at Tumkur University. They wanted to perform wedding functions after obtaining the consent from their families. But her brother felt dishonour of their family, so that, in order to preserving the honour, he killed his sister.

_Sujit Kumar v. State of U.P._ in this case High Court held that, ‘any person who is major and wants to get marriage to a person of another caste or community, held that parents could not legally stop him or her for

---

110. “Man attacked over inter-caste Marriage”, Indian Express edition Pune, on dated,05/01/2013.
111. “Honour Killing assistant professor?, The Hindu Newspaper, on dated,14/03/2012.
112. _AIR 2002_.

getting married. Harassment, ill treatment or killing of such persons for bringing dishonour to family should be prevented. Such practice of honour killing is a blot in the society. High Court directed police to take strong measures against those who commit such honour killings’.

3. 11.8. Marriages within the Gotra

If we look at the tents of personal laws we find the laws of succession is guided by the principles of genetically inheritance or by consanguinity (*sapinda system*). Hindu law also prohibits marriage with in the same *Gotra*\(^{113}\). According to Hindu Law the marriage between persons related but *spinda* relationship is not valid and strictly prohibited\(^ {114}\). Therefore, inter-caste or inter-community marriage can be considered as a transgression to in the right of religion of the person.

The mentality of the Indian society people has not yet changed and they cannot agree or accept that marriages take place in the same *gotra* due to this root because there is an increase the honour killing case in the country.

According to *Fateh Singh*\(^ {115}\), performing marriage in same *gotrais* wrong, it should not be encouraged in our society, whatever the court say the *KhapPanchyat* will continue to give their decision\(^ {116}\).

The source of *Gotra* go back a long away, like the Christian belief that all human beings are descended from Adam (first man), the *gotas* are predicted on all *Hindus* having descended from certain sages like Bhardwaj, Vashist, Vishwamitra and so on. It is belief that, persons from same *gotra* are *siblings* and should not marry. It has no rational basis. Yet marriage between persons from the same *gotra* seems to evoke a great deal of moral indignation, fury and rage enough to warrant brutal

---

\(^{113}\) Gotra means consanguinity relationship or blood relationship, or *spinda* relationship  
\(^{114}\) Under Section 5 (v) of Hindu Marriage, Act, 1955  
\(^{115}\) A Member of the Jat Community in Bharatpur  
\(^{116}\) The times of India, 01/04/2010
Most of ancient system of Hindu laws prohibited marriages within the same *Gotra*; they also prohibited inter-caste and inter-religious marriages.\textsuperscript{118}

In landmark judgment in March, 2010, Karnal District Court ordered the execution of five preceptors in an honour killing case while giving a life sentence to the *Khap* head who ordered to Kill Manoj Banwali Babli two persons of the same clan, who eloped and married in June, 2007. Despite being given police protection on court orders, they were kidnapped, their militated bodies were found a week later from an irrigation canal.\textsuperscript{119}

In another incident Nidhi Bharak 20 years old and Dharmendra Barak 23 years old belonging to the families of same *Gotra*, they eloped with intended that to get married in Delhi Nidhi’s family promised convinced her that they would not cause any harmed she believed over them and return back as they returned of Nidhi’s father took her to his house and killed them and dumped the dead body in front of his house.\textsuperscript{120}

### 3. 11.9. Rape Victims

Since centuries woman all over the world have not only been denied justice.\textsuperscript{121} It is a Crime against women which is not limited to India only, but common in the whole world. Rape means forcible seizure. It signifies the ravishment of a woman without her consent, by force or fear or fraud or knowledge of a woman by force against her will.\textsuperscript{122}

---

\textsuperscript{117} Indian Bar Review, Vol.XL (01)2013, P.50

\textsuperscript{118} Dr. ParasDiwan “Family Law,(Hindu, Muslim, Christians, Parsis and Jews) Publication Allahabad Law agency, Faridabad(Haryana) ninth edition,2009,P.46

\textsuperscript{119} Vibha Sharma, who gave khaps the Right to kill: P C, (newspaper) The Tribune, 27\textsuperscript{th} March, 2010.

\textsuperscript{120} “Parents murder daughter, lover for honour in Haryana” The Hindu, Newspaper dated 20/09/2013

\textsuperscript{121} See, The Preamble of Indian Constitution.

\textsuperscript{122} K. D. Gaur “Criminal Law cases and materials, publication Butterworth’s India New Delhi, edition,1999, p. 498,499
The ravishment of a woman, without her consent, by force, fear or fraud, or as the carnal knowledge of a woman by force against her will called as raputs. *Prosecutor v. Akaseyu*, in this case, International Criminal Tribunal has define word rape means “a physical invasion of a sexual nature committed on a person under circumstances that are coercive”

The Law commission has recommended as, rape shall be substituted with the offence of ‘sexual assault ‘by including all kinds of penetration in vagina, anus or urethra of another, whether by part of human body or by an object. *Tukaram v. State of Maharashtra State.* The Law Commission has also recommended that the victim needs sympathy, reassurance and sense of safety.

As per definition Under section 375 of Indian Penal Code 1860 “a man is said to commit rape when he has sexual intercourse with a woman, against her will, without her consent, with her consent obtained by putting her in fear of death or hurt, with her consent when he knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married, with her consent when at the time of giving such consent, by reason of unsoundness of mind , or intoxication or due to administration of any stupefying substance, she is unable to understand the nature and consequences of that to which she consent, with or without her consent when she is under sixteen years’ of age, sexual intercourse by a man with his own wife, if she is above fifteen years old age is not rape. However, if

---

123. The world rapture means “a state of experience of being carried away by overwhelming emotion “an express or manifestation of ecstasy or passion’ (Webster’s seventh new collegiate dictionary, 1969 at p. 709.
124. *International Criminal Tribunal for Rwanda, Prosecutor v. Akaseyu case no. ICTR-96-4- T,September*
126. *AIR 1979 SC 185*
she is under fifteen year’s age it is rape (exception). Penetration is sufficient to constitute the offence of rape”\textsuperscript{127}.

