

HUMAN POLICING PROHIBITING TERRITORIAL ENDOGAMY:

HONOR KILLING

Shaktibhushan Shukla²⁸¹

INTRODUCTION

One fine morning this horrendous news became the headlines in the newspaper “*honor killing murder shocks India after brides father allegedly strangles her and burns the body just after marrying a man from the so called wrong caste*”²⁸² this was the case of *Bhavna* who was from Delhi she was killed by the ones who brought her up for the only reason that she dared to choose her life partner from outside her community. “Honor crime usually involves acts of violence, including murder, committed by people who want to defend the reputation of their family or community”²⁸³. In today's age and time when we talk of globalization, modernization, progressive ideology and claim to have liberal outlook towards each other we come across some brutal and barbaric acts of some communities. One such brutal and barbaric act is the act of honor killing where these communities massacre young and innocent women who dare to choose their life partner. On one hand they talk about respecting a woman, however ironically, on the other hand they stone, stab, beat, burn, behead, hang, shoot and strangulate them. This goes on to show the sheer opaqueness of their mind and wisdom and debunks their hypocritical stance. “The men around women think that the virginity of a woman is their property first for her father, later a gift for her husband a virtual dowry as she graduates to marriage.”²⁸⁴

ISSUES

Honor crimes cut across racial, religious, cultural, and regional divides taking this into account this paper will chalk out the following issues:

²⁸¹ Student, NALSAR University Of Law

²⁸² New ‘honor killing’ murder shocks India, <http://www.dailymail.co.uk/news/article-2842444/New-honour-killing-murder-shocks-India-bride-s-father-allegedly-strangles-burns-body-days-marrying-man-wrong-caste.html> (last visited Jul 27, 2015)

²⁸³ ‘BBC - Ethics: Honour Crimes, <http://www.bbc.co.uk/ethics/honourcrimes/> (last visited Jul 27, 2015)

²⁸⁴ Dafka, <http://www.dafka.org/news/index.php?pid=4&id=358> (last visited Jul 27, 2015)

1. The metaphorical relationship between the terms honor and killing and how this metaphor perpetuates this crime at large;
2. The concept of family honor which indeed triggers the feeling of vengeance in the society so as to restore the family honor
3. An analysis of holy books which gives a different status to women and to her choices as compared to these communities which often tend to hide behind the name of religion and give birth to this peril and
4. Analysis of laws relating to honor killing and tracing loop holes into these law which need to be taken into consideration.

SUBSTANSIATION

The analysis of these issues will be divided into four parts-

Metaphorical relationship between honor and killing

Let's try to understand why this act of murder is honor killing? What is so honorable about it? Since it is no where less than a cold blooded murder; Let's go into specifics and try to take into consideration the core meaning of honor which exactly means "high moral standards of behavior"²⁸⁵ this gives us a different sense when compared to the context of honor killing. This clearly outlines the metaphorical relationship this peril has. Moreover, these communities feel justified in doing this because they associate their act to honor or restoration of lost honor what other individual brought to these communities more so ever because the concept of community honor is of paramount importance for them and community is seen as the centre of honor and highly values the relationship between honor and community and it is perceived that community is more important than the individual itself who basically forms the community.

Concept of family honor

The cultural background of such victims plays a major role into this because these communities generally invoke the argument of *Gotra* which is a sub caste system and they argue about the degree of prohibition and consanguinity which in fact is vague because since *Gotras* were originally merely surnames, members of the same *Gotra* having no real tie of consanguinity,

²⁸⁵ <http://www.merriam-webster.com/dictionary/honor> (Last visited on).

prohibition on the *Sagotra* marriages meaning marriage between people of same sub caste makes little sense now even in the presence of such tie, it would be highly irrational to prohibit marriages since the members of any particular *Gotra* are removed by hundreds of generations from its original founder again the idea that the members that the members of a *Gotra* descended from a *Rishi* is not historically true since many *Gotra* have a territorial or professional significance²⁸⁶.”

Analysis of religious texts

The communities try to regulate the behavior of women on the lines of religion but if we closely analyze the rationale behind these religious bases, we see a contradiction in the values these communities claim for example Hindu *Dharma* has been very vocal about the rights and choices a woman pursues. *Manusmriti* has emphasized *Ahimsa dharma* which means abstention from injuring others and this to be upheld by all four castes²⁸⁷. Furthermore, *Manusmriti* also lays down that a woman must be respected, protected and regarded by their father, brother, husband, brother-in-law throughout their life²⁸⁸. *Manusmriti* also says that if a woman is in grief than the whole family suffers²⁸⁹. Carrying forward this spirit of *Dharma* we there's a need adopt many changes so as to curb this menace.

Legal standing of this issue

Article 51A (e) of the Indian constitution enumerates fundamental duty to promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women²⁹⁰”, its true realization in spirit is much awaited not to forget that inter caste marriages are validated in India as early as in 1949 by the Hindu Marriages Validity Act, 1949²⁹¹. The Special Marriage Act, 1872 and 1954 legalize marriage between members of different castes and religions. The Hindu Marriage Act, 1955²⁹², against the customary marriage rules in India, offers more

²⁸⁶ A.S Altekar, the position the position of women in Hindu civilization (Motilal Banaras (1997) pp.74-75.

²⁸⁷ The laws manu (analytical book company), 2015, p.416, M. Rama jois, ancient India law (universal law pub co.) p.22.

²⁸⁸ Ibid, p. 30, p.5

²⁸⁹ Ibid, p. 85, p. 30.

²⁹⁰ Article 51A (e) in The Constitution of India 1949, <http://indiankanoon.org/doc/1431035/> (last visited Jul 27, 2015).

²⁹¹ The Hindu Marriages Validity Act, 1949.

²⁹² The Hindu marriage Act, 1955.

freedom in marriage by doing away with identification of marital partners according to caste and permits both *Sagotra* and inter-caste marriages. Preventing a woman from marrying a person of her choice is an emotional abuse under the Protection of Women from Domestic Violence Act, 2005. Despite these laws, violence against women in the name of honor is on the rise this because utter failure of criminal justice system. In India, there is no specific criminal law to deal with the offence of honor crimes. Need is there to either enact a special law for curbing this menace or to add specific provisions in the Indian Penal Code, 1860.

CONCLUSION

Since all the human beings, irrespective of their caste, tribe, region, religious identities have shared certain common attributes like speech, sexual activity, birth, death, they all belong to one caste i.e., humanism. Good of all and happiness of all is of utmost importance. Thus, marital relations amongst persons irrespective of any caste or religious considerations ought to be encouraged and opposition to them in the form of crimes and violence, being against the happiness of men needs to be discouraged. There exists a need to liberate and emancipate women from the shackles of ancient law, traditions and customs for better promotion and readjustment of their rights on the lines of equality, dignity and non-exploitation. It has to be borne in mind that there exists no honor in honor killings and crimes but only shame.