Rape is ultimate violation of the self-humiliating event in a woman’s life that breeds a chronic fear of the existence and a deep sense of the powerless. It is said that a victim of rape undergoes two searing traumas; the physical rape, and the subsequent trial; which is not less shattering. Several cases of rape and abduction are registered against the boy, at that time couple faces the threat of being killed and such killing is termed as ‘honour killing’

The Hon’ble Supreme Court observed in \textit{Phul Singh v. State of Haryana}, case that. Rape is violation with violence on the private person of a woman\textsuperscript{128}. \textit{Rafiq v. state of U. P}.In this case Supreme Court found that rape for woman is deathless shame and must be dealt with as a gravest against human dignity.\textsuperscript{129}

In many part of the Indian country women who have been raped considered to have brought dishonour of family in order to restore the honour under the heading of customary killing they use to killing of their own female member. Rape victim also been killed for the dishonour of the family or community\textsuperscript{130}.

In Uttar Pradesh seventeen years girl eloped with a boy from another community and she found out to be pregnant, then family members get shocked ashamed and dishonour of family, in order to preserve the honour of the family, her father decided to kill\textsuperscript{131}.

\begin{itemize}
\item \textsuperscript{129} (1980)4 SCC 262
\item \textsuperscript{130} www.bbc.co.uk/ethics/honourcrimes/crimes_of_honour_1.shtml accessed on 14th July, 2014 9.00 PM.
\item \textsuperscript{131} “U P father rapes,kills daughter for honour, Pune mirror ,Newspaper, on dated,07/11/2013
\end{itemize}
3.11.10. Pre-Marital Pregnancies

Pre-marriage pregnancy means a girl keeps immoral relations without performing marriage out of that she became a pregnant of someone. It is an immoral activity and considered as dishonour of family.

As per Hindu Marriage Act, 1955, pre-marriage pregnancy means at the time of marriage a girl pregnant by some person other than bridegroom, called as pre-marriage pregnancy. It shows that past unchaste\textsuperscript{132}. Past illicit relationship of a girl with someone, it will be treated as dishonour of family or community. Such act is strictly prohibited by our custom and traditional practices no one could digest and in order to save the honour of the family they use to kill the victim. Pre-marital pregnancy activities are threatening to the honour of the family or community.

Raj Rahul Garad, Additional Session Judge of Chandigarh announced life imprisonment to father and son on account of killing of an unmarried girl, she found pregnant of some one

In Maharashtra, Nasik district for maintaining family honour and reputation 40 years father by Eknath Kumbharkar was killed his twenty years own daughter who was found pregnant of someone\textsuperscript{133}.

3. 11.11. Seeking Divorce

Divorce means putting an end to the marriage by dissolution of marital relations. As per Maun a wife cannot be separate from her husband either by sale or by abandonment, because marital tie could not be severed under any circumstances whatsoever. Manu did not approve of the dissolution of marriage in any condition. He further declared that “Let mutual fidelity continue till death, this in brief may be understood to be

\textsuperscript{132} Under Section 25(ii) of Hindu Marriage Act, 1955, U/S 12(1)(d) of Special Hindu Marriage Act,
the highest dharma of husband and wife, the duty of wife continues even after her husband’s death. She can never have a second husband\textsuperscript{134}. If wife asked for divorce it will be considered dishonour of the family.

It is observed that, several women who have sought divorce through the courts have been injured, killed or never been heard of again. Seeking divorce gives a strong signal of public defiance which calls for punitive action against such women to restore male honour within the traditional honour scheme\textsuperscript{135}. Sometimes married woman asked for divorce from her husband because some marital problems this amounts as dishonour and she is liable to punishment i.e. honour killing.

In Lahore city twenty nine years old Samia a mother of two children was shot in her lawyer’s office, for seeking divorce her family members instigate to killing on account that she had brought shame and dishonour on the family by obtaining divorce after ten years of marriage from her husband, Her lawyers Jilani and her colleague were also threatened by the religious people.

3. 11.12. Homosexuality

Homosexuality or sexual inversion attraction of one person to another of the same sex, leading to physical contact and sexual pleasure, Male homosexuality or sodomy is wider spread phenomenon and is not infrequent where group of men are isolated for long period from all women. Female homosexuality is often called Lesbianism\textsuperscript{136}. Mostly women are killed in the name of honour killing, but in homosexuality

\textsuperscript{135} Law Z Volume, 10, No.08, Issue 108 August 2010, P, 12
men as well as women who are involved in immoral activity society people considered as dishonour of family and community in order to preserve the honour of the family or community they killed victims in the name of honour killing.

In the year 2008 AhmetYildiz, twenty six years old Turkish boy found homosexual activities in order to save the honour of family, his father by shooting him and killed.137

3. 11.13. Refusing Arranged Marriage

It is observed that, number of cases of honour killing took place due to a girl refuses to arranged marriage and express her willing to do marriage as per her choice who like, in such cases family members use to kill for sake of preserving their family honour.

3.11.14. Forced Suicides

Honour killing means the murder or forced suicide of a person by a family members and community members in order to save the honour of family. In many cases a family members threaten and creates fear of violence of cruelty in the mind of victim person so as the victim commits suicide. In Dastane v. Dastane138 Supreme Court held that the threats given by the one person to other that victim commit suicide amounts to cruelty. If any person commits suicide, whoever abets139. In Shakuntalav. Om Prakash, Justice observed that threat given by in order to commit suicide amounted cruelty140.

In case of forced suicide the family members of the victim who instigate, forced completion to prepare herself to commit suicide in their

---

138. AIR 1975SC 1534
139. under section 107 of Indian Penal Code 1860, for detail explanation
140. AIR 1981 SC Del 53; See also Meera v. Vijai, AIR 1994 Raj 33,
presence it is an offence\textsuperscript{141}, but they neglect such preventive measures and compel her for suicide.

Forced suicide means it is an alternative method used to killing of family member, community members. In order to save from the police they use substitute for customary killing, in this killing members of family do not take action to kill the victims due to creating force, pressure, influence or by creating violence with the intention to indirectly impose the death punishment for restoring honour of family or community. Mostly such cases are reported as suicide incidents.

In case of \textit{state of Punjab v. Iqbal Singh}\textsuperscript{142}, the Supreme Court, held that ‘where the husband or his relative by his wilful conduct creates a situation which he knows will drive the women to commit suicide and she actually does so, the case would squarely fall within the ambit of Section 306 of Indian Penal Code. In such a case the conduct of the person would tantamount to inciting or provoking or virtually pushing the women in to a desperate situation of no return which would compel her to put an end to her miseries by committing suicide’.

Mostly suicide incidents took place by using methods poisoning, hanging, self-immolation, jumping from high building, jumping in to a well or self-burning etc. When a family member encourages or instigates by creating threatens in the mind of the other persons or those who aid and abet to commission suicide by the hands of persons himself who commits the suicide\textsuperscript{143} victim’s persons in order to restore family honour.

\textsuperscript{141} \textit{U/S 306 of Indian Penal Code, 1860}
\textsuperscript{142} \textit{AIR 1991,SC 1532, 1991 Cri L J 1897}
\textsuperscript{143} Prof. .S. N. Misra, \textit{U/s 306 Indian Penal Code, Central law publication ,Allahabad ,Sixteenth Edition,2008,P.537}
3. 12 Honour Suicides

An honour suicide may be a substitute for an honour killing. It is occurred when people order or pressure a woman to kill herself: this may be done so that the people avoid penalties for murdering her. This phenomenon appears to be a relatively recent development. The state machinery the police have to be more proactive rather than reactive to the horror of honour killing. Many a times the cases are reported as suicide and then nothing goes through in order to be tried in the courts.

Some times after hearing news or disclosing fact of inter-caste marriage, inter-religious marriage, marriages within the same gotra, refusing arrange marriage or committing adultery, pre-marriage pregnancy and disobeying the order of customary religious practices their family members could not tolerate and get shock such incidents and considered as dishonour of family, caste and under fear of dishonour of family, their family member i.e., father, mother, brother, grandfather, grandmother etc. themselves commit suicides. In same incident in Then, woman unable to bear her daughter’s marriage with her cousin brother, a forty five years old woman allegedly committed suicide nearby chinnamanur. Her twenty three years old daughter fell in love with Ilayaraja who is twenty seven years old while working in Coimbatore and Triuppur and got marriage two days ago after one year of courtship. Shocked about the news, the woman consumed some poisonous substance. The woman died at the hospital without responding to treatment.

---

144 Turkey, a waif-like girl of 17, named Derya had fallen in love with boy. When news of the love affairs spread to her family then her mother warned her that her father would kill her. But she refused to listen. Consumed by shame and fearing for her life, ultimately she decided to carry out her family’s wishes and committed suicide. Criminal Law Journal, Oct, 2012, Vol No. 118, Part-1354, P. 291


A Hindu caste girl Sasikala eloped to Dharapuram with Dalit boyfriend by name, Kottaisamy and performed marriage in the temple. Village Ponnaiyapuram with the help of Kottaisamy’ friend Peramaiyan her father lodged missing complaint in police station. Police arrest them and produced before court and send her with parents. After that Sasikala committed suicide by drinking poison and died, after investigation police came to known her parents instigated her to commit suicide in order to save the honour of family\textsuperscript{147}.

3. 13 Religious Perspectives of Honour Killing

India is a multi-religious society. Indian society is one of the oldest societies in the history of civilization. Mostly major religions followed by the people; Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, Zoroastrianism. Even among Hindus there are several religious cults traditionally different religious groups have lived in India in more or less peaceful coexistence. The spiritual aspect of religion is quite similar in all religions. We also find variety in the cultural habits, customary practices and customs of the people in different geographical regions\textsuperscript{148}.

It seems that, in Indian society religions are playing significant role in their sense of deserving respect and dignity. In number of incidents whoever has brought dishonour on family or community, person was acted in a way that is apprehend to be not tolerable by the religious society. It appears fights or struggles of dishonour of the family or community.

\textsuperscript{147} “Girl killed for honour ,parent try to cremate her body secretly”, Indian Express, Newspaper edition- Chennai, 21/10/2013

Few year back Arushi case\textsuperscript{149} in this case for preserving honour and reputation in society her parents killed Arushi. In another case there was a death body of girl found in a briefcase and had been killed by her own family for dishonour.

In Parbhani district (Maharashtra state) family members killed their daughter in their field for dishonouring the family\textsuperscript{150}. Researcher thinks it is a shameful way to murdered victims (girls) by her family member’s strong aversion; Researcher is unable to see the justification for customary killing. Certain countries permit (Muslim countries) such been killed for dishonouring their community or family.

\textbf{3. 13 A) Cultural Perspectives}

Culture is a design for living as a way of life. Culture is embodiment of customs, traditions, thoughts and institutions.

\textit{Clyde Kluckhohn} and \textit{Kelly} states that “Culture is a historically created system of explicit and implicit designs for living, members of a group at a specified point in time”

According to \textit{Edward B. Taylor} the culture stands for beliefs, ideas, laws, arts, and other capabilities and skills acquired by man as a member of society\textsuperscript{151}.

According to \textit{Graham Wallas} culture means “It is an accumulation of thoughts, values and objects. It is the social heritage acquired by us from biological heritage which is passed on to us automatically through the generation”

It is observed that, society and culture of two sides of one coin; culture is patterning of behaviour of groups. The culture is a permanent

\textsuperscript{149} In Noida double murder case Arushi Talwar and Hemraj killed on May, 15-16, 2008, Times of India News

\textsuperscript{150} “Honour Killing in Parbhini District” Sakal newspaper edition Aurangabad, 2014

\textsuperscript{151} Harry M Johnson “Sociology; a systematic Introduction” Allied Publisher Private limited, New Delhi First Indian edition 1966, tenth Reprint 1984, P.82
phenomenon, which originates in the society by the members and develops and preserves by them and through them passes to the future. The Indian culture is complex and diversified due to different religions and linguistics groups. In India we can observe different types of cultures in different parts of country. We have different culture in all the corner of the India. According to women’s activities group’s culture is most important factors governing the lives of many peoples in some region of India. It is unfortunates that the Indian cultural systems have become in to number of social evils practices against women like honour killing, dowry death, and female foeticides etc. in different regions of country. Number of cultures leads to create fear, violence in the community, and also by using these cultures norms to control sexuality behaviours of woman. In some communities’ cultures, honour killing considered as unconcerned it deemed to be justified. Honour killing happens in order to save thehonours of the caste, communities of the family.

According to United Nations cultural killing of women have a social sanction in India. Marriages are performing as per the adopting methods of cultures in caste, communities and religious norms of society. Mostly in Indian culture marriages are arranged marriages that take place in communities, But number of love marriages increases in Indian cities. In many cultural societies woman’s virginity will be treated as honour of the family which must be restored by the family members and woman will be treated as property of man. If they are not oblige proper culture of caste, communities and perform marriage the certainly honour killing incident will take place. In many cultures honour is a central core value of the family, once the honour is dishonoured by the woman or girl’s

immediate retaliation of an honour killing takes place so as to restore
honour of the family. Several unmarried girls are killed because of
overturning the moral order of the culture of caste and community. In
many rural areas some communities’ leaders use self-appointed courts
(*panchayat*) are so powerful that police and judiciary are kept aside. In
number of incidents are seen in order to maintain the honour of the family
the parents kills their own children in the name of honour and they are
happy to resolve the social problem without interference the police.

In north India in village Karanji near to Nagpur region, Member of
caste council decided to impose death punishments that whoever dares to
fall in love without considering the age, caste and sibling of victims,
Moreover, woman *surpanch* stated that in last five years village have
found over thirty eight incidents of love stories. Ashok Garpalliwar, was
belonged to Kumbhar and Meenakshi was from Teli community they fall
into love and perform inter-caste marriage. They wanted to seek shelter at
local temple, both of the family members were against their marriage, and
before their coming to village they were killed. Numbers of houses are
found painted “in our village there are no love stories that end in
tragedy.”¹⁵⁴

In Uttar Pradesh and Haryana caste *Panchayat* protects the cultural
traditional customs of norms in village even family members agree to
accept the decision of Khap and no one go against the decision them. In
Haryana, District Jhajjra in Dharana village, Gehlout’s family has been
asked to leave the village because in this family son by name Ravendra
was marred with the Shilpa girl; both were found in the same *Gotra.*
According to *Khap* being from same *Gotras* or sibling relationship
marriage in same categories will be treated as sinful act, In order to

preserve the norms of caste and culture of the society the family member accept it\textsuperscript{155}.

3. 13 B) Honour Killing Associated With Religion

Religion is one of the important social institutions. It has existed throughout the history of human society. It is a part of human social life of everyone in the society. According to Emile Durkheim “Religion is a unified system of beliefs and practices related to sacred things, that is to say, things set apart and forbidden beliefs and practices which unite in to one single moral community called a church, all those who adhere to them”.

According to James G. Frazer “religion is a belief in powers superior to man which are believed to direct and control the course of nature and human life”.

As per Harry M. Johnson states, that “religion is more or less a coherent system of beliefs and practices concerning a supernatural order of beings, forces, places or other entities”\textsuperscript{156}.

Religion is a system of faith and worship of supernatural things. The religion is derived from the latin word ‘religo’ which means beliefs of Devine Communication or the bond that is established between the man with laws of nature. All religions consist of a mental attitude regarding the supernatural power. The Hindu society governed by religious conceptions of Hinduism\textsuperscript{157}. The most widespread manifestation of attitude is in the shape of beliefs and rituals. Beliefs about the traditional story of social evil practices of customary killing i.e., honour killing.

\textsuperscript{155} “Honour Killing : A blot on Indian Culture, Society” Merinews, on dated, 19/09/2009
\textsuperscript{156} Harry M Johnson “ Sociology A Systematic Introduction” Allied publisher Private Limited New Delhi, First Indian Edition 1966, Tenth Reprint 1984, P.393
Researcher thinks that incidents of honour killing are mostly associated with castes, religion, mainly culture and tradition which has been available since ancient period. In this case Khajrana three youth confessed before police Irfan Adam had given supari of five lakh rupees to kill his seventeen years old sister because she was allegedly having affairs with boy from other religion, in order to save honour of family and religion. Her body hacked to pieces and was stuffed into two gunny bags that were thrown in to water tied with stones.158

3. 14 Methods of Honour Killing

Indian society pays high respect to wards continuing cultural and traditional practices. This is depending upon the religious principles that explain the ethnicity and morality. Everyone oblige the principles and norms of society, when such norms, customs and tradition are seen to be violate no one can tolerate and they take appropriate actions against them, in order to create threat in the mind of people they punish violators. They take precaution know that one dare to repeat the same thing such method used at the time of punishment. It is observed that, women are considered as a property of men and it is duty of men to control the women there is a presumption that women’s body is preserving honour of the family, community. Perpetrators of honour killing are father, mother, brothers, and uncle’s sometime caste or community people from the same they used following different methods often resulting to causes death of the victim.

158. “17 year old girl killed for honour property” Times of India Newspaper dated 19/10/2013
3. 14.1 By Stoning

This method is used by the family members or sometimes society people to kill victim person. In this method punishment awarded by family member or other society people for violating the honour code of community. Those who found inter-caste marriage, having pre-marital sexual relations or pre-marriage pregnancy, extra marital relations other than her husband and violate norms of society or community and brought dishonour by collective decision they use to tie victims to tree or pole and hit victims with stoners.

In Krishnajivadi village, Andra Pradesh a man SunkaraSrinivas thirty tow years old performed inter-casts marriage with Swapna Reddy twenty two years; villagers felt this act as a dishonouring to the society so, in order to protect the society honour, the villagers tied this couple to a pole and pelted with stones at them resulting death.

In Pakistan, Lahore city, father and brothers, for preserving the reputations and honour, were brutally beaten and stoned to death twenty five years old was pregnant of someone\textsuperscript{159}

3. 14.2 By Poisoning

Basically tradition and culture are connected with religion. It is true that all the traditions are good for the society,\textsuperscript{160} for maintaining identity and preserving honour of family in society. It must be required that to follow all customary and traditional practices. If we protect the customs then custom protect us. Whoever violates the norms and codes of society, community, sometimes victim found pre-marriage pregnancy or inter caste marriage or having extra marital relations with someone apart from

\textsuperscript{159} IBN Live.com. news, on dated, 27/05/2014
\textsuperscript{160} Malik and Raval “Law and Social Transformation” Publication, Allahabad Law Agency, Faridabad(Haryana) First Edition, 2007 P. 28,
husband, such activities considered as shameful and dishonour of the family in order to restoring the honour the family members including female members insist, forcefully gives poisons and kills to victims person. Sometimes the victims and the family members themselves used poisons substances and commit suicide.

In this case in Thoothukudi district (Chennai) Gomathi was seventeen years old had fallen in love with Murugana twenty two years old boy that has belonging from Dalit caste, her Hindu family opposed their marriages. She was decided to stay with the boy in his house and refuses to come back her house but her two brothers requested and promised her that they would help in marriage with the boy. She was chased and brought her own house, so as to maintain family honour brothers had forcefully poisoned and hanged her\textsuperscript{161}.

3. 14.3 By Beheading

In this method the family member could not tolerate the dishonour of family, they decide collectively to kill the victim person. They use sharp edge weapon under the sudden provocation and separate the head from trunk (body) of the victim person.

In Parbhani district, in order to protecting family honour parents father Laximan and mother Anjanabai by using sharp weapon (axe) and killed their daughter as she was unmarried but found pregnant\textsuperscript{162}.

In this case Nidhi Barak twenty two years old and Dharmendra Barak twenty three years old are belonging to the families of same Gotra. They eloped intending to get married in Delhi. Nidhi’s family promised

\textsuperscript{161}. “Brothers kill girl for loving Dalit man”, Indian Express Newspaper, edition Chennai on dated 14/09/2013

and convinced her that they would not cause any harm. She believed them and returned back. As they returned, Nidhi’s father took her to his house and killed them by way beheading and buried body in front of his house.\(^{163}\)

In Uttar Pradesh, Bareilly village for preserving honour and reputation of family and community a father beheaded his own daughter for having love relations with boy.\(^{164}\)

### 3. 14.4 By Shooting

In this method the family members for restoring the family honour they normally use gun, pistol for killing the victim person.

Twenty nine years old Samia mother of two children was shot in her lawyer’s office In Lahore city for seeking divorce. Her family members instigated to kill her feeling that account of she had brought shame and dishonour on the family by obtaining divorce after ten years of marriage from her husband, her lawyers Jilani and her colleague were also threatened by the religious peoples.

A twenty two year old girl shot by her brother who was restricted and opposes to have illegal relations with boy\(^{165}\) in Muzaffar-Nagar district, Loe village for sake of family honour.

### 3. 14.5 By Hanging

The family members to avoiding the dishonour of family members, victim persons will be hanging to tree or ceiling of building In Lalkheda Village, sixteen years old girl against the wishes of parent’s fallen in love

---

\(^{163}\) “Parents murder daughter, lover for honour in Haryana” The Hindu, Newspaper dated 20/09/2013

\(^{164}\) IBN Live News.in.com on dated 18/12/2012

\(^{165}\) IBN lives News on dated, 31/07/2014
with twenty two years Rajian in order to restoring the reputation and honour their family members beaten to them death and hanged to tree\textsuperscript{166}.

In this case during study of journalism at Delhi Nirupama Pathak who belonged to Brahmin community, fell in love affairs with her classmate and boyfriend belonged from lower caste i.e. Kayastha community, by name Rajan. This fact become known to her parents and her family member called her to native place, next day she found dead in her bedroom and her family members reported she had committed suicide by hanging herself, after P. M. report detected that it was murder\textsuperscript{167}.

\section*{3.14.6 By Brutal Beating}

Who dared to violate the norms and codes of the honour of family members, community and religion by committing they use to beat to death of victims. In this case KondaMamata20 years old during education time in degree college, she fall in love with a \textit{Dalit} youth from past three years and she requested to marry with choosing boy her request was refused and performed marriage with another boy belong to same caste on same day after left the guest again girl expressed her strong desire to marry the boy as per her choice which lead to hot discussion and argument between them in order to save the honour and reputation of family her father could not tolerate temper and hit his daughter with an axe, resulted girl died on spot\textsuperscript{168}.

It is observed that, often cases took places about honour killing, but several incidents are not reported in police station about beating for actual or perceived behaviour or committing rape or falling love in low caste and upper caste persons recently in Tamil Nadu V. Kokila belong to

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{166} \textit{IBN Live News com, dated, 20/02/2014}
  \item \textsuperscript{167} \textit{NirupamaPathak's Honour Killing Case in Jharkhand}
  \item \textsuperscript{168} \textit{“Girl battered to death by father”, Indian Express edition, Chennai, dated, 07/07/2013.}
\end{itemize}
\end{footnotesize}
Dalit girl who fall in love with an upper caste boy, this act could not digest by the village people and they fells dishonour and shame they tied to a tree and beaten her, this incidents came in to known after filing case by local Dalit Organisation in police station\textsuperscript{169}.

3. 14.7 By Burning

The family members in order to hiding the real fact i.e., immoral activity, love affairs with another person or identifying pregnant girl of another person, having pre-marital relations, extra-marital relations or in adultery relations in such cases the family members could not tolerate. Mostly this method used for restoring family honours they burn within the house and killed the victims, registered as suicide or accident case.

In this case Rekha Gpkavi 18 years old fall in love with boy who was belonging to a poor family, because of this act dishonour of family and community, her uncle and father could not tolerate this dishonour act, so that in order to save their honour, reputation of family and community they hitting, beating and burning alive in their house\textsuperscript{170}.

3. 14.8 By Stabbing

A family member who found adultery, pre-marriage sexual relations, pregnant girl or women other than husband, In order to restoring family reputations and honour, under the sudden provocation aggravated person stabbing with sharp edge weapon.

As per statement of S.P. Manavjeet Singh Dhillon in Bihar district Nawawda in the village Mehrama Naveen Kumar was twenty five years old had married with a girl from another Dalit caste in two years back against her parent’s wishes in order to preserve honour of family and

\textsuperscript{169} A Prajnya report 2009 “Gender Violence in India”

\textsuperscript{170} “Honour killing: 18- year-old burned alive by father”, Times of India, on dated, 01/05/2008
community and was killed by in-laws family members by stabbing in stomach with sharp instruments and hanged with rope.

3. 14.9 By sitting on fire

Haryana and State of Bihar is notorious for incidents of honour killings mainly in upper caste society. Recent cases include a sixteen year old girl, Imran fro, Bojpur who set on fire inside her house in a case of what the police called moral vigilantism. The victim had screamed for help for about twenty minutes before neighbours arrived only to find her smouldering body. She was admitted to a local hospital, where she later died from her injuries.

3.15 Gender Sexuality and Honour

Since post Vedic period, some limitations and restrictions imposed by ‘Manu’ on the rights and privileges of women and certainly the status of women undergo pain and they were confined within the four walls of their houses. The upnayana rites for the girls were completely abandoned during the period 500, B.C to 500 A.D. This can be approximate to the period of early smritis, the epics of Ramayana and Mahabharata and the early purans. The marriageable age was reduced. The son was treated as hop of the family as is observance of the epics of Ramayana and Mahabharata. Women had only one duty to obey their husbands blindly. Even Sita was forced to prove her chastity before all the persons present. In spite of her proof once given to satisfaction of her husband she was again forced to undergo pains of separation from her husband, she has no right reason to protest against that disagreeable

---

171 “Dalit man Murdered allegedly by in-laws, a honour killing suspected” News form IBN Live, on dated,24/09/2013
172 Kumar, Lalit “16-year- old burnt in Gzbhonour killing” The Times Of India Dated 25/03 2009
173 The Father of Hindu Jurisprudence
behaviour. Women are treated as inferior members in their family and society.

It is observed that, women are undoubtedly the primary victims of honour killing; their movements are restricted. Sometimes even conversations are monitored or controlled by male people. Their marriage patterns are choosing from them, and they are clear targets of killings.

Codes of honour serve to construct not only by the women but also men. Honour is linked to the norms of behaviour for both sexes and predicted upon patriarchal notions of ownership and control of women’s bodies. Women’s sexuality is at the heart of concerns and social anxiety about women’s behaviour in ways that inform prescriptions on their movements and relationships. The need to preserve the women’s virginity for her husband places limits not only and most obviously on her sexual behaviour but also by extension on any conduct with men outside her immediate family in situations that may hold any sexual potential. Women need to avoid any sexual activity before marriage, and from any act that might lead to sexual activity.

3.16 Action of Men and Women

Honour codes are governed by the religious society that created for preserving the chastity and sanctity of particular religion, community and family. Every religion, community consisting their own norms, rules and regulations govern behaviour of persons in the society. Norms is a social standard to which we are expected to confer whether we actually do so or not it is a cultural specification that guides our conduct in society. Social norms and honour codes are the essential instruments of social control.

Those who tried to violate the honour code and norms of society are liable to punish like honour killing, social boycott etc.

Honour codes and crimes are not solely about individual men controlling the lives of individual women. They are about community norms, social policing and collective decision and acts of punishment; these norms can also be applied to male behaviour to the extent that men can also be killed\(^\text{176}\), e.g. the murdering of both men and women who suspected of illicit relationship. Not only men but also women play a central role in ensuring that women adhere to gender norms, honour is asserted through the killings.\(^{177}\) Women also through constrain on movement, choice of marriage, seeking divorce, pre-marriage relationship, committing adultery, doing inter caste marriage, marriages against wishes of parents, and so on women are key in ensuring these limits and can also be party to decision to kill women, including their own daughter, wife, etc. Several such cases took place in Indian country.

Researcher finds out some key features about identifying the particular action of codes and crimes of honour-
1. Gender relations that problematized and control women’s behaviours, shaping and controlling women’s sexuality,
2. The role of women in policing and monitoring women’s behaviour,
3. Collective decisions regarding punishment,
4. The potentials of women participation in killing\(^{178}\).

It is true that men killing women across the cultures and times for different several reasons, they considered that such killing preserves the

---

\(^{176}\) Karo-Kari Killing in Pakistan, It is an customary practices, in the year of 2002 near about 400 (245women and 137 men were killed) people men and women were killed under the heading of karokari, at that time it is also given name ‘honour killing industry’ Government of President Musharraf was condemns the such practices of honour killing. This is cannot find any place in our religion of law.

\(^{177}\) Ibid

\(^{178}\) Ibid
norms and codes of honour of the society, community and family. The degree of collective decision and actions mark out crimes of honour and therefore mark their specificity is one that may be contested by the presence of killings are that are argued to be ‘fit of fury ‘killing took place under the sudden provocation killing, where the brother, husband, father and uncle is simply over power with emotion by anger, violence of storm or in outburst of anger and in the heat of the moment kills his sister, wife or daughter. Indeed, these offences are used and given as mitigation against murder charges, not only in killings associated with honour claims but also crimes of passion and in the provocation ground for mitigation in other jurisdictions. In primitive society cultural codes of honours operate, there is overwhelming derive and motivation to collective morality, values and behaviours that confirm with prevailing codes. Codes and norms of society are built upon collective values, behaviour and conformity with social norms, the individualistic ‘fit for fury’ it will treated as an gender based and honour based crimes in order to protect the honour of society, community or family. Several times murdering of women are treated as defence of sudden provocation in order to save the life of offender.

179 In U.K., Provocation is a partial defence to homicide, (Homicide Act, 1957), In India u/s 299 of in defence When culpable Homicide not amounting Murder, if the offender whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident, Indian Penal Code 1960,
Case Study Manoj –Babli

Manoj -Babli case is one of the famous landmark case, where the Karnal district Session Court ordered death sentenced\(^{180}\) to the five members of Khap Panchahayat, the first time an Indian court had done so in honour killing case. The killing was ordered by a Caste based council among jatts, in their Karora village in Kaithal district, Haryana state. Khap Panchayat is a cluster of villages and castes, it is organized through clans and gotras, and they uphold social norms in the community. They have provided justices to village people in case of violation of social norms. Caste Panchayat or Khap Panchyat or Katta-Panchyats encourage honour killing or other atrocities in an institutionalized way on boys and girl of different caste and religion, or found in same gotra, who wish to get married or have been married or interfere with the personal lives of people.

The jat council ruling was based on the assumption that Manoj and Babli belonged to the Banwala Gotra, a jat Community and were therefore considered to be sibling despite not being directly related and any union between them would be invalid and illegal, the couple i.e, Manoj and Babli went ahead with their marriage, therefore, Khap Panchayat members and babli’s relative were abducted and killed them.

Manoj and his family are used to reside in Karora village, Kithal District, Haryana State. Manoj’s mother by name Chanderpati Berwal, had four children, Manoj was the eldest son. Manoj’s father was died when he was only nine years old. In his family only Manoj was having earning source of income and his family depend upon him. He studied in in XII standard. He has owned an electronic repairing shop at Kithal town. Manoj’s cousin by name Nrander, lived with the family and he worked in Panchkula.

\(^{180}\) ‘Victim’s kin unhappy with sentence’ The Pioneer, Newspaper, dated 31 March 2010.
Whereas, Babli’s mother Ompati, and her family also lived in same village, i.e, Karora village, Kithal District, Haryana State. She also had four children, consisting elder son by name Suresh, Babli and other two daughters. Babli’s father was also died in long back therefore, Suresh was only one of the family members who earning for his family and entire family depend upon him. Babli was still studying in intermediate school level.

**Love Affairs of Manoj and Babli**

Since 2005, Manoj Banwala and Babli developed relationship and showing interest in each other. Manoj was two years older than her, both are residents of same village Karora, and moreover, they are belong to same Gotra of Banwala, a jat community, and marrying within the same gotra or clan is considered as strictly prohibitory degrees or incestuous. Mother of Manoj Chandrapati knows about Babli and Manoj having love affairs long before they decided to marry each other same fact she narrated before Babli’s mother and told her Manoj and Babli were seeing each other and asked her to dissuade Babli or quickly marry them before the word spread but, she was not showing that much interest.

**Marriage of Manoj and Babli**

On 07 April, 2007 Manoj Banwala 23 years old had eloped with Babli 19 years old to Chandigarh and married in a Durga temple against the wishes of the bride’s family members. This news spread in their village and this fact came to know local Khap Panchayat. Manoj and Babli marriage was under the same gotra therefore, local jat council members get very angry and Babli’s family asked for intervention from the local Khap Panchayat which abolished the marriage and the Khap
announced a social boycott\textsuperscript{181} on Manoj’s family and declared anyone who kept relationship, ties with them would be fined Rs. 25,000/- Mother of Babli tries to convince to the local *Khap* members her family that, Babli did nothing dishonourable but it was invain before the *Khap Panchayat*.

Babli’s family member’s on 26\textsuperscript{th} April, 2007 lodged a complaint in police station and against Manoj and his family for kidnapping Babli. On that, day Manoj went to court with Babli, testifying that, they had married in conformity with the law and that he did not kidnap Babli, by producing their age certificates to show that they were eligible to marry. There after verifying that the court ordered, police protection for the couple from the Haryana government. There, after Manoj and Babli, accompanied by a team of 05 police officers assigned to them for protection, left for Chandigarh. The police left them at Pipli village and slipped away, under impression that, Manoj and Babli did not continue towards Chandigarh, instated boarding a bus for Karnal. As per, statement of Chanderpati that day around 3:40 P.M., she received a call from a Pipli telephone booth from , who said that, the police had deserted couple, and Bablis family members were trailing them. On 20\textsuperscript{th} June, 2007, Manoj mother lodged a complained against relatives of Babli’s family regarding the kidnapping at the Bhutana police station in Karnal District.

**Kidnapping Manoj and Babli**

During the journey the couple’s bus left for Delhi, but meanwhile at 4:30 Pm. Babli’s relatives stopped the bus saying that, it was intra-community matter, near Raipur Jatan village, about 20 Km from Pipli. They kidnapped the couple in a Scorpio SUV jeep driven by Mandeep

\textsuperscript{181} ‘Haryana village boycotts honour killing victim’s family again’ Newspaper Hindustan Times dated 27 may 2010.
Singh. Said incident narrated by Kuldeep Thekdar a road contractor, witnessed the kidnapping and lodged complaint at the police station, giving the licence plate number of the Scorpio jeep. Chanderpati ascribed the murder to the unauthorised withdrawal of the couple’s security team ignoring the orders given by the district and session court of Kaithal. Chenderpati nephew, Narendra Singh traced the contractor, and after he was shown a photo of the couple, the contractor recognised the couple. The family then understood that Manoj and Babli were victims of the kidnapping.

Murder of Manoj and Babli

After kidnapping, the couple were beaten; Babli’s brother by name Suresh forced her to consume pesticide, meanwhile four other family members pushed Manoj to the ground, her uncle Rajinder pulling a noose around Manoj’s neck and strangling him in front of Babli and they wrapped the bodies in gunny sacks and dumped them into Barwala link canal in Hisar District, Haryana state. On 23rd June, 2007, after 09 days their mutilated dead bodies, hands and feet tied were fished out of the canal by kheri police Chowki. After post-mortem report police preserved Manoj shirts and Babli’s anklet and cremated the bodies as unclaimed on 24th June, 2007.

On 1st July 2007, the Manoj family member’s identified them by the small piece of their clothing; police discovered a number of articles in the Scorpio which is used to kidnapping the couple. Subsequently the police arrested the accused persons.

Session Court Judgement

After hearing Public prosecutor Sunil Rana and lawyers Lal Bhadur, the defence lawyer Jagmal Singh arguing that, there was no
evidence against accused and that, it was all contrived by the media, no evidence that the Khap Panchayat ever met to discuss the fate of the couple and no evidence indicating that, Manoj and Babli were dead.

The Karnal District Session Court judge Vani Gopal Sharma on 29th March 2010, after 50 hearing with 41 witnesses the court found that, accused guilty of murder, kidnapping, conspiracy and destroying evidence under respective sections in Indian Penal Code, 1860. There after death sentenced verdict announced in the Manoj and Babli murder case against five accused persons, all were related to Babli’s family, including her brother Suresh, cousin brother Gurdev and Satish, paternal uncle Rajender and maternal uncle Baru Ram and leader of the Khap Ganga Raj, Manjeet Singh held guilty of kidnapping was given a jail for seven years. Fine also imposed by the court Rs. 16000/- to Ganga Raj and the other six convicts Rs. 6000/- each.

The Karnal District Session Court also accused six police personal of failure to carry on duty and directed the SSP of Kaithal to take necessary actions against them. Therefore, one police officer Jayender was dismissed from the police force and two were penalised by a cut of two increments.

Maha Khap Panchyat Protests the judgement;

Manoj and Babli came from one caste and community, who got married it, was illegal as per norms of the society. Local Council and Khap Panchayat members said that, all of them who come from one community were like sons and daughters of one man i.e, same gotra and so, everybody within this Khap was like brother and sisters. Marriage within the gotra is strictly prohibited by the norms of the society; therefore, the Khap Panchayat had taken decision to kill the both of

---

182 'Death Penalty in India honour killing case’ BBC news onlines, dated 30 March 2010
183 'Death verdict for five in Karnal Honour killing’ Hindustan Times, dated 13/04/ 2010 retrieved 29 April 2010
them, and also announced boycott from the village. On 13 April, 2010 a Maha Khap Panchayat of Haryana, Uttar-Pradesh and Rajasthan arranged common meeting in Kurukshetra for challenge the court decision and protest against the death sentence. They also blocked the Kurukshetra- Kaithal highway in protest. They planned to raise fund for the families of the convicts to hire top lawyers for the appeal. They also demanded that the Hindu Marriage Act, be amended to bring ban on same gorta marriages.

**Appeal under High Court;**

All accused persons challenging the verdict of Karnal District Session Court in the Punjab and Haryana High Court. On 11 March 2010 the High Court commuted the death sentence and awarded life imprisonment to Babli’s brother Suresh, Uncles Rajender and Baru Ram and Gurdev. Ganga Raj said to be the prime conspirator and another convict Satish were acquitted by the High Court of Punjab and Haryana.

**Compensation in Honour killing Case;**

In this Manoj and Babli honour killing case the state to pay compensation due to failure of the state police to protect the lives of Manoj and Babli. The bench headed by Justice Ritu Bahari, the Punjab and Haryana High Court has directed The Haryana government to pay a compensation\(^{184}\) of Rs. 3 lakh each on account of the death of Manoj and Babli due to unlawful withdrawal of their protection. However, counsel appearing for the state government had contended that the compensation to the complainant would be paid as per the compensation policy being farmed by the state for crime victims under the Criminal Procedure Code, 1973.

\(^{184}\) Hindustan times .com/ chandigarh/manoj-babli-honour-killing-state-to-pay-rs-6-lakh-victims-family/story.hmt accessed on 11/10/15 at 7pm
Supreme Court Views;

*Khap Panchayat* are illegal and describing the honour killings incidents is ‘shameful and barbaric’. Their functioning as kangaroo courts in village and Supreme Court said that, ‘we have in recent years heard of *Khap Panchayats* which often encourage honour killings or other atrocities in an institutionalised way on boys and girls of different castes and religion, who wish to get married or have been married or interfere with the personal lives of people”. According to Justice *Markandey Katju* ‘Atrocities in respect of personal lives of people committed by brutal, feudal-minded persons deserve harsh punishment’

Indian judiciary has been persistently challenging the jurisdiction and legality of such community groups like *Khap Panchayat* where the criminal activities are a common practice. The Supreme Court of India in case of *Smt. Laxmi Kachawaha v. The State of Rajasthan*\(^{185}\) observed that, *Khap Panchayat* do not have jurisdiction ‘to pass social boycott order or impose fine on them because it violates the basic rights of an individual.

\(^{185}\) *AIR 1999 Raj 254*